

States may use State waiver authorities to relax authorized State rules to the extent those rules are more stringent than analogous Federal rules (See, for example, 63 FR 65874 at 65925 (November 30, 1998)).

In addition, if a State authorized to implement the RCRA program has a permit waiver authority that is analogous to EPA's authority under section 121(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or RCRA section 7003, it may use this authority to waive the requirement to obtain a RCRA permit with respect to on-site response actions. As explained in EPA guidance, the two preconditions to allowing the use of this authority are that: "(1) The State has the authority under its own statutes or regulations to grant permit waivers; and (2) the State waiver authority is used in no less stringent a manner than allowed under Federal permit waiver authority, for example, section 7003 of RCRA or section 121(e) of CERCLA." (See the Memorandum, "RCRA Permit Requirements for State Superfund Actions", from J. Winston Porter to Regional Administrators, Region I-X (Nov. 16, 1987) (OSWER Dir. No. 9522.00-2).) Nothing in this clarification document changes or affects this policy in any way.

4. Summary

The references in 40 CFR 272.2501 and appendix A to part 272 to sections 144.64(3) and 291.31 of the Wisconsin Statutes and sections NR 181.55(10) and 680.50 of the Wisconsin Administrative Code provide notice that the State, as part of the authorized program, may use this authority only: (1) to grant variances from the surface impoundment double liner requirements of RCRA in those cases wherein the facility meets all of the requirements of RCRA section 3005(j); (2) to grant variances from more stringent authorized requirements that impose instead the same standards as the less stringent federal requirement; and (3) in the manner consistent with sections 7003 of RCRA or 121(e) of CERCLA, as described in applicable EPA guidance. Use of the State hardship variance authority with respect to any other authorized RCRA requirements is not part of the RCRA approved State program. Of course, States retain authority to waive or vary those State requirements that are broader in scope than, and therefore not part of, the Federal RCRA program. Therefore, with certain limited exceptions discussed herein, a State hardship variance cannot excuse compliance with RCRA program

requirements. Persons who fail to comply with RCRA program requirements are subject to Federal enforcement under sections 3008, 3013, and 7003 of RCRA.

Authority: This action 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).

David A. Ullrich,

Acting Regional Administrator, Region 5.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-1221, MM Docket No. 01-45, RM-9997]

Digital Television Broadcast Service; Mountain View, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Arkansas Educational Television Commission, licensee of noncommercial educational station KEMB(TV), substitutes DTV channel *13 for DTV channel *35 at Mountain View, Arkansas. See 66 FR 12748, February 28, 2001. DTV channel *13 can be allotted to Mountain View in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (35-48-47 N. and 92-17-24 W.) with a power of 20.0, HAAT of 425 meters and with a DTV service population of 337 thousand. With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-45, adopted May 16, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR Part 73—[Amended]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Arkansas, is amended by removing DTV channel *35 and adding DTV channel *13 at Mountain View.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-1222, MM Docket No. 01-29, RM-10044]

Digital Television Broadcast Service; Butte, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Eagle Communications, Inc., licensee of station KTVN(TV), substitutes DTV channel 33 for DTV channel 2 at Butte, Montana. See 66 FR 9062, February 6, 2001. DTV channel 33 can be allotted to Butte in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates (46-00-27 N. and 112-26-30 W.) with a power of 1000, HAAT of 576 meters and with a DTV service population of 122 thousand. Since Butte is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-29,