

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: June 8, 1994.

David A. Ullrich,
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. 7401-7671q.

Subpart P—Indiana

2. Section 52.777 is amended by adding paragraph (g) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(g) The base year ozone precursor emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for the following areas: Vanderburgh County in the Evansville Metropolitan Area; Marion County in the Indianapolis Metropolitan Area; and St. Joseph and

Elkhart Counties in the South Bend Metropolitan Area.

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40 CFR Part 52

[WY5-1-6450; FRL-4886-9]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for the State of Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

SUMMARY: The EPA is approving the State Implementation Plan revision submitted by the Governor of Wyoming on November 1, 1993 for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This PROGRAM satisfies the Federal mandate of the Clean Air Act (Act) to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Act. Since this Program does not impose any new regulatory burdens on small businesses, and because the EPA views this as a noncontroversial amendment and anticipates no adverse comments, the EPA is publishing this action without prior proposal. The rationale for this approval follows.

EFFECTIVE DATE: This final rule will become effective on August 19, 1994 unless notice is received by July 20, 1994 that adverse critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments can be mailed to: Douglas M. Skie, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, Mail Code-8ART-AP, 999 18th Street, suite 500, Denver, Colorado 80202-2405. Copies of the State's submittal and EPA's technical support document are available for inspection during normal business hours at the following location: Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2405.

FOR FURTHER INFORMATION CONTACT: Laura Farris, Mail Code 8ART-AP, EPA Region 8, 999 18th Street, suite 500, Denver, Colorado 80202-2405, (303) 294-7539.

SUPPLEMENTARY INFORMATION:

I. Background of Revision

Implementation of the provisions of the Clean Air Act (Act), as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the National ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the Act requires that states adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally approved State Implementation Plan (SIP). In addition, the Act directs the Environmental Protection Agency (EPA) to oversee these Programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of title V of the Act. In February 1992, the EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and state roles in meeting the new statutory provisions and as a tool to provide further guidance to the states on submitting acceptable SIP revisions.

The State of Wyoming has submitted a SIP revision to the EPA in order to satisfy the requirements of section 507. In order to gain full approval, the state submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a state Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

II. Summary of Submittal

The deadline for submittal of the PROGRAM to EPA was November 15, 1992. The state of Wyoming did not meet this deadline, and on January 15, 1993, EPA made a finding of failure to submit the PROGRAM pursuant to section 179(a)(1) of the Act in a letter to the Governor of Wyoming. Within 18 months of the date of the finding, the state was to make a complete submittal of their PROGRAM to avoid the

imposition of sanctions authorized under section 110(m) of the Act.

The Wyoming Environmental Quality Council adopted the final version of the PROGRAM on September 17, 1993, as authorized by the Wyoming Environmental Quality Act, Article 2, Sections 35-11-209 through 35-11-211. The Wyoming PROGRAM was submitted to EPA by the Governor of Wyoming on November 1, 1993 as an addition to the Wyoming SIP. It was initially reviewed for administrative and technical completeness. In a letter dated November 22, 1993, EPA requested additional information from the State in order to make a positive determination on the submittal. After receiving the additional information in a letter dated November 30, 1993, EPA notified the State in a letter to the Governor dated December 13, 1993 that the submittal was administratively and technically complete. At that time, the State of Wyoming had met all of the requirements of section 507 and the 18 month sanctions clock was terminated. The submittal was then reviewed for approvability by EPA Region VIII and EPA Headquarters, and received a concurrence from all reviewers.

II. Analysis

A. Small Business Assistance Program

Section 507(a) sets forth six requirements¹ that the State must meet to have an approvable SBAP to meet the requirements of the first PROGRAM element.

1. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act. The State has met this requirement by committing in Addendum 1, page 5 of its SIP revision to "track the Federal Register notices for proposed and new standards and utilize EPA's informational systems ... to provide notice of proposed standards, new standards, and compliance time frames and to assist and provide affected sources with various compliance methods and technologies" The State will additionally "continue to provide the small business community with technical assistance such as process and control technologies and, if required and sufficient resources exist, perform computer modeling analyses." The

mechanisms the State has committed to use to accomplish this include "... coordinate with the Small Business Administration, Ombudsman and other Department officials to disseminate compliance and technical information in a timely manner through: (a) Various trade and interest groups (b) Public service announcements. (c) Seminars and workshops. (d) Information packets."

