(ii) OMP submits a written report to the EPA Region III office once every six months beginning six months after [EFFECTIVE DATE OF THE FINAL RULE] that must contain the following:

(A) Analysis demonstrating the destruction and removal efficiency of the treatment technology for all organic components of the wastestream,

(B) Analysis demonstrating the capture efficiencies of the treatment technology for all radioactive components of the wastestream and an estimate of the amount of radioactivity released during the reporting period,

(C) Analysis (including concentrations of constituents, including inorganic constituents, present and radioactivity) of the wastestream prior to and after treatment,

(D) Volume of the wastestream being treated per batch, as well as a total for the duration of the reporting period, and

(E) Final disposition of the radioactive residuals from the treatment of the wastestream.

(iii) OMP makes no significant changes to the design or operation of the high temperature catalytic oxidation unit or the wastestream.

(iv) This exclusion will remain in effect for 5 years from [the effective date of the final rule].

* * * * *

[FR Doc. 01–18408 Filed 7–23–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–7017–2]

Land Disposal Restrictions: Notice of Intent to Grant Two Site-Specific Treatment Variances—U.S. Ecology Idaho, Incorporated in Grandview, Idaho and CWM Chemical Services, LLC in Model City, New York

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing to grant two site-specific treatment variances from the Land Disposal Restrictions (LDR) standards for wastes generated at U.S. Ecology Idaho, Incorporated (USEII) in Grandview, Idaho, and CWM Chemical Services, LLC (CWM) in Model City, New York. Both these waste streams are derived from the treatment of multiple listed and characteristic hazardous wastes, including K088 (spent potliners from primary aluminum reduction). USEII and CWM are both requesting treatment variances for K088 derived from hazardous waste because they contend that the chemical properties of their wastes differ significantly from the waste used to establish the LDR treatment standard for arsenic in K088 nonwastewaters. Because we believe that the Petitioners are correct, we are proposing to grant an alternate treatment standard of 5.0 mg/L Toxicity Characteristic Leaching Procedure (TCLP) for the arsenic in the K088 derived emission control dust from the USEII facility and for the arsenic in the K088 derived baghouse dust, incinerator ash, and filtercake from the CWM facility.

If promulgated, USEII and CWM may dispose of their respective waste in on-site RCRA Subtitle C landfills provided the waste complies with the specified alternate treatment standard for arsenic in K088 nonwastewaters and meets all other applicable LDR treatment standards.

DATES: Comments will be accepted until August 14, 2001. Comments postmarked after the close of the comment period will be stamped ''late'' and may or may not be considered by the Agency.

ADDRESSES: Commenters should submit an original and two copies of their comments referencing Docket Number F–2001–TVLN–FFFFF to: (1) if using regular U.S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA–HQ), 1200 Pennsylvania Avenue, NW, Washington DC 20460–0002, or (2) if using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202.

You may view public comments and supporting materials in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $0.15 per page. (The index is available electronically. See the ''Supplementary Information'' section for information on accessing them).

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). The RCRA Hotline is open Monday–Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this proposal, contact Elaine Eby at 703–308–8449, eby.elaine@epa.gov, or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION:

Electronic Comment Submission

You may submit comments electronically by sending electronic mail through the Internet to: rcra-docket@epa.gov. You should identify comments in electronic format with the docket number F–2001–TVLN–FFFFF. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters or any type of encryption. If possible, EPA's Office of Solid Waste (OSW) would also like to receive an additional copy of the comments on disk in WordPerfect 6.1 file format.

You should not submit electronically any confidential business information (CBI). You must submit an original and two copies of CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

Availability of Rule on Internet

Please follow these instructions to access the rule: From the World Wide Web (WWW), type *http://www.epa.gov/epaoswer/hazwaste/ldr/cwm.htm.*

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

EPA's responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this notice. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

How Can I Influence EPA's Thinking on This Rule?

We invite you to provide different views on options we propose, new

approaches we haven't considered, new data, how this rule may effect you, or other relevant information. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical data to support your views.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Make sure to submit your comments by the deadline in this notice.
- Be sure to include the name, date, and docket number with your comments.

The Agency will consider the public comments during development of the final rule related to this action. The Agency urges commenters submitting data in support of their views to include evidence that appropriate quality assurance/quality control (QA/QC) procedures were followed in generating the data. Data the Agency cannot verify through QA/QC documentation may be given less consideration or disregarded in developing regulatory options for the final rule.

For guidance see Final Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology; USEPA, October 23, 1991.

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I. Why and How Are Treatment Variances Granted?

Under Section 3004(m) of the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984, EPA is required to set ''levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' We have interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the court in *Hazardous Waste Treatment Council* vs. *EPA*, 886 F. 2d 355 (D.C.Cir.1989).

