

of Federal enforceability. These deficiencies include Executive Officer discretion in approving CEMS, lack of test methods, and lack of monitoring requirements to demonstrate exemption eligibility. A more detailed discussion of the sources controlled, the controls required, justification for why these controls represent RACT, and the rule deficiencies can be found in the Technical Support Document (TSD), which is available from the U.S. EPA, Region IX office. Because of the rule deficiencies, Rule 1134 is not approvable pursuant to section 182(a)(2), section 182(b)(2), section 182(f) and part D of the CAA, because it is not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SCAQMD's submitted Rule 1134 under sections 110(k)(3), 301(a), and 182(f) of the CAA.

At the same time, EPA is also proposing a limited disapproval of this rule because it contains deficiencies which must be corrected in order to fully meet the requirements of section 182(a)(2), 182(b)(2), 182(f), and part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this NPRM has been adopted by the SCAQMD and is

currently in effect in the SCAQMD. EPA's limited disapproval action will not prevent SCAQMD or EPA from enforcing this rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

#### Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, 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, EPA 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.

Limited approvals under section 110 and 301 and subchapter I, part D of the CAA 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, it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

The Office of Management and Budget has waived this regulatory action from Executive Order 12866 review.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: March 8, 1995.

**John Wise,**

*Acting Regional Administrator.*

[FR Doc. 95-7210 Filed 3-22-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 300

[FRL-5177-5]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Koch Refining Company from the National Priorities List; request for comments.

**SUMMARY:** The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the Koch Refining Company Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Minnesota, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

**DATES:** Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before April 24, 1995.

**ADDRESSES:** Comments may be mailed to Gladys Beard (HSRM-J) Associate Remedial Project Manager, Office of Superfund, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Minnesota Pollution Agency Public Library, 520 Lafayette RD. St. Paul, MN 55155-194. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan

Pfundheller (H-J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-821.

**FOR FURTHER INFORMATION CONTACT:**

Gladys Beard (HSRM-J) Associate Remedial Project Manager, Office of Superfund, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-253 or Cheryl Allen (P-9J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-6196.

**SUPPLEMENTARY INFORMATION:**

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- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

**I. Introduction**

The U.S. Environmental Protection Agency (EPA) Region V announces its intent to delete the Koch refining Company Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

**II. NPL Deletion Criteria**

The NCP establishes the criteria the Agency uses to delete Sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from

the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

**III. Deletion Procedures**

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register**.

**IV. Basis for Intended Site Deletion**

The Koch Refining Company is located at the Junction of Highway 52 and 54 in Rosemount, Dakota County, Minnesota. In 1984, the staff from the Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Health (MDH) sampled and analyzed two residential wells downgradient of the Koch Refining Company (Koch) Site. The analysis of the samples indicated the residential wells were contaminated with VOCs. The Koch Refining Company had been supplying bottled water to these two residents as well as a third since the early 1970's in response to analytical results showing high specific conductance, phenols and

elevated concentrations of several major ions. Potential sources of contamination at the Site included leaks, spills and discharges from active and inactive wastewater lagoons, process areas, internal pipelines and waste treatment areas.

On October 15, 1984, the Site was placed on the Permanent List Priorities (PLP) and the National Priorities List (NPL), **Federal Register** 49 page 40320.

In January 1985, a Request for Response Action (RFRA) was issued to Koch requesting Koch to conduct a Remedial Investigation/Feasibility Study (RI/FS) for the Site. The Site investigations, reported in the 1986 and 1988 RI, identified the source of contamination in the residential wells to be from a petroleum release originating from the on-site barge dock pipeline. The RI reports also identified several areas of concern including solid waste management units that the MPCA is currently addressing under the authority contained in the Resource Conservation Recovery Act (RCRA). In addition, the petroleum releases are being addressed by the Underground Storage Tank (UST) regulations of RCRA. However, because the barge dock pipeline release was being addressed under Superfund authority, it was not included in the areas addressed by the UST regulation of RCRA. Therefore, the MPCA pursued the completion of the RI/FS and developed and implemented a Record of Decision (ROD) for the barge dock pipeline release.

The ROD identified three operable units to be addressed as a part of the remediation of the barge dock release: the Product Recovery System for removal and treatment of free floating hydrocarbon and contaminated ground water; the Ground Water Gradient Control System for containment and treatment of contaminated ground water; and the Soil Gas Extraction System for treatment of contaminated soil. Koch has implemented the product system and is working on a pilot study for the Soil Gas Extraction System. The pilot study is part of the Tank 12 release soil gas extraction system currently being addressed under the authority contained in the UST regulations of RCRA. The Tank 12 release is a petroleum spill from a storage tank number twelve.