2. The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. The State has met this requirement by committing in Addendum 1, page 5 of its SIP revision to "... provide technical expertise for ... assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution." The mechanisms the State has committed to use to accomplish this are stated in 1. above.

3. The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner. The State has met this requirement by committing in Addendum 1, page 5 of its SIP revision to "... assist small businesses in meeting the requirements necessary to process the operating permits in an expeditious manner" The State will accomplish this by determining applicable requirements as stated in 1. above. Additionally, the State has committed to "... continue to inform affected facilities through direct mailing of any applicable proposed or final regulations or standards issued under the Operating Permit Program or the Clean Air Act or adopted through the Wyoming Environmental Quality Council."

4. The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act. The State has met this requirement by

committing in Addendum 1, page 5 of its SIP revision to "... inform the small business stationary sources of their rights under the Clean Air Act." The mechanisms the State has committed to use to accomplish this are stated in 1. above.

5. The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the state, for providing audits of the operations of such sources to determine compliance with the Act. The State has met this requirement by committing in Addendum 1, pages 5 and 6 of its SIP revision to "... assist small businesses in meeting the requirements necessary to process the operating permits in an expeditious manner and encourage lawful cooperation and compliance with the Clean Air Act" The State "... will maintain a list of consultants who may provide audits for small business stationary sources." As resources allow, the State "... may conduct audits of small business stationary sources to determine compliance or non-compliance with any rules, regulations, standards, permits or orders"

6. The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. The State has met this requirement by committing in Addendum 1, pages 5 and 6 of its SIP revision to "... consider any request from a small business stationary source for modification of: (a) Any work practice or technological methods of compliance. (b) The schedule of milestones for implementing a work practice or method of compliance" The procedures the State will use to accomplish this include determining the "... technological and financial capability of the small business stationary source," and not granting any modification "... unless it is in compliance with the applicable requirements established pursuant to Wyoming Air Quality Standards and Regulations, the Clean Air Act, and the requirements of the Operating Permit Program." Additionally, the State will "... provide in a timely manner the Ombudsman with all small business operating permits and any small

¹ A seventh requirement of section 507(a), establishment of an Ombudsman office, is discussed in the next section.

business requests for operational change and modification."

B. Ombudsman

The State has met the second PROGRAM element, the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process, by committing in Addendum 1, page 2 of its SIP revision to locate the position of the Small Business Ombudsman in the Department of Environmental Quality, but separate from the Division of Air Quality. Addendum 1, page 4 of the State's SIP revision details the responsibilities and authorities of the Ombudsman, including "... act for and on behalf of the small business stationary sources in connection with the implementation of the operating permit program and the 1990 Clean Air Amendments"

C. Compliance Advisory Panel

The third PROGRAM element is the creation of a CAP to determine and report on the overall effectiveness of the SBAP. The CAP must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The Act also delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to the EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act²; (3) to review and assure that information for small businesses is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP.

The State has met these requirements by committing in Addendum 1, pages 2 and 3 of its SIP revision to appoint the members of the CAP as stated above, and to designate to the CAP the four responsibilities listed in the Act. Two additional members will be appointed by the Governor who represent major source operators in the State. The State

considers the two additional CAP members to be appropriate because the operating permit fees from major sources fund the PROGRAM.

D. Eligibility

Section 507(c)(1) of the Act defines the term "small business stationary source" as a stationary source that:

- (A) Is owned or operated by a person who employs 100 or fewer individuals;
- (B) Is a small business concern as defined in the Small Business Act;
- (C) Is not a major stationary source;
- (D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
- (E) Emits less than 75 tpy of all regulated pollutants.

The State of Wyoming has established a mechanism for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the Act. This mechanism is contained in the Addendum 1, page 1 of the State's SIP revision.

The State of Wyoming has provided for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1)(C), (D), and (E) of the Act but do not emit more than 100 tpy of all pollutants. This provision is contained in Addendum 1, page 1 of the State's SIP revision.

The State of Wyoming has provided for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the Act. This provision is contained in Addendum 1, page 2 of the State's SIP revision.

III. Final Action

In this action, the EPA is approving the SIP revision submitted by the State of Wyoming. This SIP revision implements each of the PROGRAM elements required by section 507 of the Act. Addendum 1, page 7 of the State's SIP revision contains a schedule of milestones which show implementation of the PROGRAM by November 15, 1994. The EPA is therefore approving this submittal.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993

memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

By this action, the EPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the State. Because the EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

List of Subjects in 40 CFR Part 52

Environmental protection, Incorporation by reference, Air pollution control, Small business assistance program.

