

County through three Federally enforceable State operating permits.

In the final rules section of this Federal Register, the USEPA is publishing a full approval of the State's SIP revision request as a direct final rule without prior proposal, because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to these actions, no further activity is contemplated in relation to this proposed rule.

If USEPA receives timely comments adverse to or critical of the approval, which have not been addressed by the State or USEPA, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before June 5, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at:

Air and Radiation Division, Air Programs Branch, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mary Onischak, Environmental Engineer, Air Programs Branch, (AR-18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353-5954.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the rules section of this Federal Register.

Dated: April 18, 1996.

David Kee,

Acting Regional Administrator.

[FR Doc. 96-11197 Filed 5-6-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[AD-FRL-5466-3]

Clean Air Act Interim Approval of Operating Permits Program; State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes source-category limited interim approval of the Operating Permit Program submitted by the State Rhode Island. Rhode Island's Operating Permit Program was submitted for the purpose of complying with Federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits for all major stationary sources and to certain other sources. In the Final Rules Section of this Federal Register, EPA is promulgating source-category limited interim approval of the Rhode Island Operating Permit Program as a direct final rule without prior proposal because the Agency views this submittal as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before June 5, 1996

ADDRESSES: Comments should be addressed to Ida E. Gagnon, Air Permits, CAP, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203-2211. Copies of the State's submittal and other supporting information relevant to this action are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 1, One Congress Street, 11th floor, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, Air Permits, CAP, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203-2211, (617) 565-3500.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this Federal Register.

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

Dated: April 19, 1996.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 96-11082 Filed 5-3-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 300

[FRL-5467-5]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Bio-Ecology Systems Superfund Site from the National Priorities List and Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Bio-Ecology Systems (Bio-Ecology) Superfund 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 EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of Texas through the (Texas Natural Resource Conservation Commission) (TNRCC) have determined that all appropriate actions under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that response activities conducted at the site to date have been protective of public health, welfare, and the environment.

DATES: The EPA will accept comments concerning its proposal for deletion for thirty (30) days after publication of this notice in the Federal Register and a newspaper of record.

ADDRESSES: Comments may be mailed to: Ms. Olivia Rodriguez Balandran, Community Relations Coordinator, U.S. EPA, Region 6 (6SF-P), 1445 Ross Avenue, Dallas, Texas 75202-2733, 1-800-533-3508 or (214) 665-6584.

Information Repositories:

Comprehensive information on this site is available through the EPA, Region 6, Public Docket, located at the EPA, Region 6, Library Office and is available for viewing from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. The Library Office address is: U.S. EPA, Region 6, Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone: (214) 665-6424 or 665-6427.

Background information from the Regional Public Docket is available for viewing at the Bio-Ecology Systems Superfund Site information repositories located at:

Grand Prairie City Hall, 317 College Street, Grand Prairie, Texas 75050
Grand Prairie City Library, 901 Conover, Grand Prairie, Texas 75051

U.S. Environmental Protection Agency, Region 6, Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone: (214) 665-6424 or 665-6427

Texas Natural Resource Conservation Commission, 12118 North IH-35, Building D, Room 190, Austin, Texas 78753, Phone: (512) 239-2920

FOR FURTHER INFORMATION CONTACT: Mr. Ernest R. Franke, Remedial Project Manager (6SF-AT), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone: (214) 665-8521.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Bio-Ecology Systems Superfund site, Grand Prairie, Dallas County, Texas, from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Code of Federal Regulations, Title 40 (40 CFR), Part 300, 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 conditions at the site warrant such action.

The EPA will accept comments concerning this proposal for thirty (30) days after publication of this notice in the Federal Register and a newspaper of record.

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.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e)(1), sites may be deleted from or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release site from the NPL, EPA shall 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 response under CERCLA has 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, taking remedial measures is not appropriate.

Prior to deciding to delete a site from the NPL, EPA must determine that the remedy, or existing site conditions at sites where no action is required, is protective of public health, welfare, and the environment.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites that have been deleted from the NPL.

III. Deletion Procedures

Upon determination that at least one of the criteria described in § 300.425(e)(1) has been met, EPA may formally begin deletion procedures. The following procedures were used for the intended deletion of this site:

(1) EPA Region 6 has recommended deletion and has prepared the relevant documents.

(2) The State of Texas has concurred with the deletion decision.

(3) Concurrent with this National Notice of Intent to Delete, a local notice will be published in local newspapers and shall be distributed to appropriate federal, state, and local officials, and other interested parties. This local notice announces a thirty (30) day public comment period on the deletion package, which starts two weeks from the date of the notice.