We recognize that there may be wastes that cannot be treated to levels specified in the regulation (see 40 CFR 268.40) (51 FR 40576, November 7, 1986). For such wastes, a treatment variance exists (40 CFR 268.44) that, if granted, becomes the treatment standard for the waste at issue.

Treatment variances may be generic or site-specific. A generic variance can result in the establishment of a new treatability group and a corresponding treatment standard that applies to all wastes that meet the criteria of the new waste treatability group (55 FR 22526, June 1, 1990). A site-specific variance applies only to a specific waste from a specific facility. Under 40 CFR 268.44(h), a generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance in cases where a waste that is generated under conditions specific to only one site and cannot or should not be treated to the specified level(s). Under provision 40 CFR 268.44(h)(1), the applicant for a site-specific variance must demonstrate that because the physical or chemical properties of the waste differ significantly from the waste analyzed in development of the treatment standard, the waste cannot be treated by BDAT to the specified levels or by the specified method(s). Although there are other grounds for obtaining treatment variances, we will not discuss those in this notice because this is the only provision relevant to the present petitions. U.S. Ecology Idaho, Incorporated submitted their request for a treatment variance in September 2000. CWM Chemical Services LLC submitted their request in December 2000. All information and data used in the development of this proposal can be found in the RCRA docket supporting this rule.

II. Establishment of Treatment Standards for K088

K088, the EPA waste code for spent potliners from primary aluminum reduction (See 40 CFR 261.32), is generated by the aluminum industry. Aluminum production occurs in four distinct steps: (1) Mining of bauxite ores; (2) refining of bauxite to produce alumina; (3) reduction of alumina to aluminum metal; and (4) casting of the molten aluminum. Bauxite is refined by dissolving alumina (aluminum oxide) in a molten cryolite bath. Next, alumina is reduced to aluminum metal. This reduction process requires high purity aluminum oxide, carbon, electrical power, and an electrolytic cell. An electric current reduces the alumina to aluminum metal in electrolytic cells, called pots. These pots consist of a steel shell lined with brick with an inner lining of carbon. During the pot's service, the liner is physically and chemically degraded. Upon failure of a liner in a pot, the cell is emptied, cooled, and the lining is removed.

The Phase III LDR rule (61 FR 15566, April 8, 1996) established treatment standards, expressed as numerical concentration limits, for various hazardous constituents in spent potliner waste. There were 25 in all, with standards for both wastewaters and nonwastewaters. These constituents include arsenic, cyanide, fluoride, toxic metals, and a group of polycyclic aromatic hydrocarbons (PAHs). The standards were based on treatment performance data from Reynolds Metals Company, which uses a high temperature thermal process to treat the potliners that are broken up into various pieces prior to treatment.

After EPA published its final treatment standards, Columbia Falls Aluminum Company and other aluminum producers from the Pacific Northwest brought a judicial challenge to the standards. The petitioners argued, among other things, that the use of the toxicity characteristic leaching procedure (TCLP) did not accurately predict the leaching of K088 waste constituents, particularly arsenic and fluoride, to the environment and that is was therefore arbitrary to measure compliance with the treatment standard using this test.

On April 3, 1998, the United States Court of Appeals for the District of Columbia Circuit decided that EPA's use of the TCLP as a basis for setting treatment standards for K088 was arbitrary and capricious for those constituents for which the TCLP

demonstratively and significantly underpredicted the amount of the constituent that would leach. See Columbia Falls Aluminum Co. v. EPA, 139 F.3d 914; see also 63 FR 28571, May 26, 1998 (EPA's interpretation of court's opinion). The court vacated all of the treatment standards and the prohibition on land disposal, *id.* at 923–24, but stayed its mandate at EPA's request so that EPA could promulgate a revised treatment standard and a new prohibition. On September 24, 1998, EPA promulgated an interim final rule that revised the K088 treatment standard for arsenic from a TCLP standard of 5.0 mg/L to a total arsenic standard of 26.1 mg/kg.[1] See also 63 FR 51253. It is this interim adjustment of the arsenic K088 treatment standard from which USEII and CWM seek relief by way of this treatment variance.

III. Why is USEII Seeking a Treatment Variance?

U.S. Ecology Idaho, Incorporated (herein referred to as USEII) is a permitted hazardous waste treatment, storage, and disposal facility located in Grandview, Idaho. The facility treats and disposes of hazardous and non-hazardous wastes into an on-site RCRA permitted landfill. The waste at issue is emission control dust from an air pollution control system from a stabilization and containment building. The waste consists of particles of various waste streams and stabilization reagents from the treatment of K061, D004, D005, D006, D007, D008, D009, D010, D011 as well as K088 waste. USEII contends that all of these wastes contribute to the overall total arsenic concentration of the emission control dust, which was generated during maintenance operations. Approximately two 55-gallons drums are currently being stored at the facility. USEII is requesting that an alternative treatment standard of 5.0 mg/L TCLP be granted for this waste (the two 55-gallons drums as well as any future generation of this waste) which contains the K088 identification code as a derived-from waste.