Dated: May 11, 1994.

Kerrigan Clough,
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. 7401-7671q.

² Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

Subpart ZZ—Wyoming

2. Section 52.2620 is amended by adding paragraph (c)(23) to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(23) On November 1, 1993, the Governor of Wyoming submitted a plan for the establishment and implementation of a Small Business Assistance Program to be incorporated into the Wyoming State Implementation Plan as required by section 507 of the Clean Air Act.

(i) Incorporation by reference.

(A) November 1, 1993 letter from the Governor of Wyoming submitting a Small Business Assistance Program plan to EPA.

(B) The State of Wyoming plan for the establishment and implementation of a Small Business Assistance Program, adopted September 16, 1993 by the Wyoming Environmental Quality Council.

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BILLING CODE 6560-50-F

40 CFR Parts 261, 268, and 302

[FRL-4999-1]

Hazardous Waste Management System; Correction of Listing of P015—Beryllium Powder

AGENCY: Environmental Protection Agency.

ACTION: Technical correction amendment.

SUMMARY: The Environmental Protection Agency today is correcting the listing for "beryllium" in the list of commercial chemical products that are hazardous wastes when discarded or intended to be discarded. The listing description is corrected to read "Beryllium powder." Conforming changes also are being made to the RCRA list of hazardous constituents, the RCRA land disposal restrictions technology-based treatment standards, and to the CERCLA list of hazardous substances.

EFFECTIVE DATE: The amendment is effective June 20, 1994.

ADDRESSES: The Office of Solid Waste (OSW) RCRA Docket is located at the following address: EPA RCRA Docket Clerk, room 2616 (5305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The docket is open from 9 a.m. to 4 p.m. Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket

materials by calling 202-260-9327. The public may copy 100 pages from the docket at no charge; additional copies are \$0.15 per page.

FOR FURTHER INFORMATION CONTACT:

The RCRA/Superfund Hotline at 1-800-424-9346. For technical information contact Wanda L. Levine, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202-260-7458.

SUPPLEMENTARY INFORMATION: On April 22, 1988, EPA published a technical corrections notice to make a number of corrections to 40 CFR 261.33(e) and (f) and to appendix VIII of 40 CFR part 261 (53 FR 13383). In that notice, the word "dust" was inadvertently omitted from the 40 CFR 261.33(e) listing, "P015—Beryllium dust," which was the original listing promulgated on May 19, 1980. There have been a number of inquiries since the April 22, 1988 correction notice as to the intent of this listing, and EPA has responded in each case by explaining that the word "dust" was mistakenly omitted, but the intent of the listing (i.e., to list as hazardous the commercial chemical product, beryllium dust, when discarded or intended to be discarded) has remained. In fact, the land disposal restrictions refer to P015 as "Beryllium dust."

In addition, the sole manufacturer of the commercial chemical product has indicated that "beryllium powder" is the actual term used to describe their product. The term dust is not used by industry to describe the commercial chemical product.

For the purpose of clarification, EPA is adding the word "powder" to the P015 listing description. Since this change is only a clarification, the scope of the P015 hazardous waste listing is neither increased, diminished or otherwise affected by this technical correction amendment.

In order to rectify this confusion in the regulated community, the Agency today is correcting the Code of Federal Regulations by adding the word "powder" to the P015 listing for beryllium. Conforming changes also are being made to the RCRA list of hazardous constituents, the RCRA land disposal restrictions technology-based treatment standards, and to the CERCLA list of hazardous substances.

Because this action is a technical correction, prior notice and opportunity for comment is unnecessary, and good cause exists for this change to take effect immediately (see 5 U.S.C. 553(b)). Accordingly, the Agency is not seeking any comments based on today's notice.

List of Subjects**40 CFR Part 261**

Environmental protection, Hazardous wastes, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 302

Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Pesticides and pests, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 8, 1994.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6938.

§ 261.33 [Amended]

2. In § 261.33 (e), the listing for P015 is revised to read as follows:

Hazardous waste No.	Chemical abstracts No.	Substance
P015	7440-41-7	Beryllium powder

Appendix VIII [Amended]

3. In appendix VIII, the listing for Beryllium is revised to read as follows:

Common name	Chemical abstracts name	Chemical abstracts No.	Hazardous waste No.
Beryllium powder.	Same	7440-41-7	P015

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, 6924.

§ 268.42 [Amended]

2. In § 268.42 revise the "Wastes descriptions and/or treatment subcategory" entry for Waste Code P015 to read "Beryllium powder."