(4) The Region has made all relevant documents available in the Regional

Office and local site and State of Texas information repositories.

These procedures have been completed for the Bio-Ecology Systems Superfund site. 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 public comment period and the availability for review of the Notice of Intent to Delete. The public is asked to comment on EPA's intention to delete the site from the NPL; all critical documents needed to evaluate EPA's decision are included in the information repository and deletion docket.

Upon completion of the 30-day public comment period, EPA Region 6 will evaluate these comments before the final decision to delete. The Region will prepare a Responsiveness Summary, to address concerns raised by the comments received during the public comment period. The Responsiveness Summary will be made available to the public at the information repositories. Members of the public are welcome to contact the EPA Regional Office to obtain a copy of the Responsiveness Summary, when available. If EPA still determines that deletion from the NPL is appropriate after receiving public comments, a Final Notice of Deletion will be published in the Federal Register. However, it is not until a Notice of Deletion is published in the Federal Register that the site would be actually deleted.

IV. History and Basis for Intended Site Deletion

The following summary provides the Agency's rationale for deleting the Bio-Ecology Systems Superfund site from the NPL.

The Bio-Ecology Systems (Bio-Ecology) site is an 11.2 acre site located at 4100 East Jefferson Avenue in Grand Prairie, Dallas County, Texas. (Figure 1) It is approximately 5 miles south of Interstate Highway 30 between Fort Worth and Dallas. Bio-Ecology is a former waste disposal facility which occupied a majority of the 11.2 acre area. Bio-Ecology is bounded in all directions by privately-held property and also on the north, east, and south by Mountain Creek. Mountain Creek Lake and the Trinity River are located approximately 3/4 mile southwest and 2 1/2 miles north of Bio-Ecology, respectively. Bio-Ecology is located within the 100-year floodplain of Mountain Creek (Trinity River Basin) and has been extensively flooded on at least two occasions during facility operations (June 1973 & June 1974).

Bio-Ecology was a Class I industrial solid waste management facility,

originally authorized by a permit issued by the Texas Water Quality Board (TWQB) on April 24, 1972. Permitted activities included the following: (1) incineration of combustible liquids, slurries, and sludges (subject to Texas Air Control Board standards for odors and emissions); (2) chemical treatment of acids, caustics, and other waste chemical solutions, including those containing heavy metals; (3) biological oxidation of waste waters resulting from separation of mud-water and oil-water mixtures and from chemical treatment of other wastes; and (4) a modified landfill of solids resulting from the other treatment processes (Figure 2). Bio-Ecology was actively operated from June 1972 through June 1978.

Operations at the site were characterized by frequent litigation filed by the Texas Department of Water Resources (TDWR) and its predecessor agency, the Texas Water Quality Board. Both agencies had attempted to force the company to comply with permit standards and all applicable Federal and State laws and regulations. During the 6-year operation of the facility, Bio-Ecology was cited for a number of major violations including the following: (1) Construction of new facilities (i.e., retaining basins) without proper authorization; (2) discharge of wastewater into Mountain Creek; (3) allowing liquid levels in holding basins to reach the brink without any freeboard; (4) storage of drums, several times beyond the permit maximum (200 drums); and (5) several incidents of oil spills.

On or about June 3-4, 1973, approximately 5 inches of rain fell on the site during a 24-hour period. Approximately 90 percent of the facility was inundated. State inspections of the site observed flooding in several storage basins and wastewater runoff into Mountain Creek. The site was to have been designed to adequately protect against a 24-hour, 25-year rainfall. However, the rainfall during June 3-4, 1973 was of less than a 25-year frequency. Orders were issued by the Texas courts on July 6, 1973, and March 24, 1977, requiring Bio-Ecology to comply with its permit and remedy the above mentioned violations. On June 13, 1978, Bio-Ecology filed for bankruptcy under the provisions of Chapter XI of the Bankruptcy Act.

After payment of all priority creditors, the TDWR was able to recover \$28,870 from Bio-Ecology for cleanup activities. In December 1979, a contract was made between TDWR and the Owner/Operator to partially close the site. The contract required the following: (1) all open receiving basins and pits were

drained; (2) all containerized wastes were buried on site and covered with a pelletized lime blanket; and (3) sludges in various lagoons and landfills were moved to consolidate them on-site. Due to constraints in funding, a number of metal tanks containing oils, solvents, and paint sludges remained at the site. Approximately \$34,000 (including the \$28,870 obtained from Bio-Ecology bankruptcy) was expended during the period December 12, 1979, through February 15, 1980, for the partial site cleanup.