The Underground Storage Tank Program, established in Subtitle I of the Resource Conservation Act (RCRA), as amended by the Hazardous and Solid Waste Amendments for 1984 (HSWA) is the regulatory authority with jurisdiction over cleanup of petroleum releases. Therefore, it is recommended that clean-up activities for the barge

dock pipeline be implemented under the authorities contained in the UST provisions of RCRA. The MPCA is in agreement with this approach.

The transfer of Site clean-up activities from CERCLA to RCRA authority is completed once the NPL and PLP delisting has taken place.

EPA, with concurrence from the State of Minnesota, has determined that all appropriate Fund-financed responses under CERCLA at the Koch Company Superfund Site have been completed, and no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore, EPA proposes to delete the site from the NPL.

Dated: March 9, 1995.

**David A. Ullrich,**

*Acting Regional Administrator, U.S. EPA, Region V.*

[FR Doc. 95-7195 Filed 3-22-95; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[MM Docket No. 95-31; FCC 95-79]

#### Reexamination of the Comparative Standards for New Noncommercial Educational Applicants

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** By this *Notice of Proposed Rulemaking*, the Commission seeks additional comments relating to possible modification of the criteria currently used to select among competing applicants for new noncommercial educational broadcast facilities.

**DATES:** Comments are due April 24, 1995; reply comments are due May 10, 1995.

**FOR FURTHER INFORMATION CONTACT:** Michael Wagner, Mass Media Bureau, (202) 418-2720.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking in MM Docket No. 95-31, adopted February 28, 1995 and released March 17, 1995. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington D.C. The complete text of this decision also may be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., (202) 857-

3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

### Summary of Notice of Proposed Rulemaking

1. In its *Notice of Proposed Rulemaking In the matter of Reexamination of the Policy Statement on Comparative Broadcast Hearings*, GC Docket No. 92-52, 7 FCC Rcd 2664, 2669 [57 Fed. Reg. 14683] (1992) ("1992 NPRM"), the Commission initiated a general proceeding to reform the criteria used to select among mutually exclusive applicants for new broadcast facilities. While primarily concerned with the 1965 Policy Statement on commercial broadcast hearings [1 FCC 2d 393 (1965)], the Commission noted in Paragraph 39 of the 1992 NPRM that the standard used in noncommercial educational ("NCE") proceedings was "vague" and difficult to apply. The Commission "tentatively concluded" that the standard should be eliminated, and invited comments on: (1) whether a modified version of the "point system" proposed for commercial applicants in the 1992 NPRM should be adopted for NCE applicants; (2) whether the criteria used to select commercial applicants are relevant in NCE proceedings; and (3) whether a different comparative approach should be followed for state-owned public broadcasters as opposed to other NCE applicants.

2. Six commenters responded to the 1992 NPRM. Examination of the comments leads the Commission to conclude that the comments received may not be representative of the full range of actual and potential NCE station operators. Furthermore, while most commenters agree on several points, only two commenters described detailed alternatives to the current criteria, and those proposals are widely divergent.

3. For these reasons, the Commission believes it appropriate to seek additional comments regarding both the existing NCE comparative criteria and the two alternatives already submitted. In order to focus the comments and encourage beneficial input, the Commission lists eight specific questions upon which input is sought.

4. Finally, the Commission has imposed a partial freeze on the processing of mutually exclusive NCE applications until it has adopted new or revised NCE comparative criteria: as of the release date of this *Notice*, the Commission will not designate mutually exclusive NCE applications for comparative hearing. Additionally, presiding Administrative Law Judges, the Review Board, and the Commission will no longer issue decisions in

pending hearing proceedings involving competing NCE applicants where those decisions would rely upon the existing NCE comparative criteria. The Judges, Board, and Commission will, however, continue to encourage and, where appropriate, approve settlements among NCE applicants now involved in hearing proceedings provided such settlements comply with current Commission policies governing those agreements.

5. The Commission is sensitive to the need to resolve the issues presented in this proceeding as quickly as possible. It has therefore established a short comment and reply period and will act expeditiously once the comment cycle is completed.

### List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95-7121 Filed 3-22-95; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

[MM Docket No. 95-32, RM-8545]

#### Radio Broadcasting Services; Parker and Port St. Joe, Florida

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Southern Broadcasting Companies, Inc., licensee of Station WPBH, Channel 233C, Port St. Joe, Florida, requesting the reallocation of Channel 233C from Port St. Joe, Florida, to Parker, Florida, and the modification of its license to specify Parker as its community of license, in accordance with Section 1.420(i) of the Commission's rules. The coordinates for Channel 233C at Parker are North Latitude 29-49-09 and West Longitude 85-15-34.

**DATES:** Comments must be filed on or before May 11, 1995, and reply comments on or before May 26, 1995.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Shaun A. Maher, Smithwick & Belendiuk, P.C., 1990 M Street, NW, Suite 510, Washington, D.C. 20036 (Attorneys for Petitioner).