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

§ 302.4 [Amended]

2. In § 302.4, in the table in paragraph (b), the listing for "Beryllium" is removed and under the column heading "Hazardous substances", "Beryllium dust" is revised to read "Beryllium powder".

Appendix A [Amended]

3. In appendix A the listing for 7440417 is revised to read "Beryllium powder".

[FR Doc. 94-14535 Filed 6-17-94; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 73 and 74**

[MM Docket No. 93-114, FCC 94-120]

Radio Broadcast Services; Low Power Television Service; Application Acceptance Standard; Four-Letter Call Signs

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission amended its rules governing the low power television (LPTV) service in three respects. First, the Commission relaxed its strict acceptance standard for new and major change applications. Second, the Commission expanded the waiver policy regarding terrain shielding. Third, the Commission will now permit LPTV operators to request four-letter call signs with the suffix "LP" rather than the current five-character call signs consisting of letters and numbers. The

Commission declined to adopt a proposal to narrow the definition of what constitutes a major LPTV station modification, stating that this issue requires further consideration and will be resolved at a later date. A summary of the Notice of Proposed Rulemaking initiating this proceeding may be found at 58 FR 25,794 (April 28, 1993).

EFFECTIVE DATES: The revisions to §§ 73.3564 and 73.3591 relieve existing restrictions and as such, they are exempt from the effective date requirements of the Administrative Procedure Act, 5 U.S.C. 553(d)(1), and will become effective June 20, 1994. The revisions to § 73.3522 will become effective August 19, 1994. The revisions to §§ 73.3550, 74.780, 74.783 and to the Commission's terrain shielding policy in the LPTV service will become effective August 19, 1994.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson, Mass Media Bureau, Video Services Division, Low Power Television Branch, (202) 632-3894.

SUPPLEMENTARY INFORMATION: The following is a synopsis of the Commission's First Report and Order, MM Docket No. 93-114, adopted May 19, 1994, and released June 2, 1994. The full text of this 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, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of First Report and Order**Introduction**

1. On April 22, 1993, the Commission released its *Notice of Proposed Rule Making* in MM Docket No. 93-114, 8 FCC Rcd 2770 (1993). In the *Notice*, the Commission proposed to amend the rules and policies governing the low power television (LPTV) service, which includes LPTV stations and television translator stations. Specifically, we proposed to modify our current standard for acceptance of applications and to expand our waiver policy regarding terrain shielding. We also proposed to permit LPTV operators to use four-letter call signs rather than the current five-character call signs consisting of letters and numbers. These proposals raised little disagreement among commenters and are adopted in this *First Report and Order*. In addition,

the *Notice* proposed to narrow the definition of what constitutes a major LPTV station modification. That issue generated significantly more diverse comment and requires further consideration. It will be resolved at a later date so as not to delay implementation of the changes we adopt herein.

Application Acceptance Standards

2. In the *Notice*, the Commission noted that the volume of LPTV applications has decreased and the quality of those submissions has improved as a result of the strict standard requiring that an LPTV applicant be "complete and sufficient" (i.e., "letter perfect") at the close of an LPTV filing window.¹ We pointed out that currently, applications that are not letter perfect are returned, forcing applicants to wait until the Commission opens a subsequent filing window to correct their submissions. See 47 CFR 73.3564(a)(2). The *Notice* concluded that the strict standard has achieved its purpose of encouraging applicants to submit complete and carefully prepared applications, so as to alleviate the LPTV application backlog with which the Commission was faced. We therefore proposed that applications be judged on a "substantially complete" basis similar to that used in processing full-power television applications, whereby applications are considered acceptance if they are not patently defective. As an alternative to the substantially complete standard, the *Notice* suggested a mid-level acceptance standard requiring the application to be more than substantially complete but less than letter perfect.

3. The commenters in this proceeding, who include LPTV licensees, consulting engineers, other broadcasters, law firms and educational institutions, overwhelmingly support adoption of a relaxed standard for acceptance of applications. They agree with the *Notice* that the letter perfect standard is no longer necessary due to the decreased volume of LPTV applications. They also assert that the letter perfect requirement unfairly forces LPTV applicants filing defective applications to wait to refile in the next filing window, which sometimes does not open for a year. Further, commenters assert that a relaxed standard is more appropriate in

¹ Applications for LPTV construction permits and major changes to existing LPTV facilities are accepted during finite filing windows by the Commission.