Bio-Ecology was proposed for the National Priorities List (NPL) on December 30, 1982, and then promulgated on September 8, 1983, with a Hazard Ranking System (HRS) score of 35.06.

Since Bio-Ecology was proposed for the NPL, it became eligible for funding under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980. In November 1981, an application for a Cooperative Agreement (CA) for a Remedial Investigation (RI) and Feasibility Study (FS) at the site was filed by TDWR. The CA between EPA and the State of Texas was approved on April 12, 1982. An award in the amount of \$328,000 was authorized to conduct a State-lead RI/FS. The State of Texas, in turn, awarded a contract to Woodward-Clyde Consultants (WCC) to perform the RI/FS. The RI included a hydrologic analysis, a stratigraphic analysis, a hydrogeologic analysis and a geochemical analysis. The results of these analyses are as follows.

The hydrologic analysis showed the site to be poorly drained and subject to surface run-off, erosion, and flooding. Approximately 75 percent of the site was determined to be within the 100-year floodplain.

The stratigraphic analysis identified four subsurface strata within the upper 60 feet at the site. The uppermost stratum from the surface to about 20 feet in depth consists of modern alluvial deposits from the meander deposition of Mountain Creek on the north, east, and south of the site. These modern alluvial deposits are pervious deposits capable of transmitting water vertically and laterally and are thus subject to infiltration by rainfall and high flood waters of Mountain Creek. Underlying the modern alluvial deposits are older alluvial deposits from flood basin deposition of the Mountain Creek valley. These deposits are primarily high plasticity clays with occasional beds of low plasticity clays. The older flood basin soils contain fissures and cracks caused by cyclic shrinkage and

swelling. The older alluvial deposits, therefore, act as a leaky aquitard capable of transmitting fluids vertically. These deposits vary in thickness from 25-40 feet across the site. Below this stratum is about a five-foot layer of remnant quaternary gravel deposits which is the first representative water-bearing aquifer encountered. Beneath the gravel deposits is about a 200-foot thick section of the Eagle Ford shale. This shale is for all practical purposes, impervious, and overlies the Woodbine Aquifer. The Woodbine Aquifer is used as a drinking water supply for the City of Grand Prairie.

The groundwater flow, at the time of investigation, was generally from northwest to southeast across the site in the remnant gravel aquifer.

Groundwater encountered was also under an artesian head of about 15 feet (measured from the older alluvial deposits). This aquifer was slightly contaminated in the vicinity of the site and was subject to contamination from wastes at the site migrating through the secondary structure of older alluvial deposits. Groundwater is present in the upper alluvial deposits at water levels below the level of surface water in the adjacent stream channel and nearby pond northwest of the site. These surface waters are recharging the alluvium at the site. A search of drinking-water well records was conducted during the investigation and did not reveal anyone using the shallow aquifer as a drinking water source.

The geochemical analysis showed that surface contamination at the site was primarily restricted to on-site locations and to off-site drainage areas. On-site surface contamination was extensive for metals, cyanide, and organics. Composite samples from the site indicated high concentrations of lead (1,100 ppm), arsenic (210 ppm), and cyanide (1,030 ppm). Analysis also indicated the presence of many organic contaminants including toluene (19 ppm), trichloroethylene (1000 ppm), benzene (1.5 ppm), methylene chloride (.087 ppm), and naphthalene (240 ppm). Off-site contamination did not appear to be severe at the time of the field investigation. Likewise, subsurface contamination appeared to be primarily restricted to waste deposits and their vicinity.

There were estimated to be approximately 40,000 cubic yards (CY) of wastes and highly contaminated soils at the site (Figure 3). The site work for the investigation was completed in January 1983. More detail of the RI may be found in WCC's Site Investigation Report dated April 1983.

The FS began in February 1983. The FS conducted by WCC developed the following objectives based on the results of the RI.

- Remove above ground structures, dispose of contents, and treat the associated northern off-site contaminated soil area;
- Raise the site above the 100 year floodplain;
- Provide adequate site drainage;
- Treat special wastes (PCB's in an on-site tank, buried drums and containers including medical vials and laboratory chemicals, areas of high arsenic concentrations, and areas of cyanide presence); and
- Control of off-site migration of wastes by surface and subsurface migration pathways to surface and subsurface waters and adjacent land areas in order to mitigate future impacts on these target receptors (no significant air migration problems were detected during the RI).

More details of the FS may be found in WCC's Remedial Alternatives Analysis Report dated July 1983.