As part of their petition, in accordance with the requirements of 40 CFR 268.44, USEII contends that their waste, i.e., the emission control dust carrying the K088 waste designation, differs significantly from the waste used to establish the treatment standard for total arsenic in K088 waste. USEII states that the dust is a derived-from waste that bears no resemblance, in physical form or composition, to generated potliners or typically thought of generated residues from potliner treatment. Furthermore, USEII states that no treatment can be applied to the dust to meet the K088 arsenic standard of 26.1 mg/kg because arsenic is an element, and as such cannot be destroyed to meet the existing treatment standard—a totals analysis test. An analysis of the emission control dust shows that the concentration of arsenic is 78.2 mg/kg.

IV. Why is CWM Seeking a Treatment Variance?

CWM Chemical Services LLC (herein referred to as CWM) operates a RCRA permitted treatment, storage and disposal facility located in Model City, New York. Site operations include a stabilization facility, a wastewater treatment facility, and a Subtitle C hazardous waste landfill. CWM also operates as both a storage and transfer facility. CWM is seeking a site specific treatment variance from the K088 arsenic treatment standard of 26.1 mg/kg to the universal treatment standard for arsenic nonwastewaters of 5.0 mg/L TCLP. Presently, CWM has 2 roll-off boxes of baghouse dust and one roll-off box of incinerator ash that cannot meet the 26.1 mg/kg treatment standard. CWM contends that this waste carries the K088 waste code by the mixture and derived-from principles and is physically and chemically different from aluminum potliners. In addition to the K088 listing, the waste carries approximately 200 other waste code designations. Analysis of the baghouse dust shows arsenic concentrations of 32.3 mg/kg and 107.1 mg/kg. An analysis of the roll-off box of incinerator residue shows a total arsenic concentration of 1000 mg/kg with a TCLP for arsenic of 0.52 mg/L. CWM further contends that the total arsenic standard is inappropriate for the wastes, since arsenic as an element, cannot be destroyed and that stabilization to the current UTS and placement in a Subtitle C landfill is protective of the environment.

CWM is also requesting that filtercake from their on-site wastewater treatment operations be included as part of the petition. While to date, no K088 derived-from filtercake has been generated, CWM contends that there is a possibility that occurrences such as, a spill of baghouse dust carrying K088 into the water in a containment area, may indeed happen, resulting in the need for another treatment variance. As such, CWM reasons that including filtercake along with incinerator ash and baghouse dust into the treatment variance petition would address any future disposal issues dealing with K088 derived-from waste.

V. EPA's Analysis of the Petitions

As just discussed in the previous sections, both USEII and CWM have waste that are not K088 itself, but are mixture and derived-from K088 wastes. The wastes at issue here, emission control dust and baghouse dust/incineration ash/filtercake are significantly different from the K088 waste used in developing the K088 treatment standard. Specifically, both USEII and CWM waste contain other waste codes (e.g., D004) that contribute to the total arsenic concentration of the waste. It is not physically possible for USEII or CWM to treat any of these wastes to the K088 treatment standard of 26.1 mg/kg total arsenic. As such, we are proposing that the wastes specified in each of the petitioner's submittal comply with an alternative treatment standard for arsenic of 5.0 mg/L TCLP. We believe it appropriate to use the universal treatment standard (UTS) for arsenic for these wastes rather than the K088-specific standard for arsenic developed for the classic potliner treatment residue matrix. The UTS is, of course, the standard that would otherwise apply to these wastes were in not for the K088 waste code carry through. After treatment, the waste must be disposed in the petitioner's on-site RCRA subtitle C permitted hazardous waste landfill assuming it meets all other applicable federal, state and local requirements.

V. Administrative Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency

[1] The 26.1 mg/kg standard for arsenic in K088 waste, promulgated in 1998, was developed based on performance data from a high temperature thermal treatment process for spent aluminum potliners from primary aluminum reduction used at a Reynolds Metals facility in Gum Springs, Arkansas. Specifically, the treatment standard was derived-from an assay of the total acid soluble arsenic in K088 waste after spent potliner had been crushed, mixed with lime and sand, and send through a high-temperature rotary kiln resulting in a fused waste residue.

