

compliance assistance is not a legal defense in any enforcement action. This Policy does not limit EPA or a state's discretion to use information on violations revealed through compliance assistance as evidence in subsequent enforcement actions.

#### H. Applicability To States

EPA recognizes that states are partners in enforcement and compliance assurance. Therefore, EPA will defer to state actions in delegated or approved programs that are generally consistent with the guidelines set forth in this Policy.

This Policy does not require SBAPs to provide to EPA information that identifies the names or locations of specific businesses that are found to be in violation through compliance assistance. EPA recommends, however, that whenever an agency provides a correction period to a small business, the agency notify the appropriate EPA Region or state of its action, to assure that federal and state enforcement responses to the identified violations are consistent. A state program that offers confidentiality may not also offer a corrections period for the same violations (see footnote 2).<sup>5</sup>

In developing this Policy, EPA balanced three primary considerations. First, the Agency is seeking to provide States with ample opportunity to adopt innovative approaches to environmental compliance. Thus, the Policy provides the parameters within which States have flexibility to tailor SBAPs to their needs.

Second, EPA recognizes that participation in SBAPs by individual businesses is typically voluntary. Assistance is provided generally upon request. Thus, the Agency is seeking to assure states of the ability to provide incentives that will encourage many small businesses to participate in SBAPs.

Third, the environmental statutes covered by this Policy generally require, as a condition of delegation or authorization, that programs be consistent with Federal requirements and that states have the authority to take appropriate enforcement action with respect to violations.<sup>6</sup> Thus, EPA has an obligation to ensure that state SBAPs are

structured so as to maintain an appropriate level of enforcement authority within delegated or authorized state programs. The Agency believes this Policy will allow states sufficient latitude to use an appropriate combination of delegated state enforcement authority and compliance assistance activity to improve compliance in the small business community.

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[FRL-5226-6]

#### Proposed Settlement Agreement, Clean Air Act; Petition for Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed settlement; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), notice is hereby given of a proposed settlement agreement in the following cases: *American Petroleum Institute v. U.S. Environmental Protection Agency*, No. 94-1138 (D.C. Cir.); *Texaco, Inc. and Star Enterprises v. U.S. Environmental Protection Agency*, No. 94-1143 (D.C. Cir.) (consolidated cases). These petitions for review were filed under § 307(b) of the Act, 42 U.S.C. 7607(b), contesting various aspects of the regulations issued by EPA on December 15, 1993 for reformulated and conventional gasoline.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed agreement if the comments disclose facts or circumstances that indicate that such agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

A copy of the proposed settlement agreement is available from Phyllis J. Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260-7606. Written comments should be sent to John T. Hannon, Esq. at the above address and must be submitted on or before July 24, 1995.

Dated: June 14, 1995.

**Jean C. Nelson,**

*General Counsel.*

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#### FEDERAL COMMUNICATIONS COMMISSION

[ET Docket No. 94-32; DA 95-1365]

#### In-Flight Phone Corp.; Allocation of Spectrum Below 5 GHz Transferred From Government Use

**AGENCY:** Federal Communications Commission.

**ACTION:** Public notice.

**SUMMARY:** This Public Notice solicits comment on a pioneer's preference request filed by In-Flight Phone Corp. (In-Flight). The action is taken in response to a filing by In-Flight.

**DATES:** Comments are due July 3, 1995; reply comments are due July 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** Rodney Small, Office of Engineering and Technology, (202) 776-1622.

**SUPPLEMENTARY INFORMATION:** This is the text of the Commission's Public Notice in GEN Docket No. 94-32, released June 16, 1995. The pioneer's preference request filed by In-Flight is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington D.C. 20037.

#### Comment Sought on In-Flight Phone Corp. Pioneer's Preference Request

On March 16, 1995, In-Flight Corp. (In-Flight) filed a Petition for Declaratory Ruling (Petition) asking that its pioneer's preference (PP) Request filed in the Narrowband Personal Communications Services proceeding, ET Docket No. 92-100, now be considered in ET Docket No. 94-32, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use. The Petition was placed on Public Notice on April 28, 1994; see DA 95-967. No comments were filed on this Public Notice. On June 8, 1995, in response to the Commission's Third Report and Order in the pioneer's preference review proceeding (see ET Docket No. 93-266, FCC 95-218, released June 8, 1995), In-Flight filed a Supplement to its PP Request. In the Supplement, In-Flight asks that the

<sup>5</sup>The CAA § 507 policy establishes criteria for EPA approval of SBAPs in State Implementation Plans to satisfy the mandate in the CAA, and addresses confidential assistance in that context.

<sup>6</sup>For example, the Resource Conservation and Recovery Act provides that the Administrator may authorize any State to administer and enforce the Act unless he finds, among other things, that "such program does not provide adequate enforcement of compliance with the requirements of" the Act. 42 U.S.C. 6926(b).