An Initial Remedial Measure (IRM) was concluded at the Bio-Ecology site in September 1983. The IRM cleanup activities included the following:

1. Remove and dispose of approximately 80,000 gallons of hazardous liquids and sludges. (Organics, PCB's, Heavy Metals)
2. Decontaminate and remove the 15 storage tanks and other surface structures.
3. Remove and dispose of about 35 cubic yards of contaminated soil.
4. Surface cleanup. (Miscellaneous debris, site grading, etc.)

This action was deemed necessary to comply with the National Contingency Plan (NCP), with regard to hazardous substances in drums, barrels, tanks, or other bulk storage containers above ground and contaminated soils at or near the surface which posed a threat to public health or the environment.

The Record of Decision (ROD) was signed by Lee Thomas, Assistant Administrator, Office of Solid Waste and Emergency Response at EPA Headquarters on June 6, 1984. The description of the selected remedy was:

- Raise the elevation of the site above the 100-year flood plain.
- Construct an on-site disposal cell with synthetic liner and a leachate collection system.
- Construct a final cover and liner and leachate collection and removal system in accordance with standards promulgated under 40 CFR Part 264 (Resource Conservation and Recovery Act) and applicable guidance.
- Stabilize the waste and place in on-site cell.

- Construct a fence with warning signs.

- Install a groundwater monitoring system in accordance with standards promulgated under 40 CFR part 264.

The ROD stated that the groundwater monitoring program was to determine the existence of any present groundwater contamination outside the containment area; however, the decision to proceed with the cleanup did not encompass remedial action with respect to any groundwater contamination that might be discovered. If such ground water contamination was found, appropriate remedial response would be evaluated, and a future determination regarding the compliance of the response with Resource Conservation and Recovery Act (RCRA) requirements would be made. If no existing contamination was found, the monitoring program was to ensure the continued effectiveness of the selected containment remedy. The State of Texas was consulted and agreed with the remedy.

A Cooperative Agreement (CA), i.e., a grant, was awarded by EPA to the Texas Department of Water Resources (TDWR), now known as the Texas Natural Resource Conservation Commission (TNRCC), on May 12, 1986, to fund the Remedial Action Construction Contract and Oversight Engineer Contract. The \$4,143,790 provided to TDWR through the CA was supplemented by \$2,788,000 provided by the Air Force under terms of an Inter-Agency Agreement as part of a settlement with EPA to pay for their contribution of wastes to the site when it was operating. Bids for the construction contract were solicited and Rollins Environmental Services (RES) was awarded the contract on March 16, 1987 as low bidder at a contract cost of \$3,789,537. WCC was retained as TDWR's oversight engineer. The Notice to Proceed was issued to RES on April 30, 1987 and the contractor mobilized to the site on May 4, 1987.

Construction work proceeded through the spring and early summer of 1987 with excavation and temporary stockpiling of waste materials as the RCRA cell was being constructed. It was soon discovered that the volume of waste originally estimated in the contract document (54,300 cubic yards) would be exceeded and the RCRA cell needed to be enlarged. This was accomplished through change order at a cost of approximately \$294,000. The final volume of soil placed in the cell was 85,332 cubic yards, an increase of approximately 31,000 cubic yards more than originally anticipated. This 57% increase in soil to be excavated, moved,

stabilized, and placed in the cell (as well as increased dewatering costs) resulted in the largest change order increase in the project, at a cost of \$1,227,000. This increase is documented in change order number 7 and more details about these construction activities can be found in WCC'S August 1988 Final Construction Report (pages 19 & 20). Five other relatively minor change orders were approved for a total final construction contract cost (original, plus seven change orders) of \$5,317,852 or an increase of 40% beyond the original contract cost. The RCRA cell was completed and closed in April of 1988 and the prefinal inspection of the substantially completed work was held June 27, 1988.

The final inspection of the completed work was held August 31, 1988, and a Certificate of Completion was issued.

In April 1993 a Close Out Report was prepared in which EPA, in consultation with the State of Texas (TNRCC), determined that all appropriate response actions required to ensure the protectiveness of human health and the environment at the Bio-Ecology Systems Superfund site had been implemented.

Pursuant to 40 CFR 300.510 of the NCP, the State (TNRCC) has assumed all responsibility for Operation and Maintenance (O&M) at this site. The Operational & Functional (O&F) period activities from 1988 to 1993 are documented in Section XI of the April 1993 Close Out Report and Section VI of the Summary of the O&M Sampling Events contained in the Five-Year Review dated November 1994. The findings of both the Close Out Report and the Five-Year Review support the determination that there is not a serious leak of the top or bottom liner systems at Bio-Ecology and that the site is operational and functional. Significant contamination has not been found in the groundwater at the site to date, although there have been a few sporadic findings of individual constituents in various wells at levels of concern that necessitate continued monitoring and evaluation. Continued pumping of leachate from the vault will be required throughout the O&M period until the system is pumped dry, and continued monitoring of the groundwater will also be needed. These activities are required by the O&M plan being implemented by TNRCC.