As previously discussed, prior to 1998, the treatment standard for arsenic was 5.0 mg/L TCLP, based on the Reynolds treatment process that, at that time, treated much of the K088 generated in the United States (63 FR 51257, September 24, 1998). However, to address subsequent concerns regarding the elevated concentrations of arsenic in Reynold's landfill leachate, Reynolds changed the type of sand used in their thermal process to a sand with lower concentrations of arsenic. These 1998 revisions, to the K088 arsenic standards, were intended to cap arsenic concentrations in the treated potliner and to lock-in the Reynolds treatment process change, i.e., the change in sand type. Therefore, the reason for our shift to a 26.1 mg/kg total arsenic standard has no basis in appropriate treatment levels for waste carrying the K088 waste code solely due to the derived-from regulations.

must determine whether a regulatory action is ''significant'' and therefore subject to 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, 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 programs 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.

Because this proposed rule does not create any new regulatory requirements, it is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

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

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

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

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. This action, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, 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. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

EPA has determined that this proposed rule does not include a Federal mandate that may result in estimated costs of $100 million or more in the aggregate to either State, local, or tribal governments or the private sector in one year. The proposed rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. States, tribes, and local governments would have no compliance costs under this rule. EPA has also determined that this proposal contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act. Thus, today's proposed rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

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 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.

EPA has determined that this rule will not significantly or uniquely affect small governments. This proposed rule will not impose any requirements on small entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Today's proposed rule is not, therefore, subject to the requirements of section 203 of UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in E.O.12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The subject wastes will comply with all other treatment standards and be disposed of in RCRA Subtitle C landfills. Therefore, we have identified no risks that may disproportionately affect children.

E. Environmental Justice Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income

bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in clean and sustainable communities. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

Today's proposed rule applies to wastes that will be treated and disposed of in a RCRA Subtitle C hazardous waste landfill, ensuring a high degree of protection to human health and the environment. Therefore, the Agency does not believe that today's action will result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

F. Paperwork Reduction Act

This proposed rule would only change the treatment standards applicable to a subcategory of K088 wastes at two facilities and does not change in any way the paperwork requirements already applicable to these wastes, it does not affect requirements under the Paperwork Reduction Act.

G. National Technology Transfer and Advancement Act of 1995

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

This action does not involve technical standards based on new methodologies. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13175 does not apply to this proposed rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

I. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implication.'' ''Policies that have federalism implication'' is defined in the Executive Order to include regulation that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

J. Executive Order 13211 (Energy Effects)

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: July 16, 2001.

Michael H. Shapiro,

Acting Assistant Administrator for Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.44, the table in paragraph (o) is amended by adding in alphabetical order two new entries: ''U.S. Ecology Idaho, Incorporated, Grandview, Idaho''; and ''CWM Chemical Services LLC, Model City, New York'' to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER § 268.40

Facility name [1] and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
*	*	*	*	*	*	*	
CWM Chemical Services, LLC, Model City, New York.	K088 [8]	Standards under § 268.40	Arsenic	1.4	NA	5.0 mg/L TCLP	NA'≤
*	*	*	*	*	*	*	
U.S. Ecology Idaho, Incorporated, Grandview, Idaho.	K088 [9]	Standards under § 268.40	Arsenic	1.4	NA	5.0 mg/L TCLP	NA

[1] A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7

* * * * * * *

[8] This treatment standard applies only to K088-derived bag house dust, incinerator ash, and filtercake at this facility.

[9] This treatment standard applies only to K088-derived air emission control dust at this facility.

* * * * * * *

Note. NA means Not Applicable

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[FR Doc. 01–18409 Filed 7–23–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1671; MM Docket No. 01–154; RM–10163]

Radio Broadcasting Services; Goldthwaite, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Charles Crawford, requesting the allotment of Channel 297A to Goldthwaite, Texas, as that community's first local aural transmission service. This proposal requires a site restriction 14.4 kilometers (9.0 miles) west of the community at coordinates 31–28–29 NL and 98–43–11 WL. Additionally, as Goldthwaite, Texas, is located within 320 kilometers (199 miles) of U.S.-Mexico border, concurrence of the Mexican government to this proposal is required.

DATES: Comments must be filed on or before September 4, 2001, and reply comments on or before September 18, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Charles Crawford, 4553 Bordeaux Ave., Dallas, Texas 75205.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–154, adopted July 11, 2001, and released July 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Goldthwaite, Channel 297A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–18346 Filed 7–23–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1669; MM Docket No. 01–151, RM–10167; MM Docket No. 01–152, RM–10168; MM Docket No. 01–153, RM–10169]

Radio Broadcasting Services; Eminence, MO; Encinal, TX; and Tilden, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes three allotments. The Commission requests comments on a petition filed by Ozark Broadcasting, Inc., proposing the allotment of Channel 276C3 at Eminence, Missouri, as the community's first local aural transmission service. Channel 276C3 can be allotted to Eminence in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.1 km (10 miles)