The Agency for Toxic Substance and Disease Registry (ATSDR) issued a Site Review and Update (SRU) report for the Bio-Ecology Systems Superfund Site on March 3, 1993. The SRU concluded that, "The waste is inaccessible; it is enclosed in a hazardous waste land fill.

It was concluded that the site is not a public health threat to area residents; the area residents are not within one-half mile of the site." No further actions or evaluations were recommended.

Hazardous substances encapsulated in the cell on the site, however, are above health-based levels that do not allow for unlimited use of and unrestricted access to the consolidation cell area. Therefore, EPA conducted a statutory five-year review in November of 1994, and the next scheduled review will be in November 1999, pursuant to OSWER Directive 9355.7-02, "Structure and Components of Five-Year Reviews."

Based on the successful encapsulation of hazardous substances in the consolidation cell, the results of O&M monitoring to date, and ATSDR's review, EPA has determined that the remedy is protective and no further response action is necessary. This is consistent with current EPA policy as discussed on page 66601 of the December 24, 1991 Federal Register, 40 CFR Part 300. State-funded O&M and EPA-funded Five-Year Reviews will continue in the future, but site deletion should proceed since applicable deletion criteria have been satisfied.

EPA, with the concurrence of the State of Texas, has determined that all appropriate Fund-financed responses under CERCLA at the Bio-Ecology Systems Superfund Site have been completed, and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of Texas have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment.

Dated: April 9, 1996.

Jane Saginaw,

Regional Administrator.

[FR Doc. 96-11208 Filed 5-3-96; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-95, RM-8787]

Radio Broadcasting Services; Plattsmouth, NE, and Osceola, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Platte Broadcasting Company, Inc., seeking the substitution of Channel 295C3 for Channel 295A at Plattsmouth, NE, and

the modification of Station KOTD-FM's license to specify operation on the higher class channel. To accommodate the allotment at Plattsmouth, the Commission also proposes to substitute Channel 296C2 for Channel 295C2 at Osceola, IA, and the modification of Station KJJC's license to specify operation on the alternate Class C2 channel. Channel 295C3 can be allotted to Plattsmouth in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.4 kilometers (11.4 miles) northeast, at coordinates 41-09-22 NL; 95-47-03 WL, to avoid a short-spacing to Station KTPK, Channel 295C, Topeka, Kansas, and to accommodate petitioner's desired transmitter site. Channel 296C2 can be allotted to Osceola and used at Station KJJC's presently transmitter site, at coordinates 41-01-34 NL; 93-51-43 WL.

DATES: Comments must be filed on or before June 17, 1996, and reply comments on or before July 2, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., Esq., 13809 Black Meadow Road, Greenwood Plantation, Spotsylvania, Virginia 22553 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-95, adopted April 8, 1996, and released April 25, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC 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 contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-11130 Filed 5-3-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 96-94; RM-8790]

Radio Broadcasting Services; Eufaula, Wagoner and Warner, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Tri-Mac Broadcasting seeking the reallocation of Channel 271A from Wagoner to Warner, Oklahoma, and the modification of Station KRQZ-FM's license to specify Warner as its community of license. We also propose the substitution of Channel 273C3 for Channel 272A at Eufaula, Oklahoma, and the modification of Station KCES' license to specify operation on the higher class channel. Channel 271A can be allotted to Warner in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.0 kilometers (1.9 miles) west, at coordinates 35-29-16 NL; 95-20-15 WL, to avoid a short-spacing to the reference coordinates for Station KEOK, Channel 269C3, Tahlequah, OK, and Station KENA-FM, Channel 271C3, Mena, AR. Channel 273C3 can be allotted to Eufaula with a site restriction of 18.2 kilometers (11.3 miles) south, which is the transmitter site specified in Station KCES' pending application (BPH-960319ID). In accordance with Sections 1.420(i) and (g), competing expressions of interest in the use of Channel 271A at Warner or Channel 273C3 at Eufaula will not be accepted.

DATES: Comments must be filed on or before June 17, 1996, and reply comments on or before July 2, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John F. Garziglia, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, NW., Suite 200, Washington, DC 20006 (Counsel to petitioner).