

Administrative Order before issuing the final Order.

Any person who comments on the proposal to issue a final Administrative Order shall be given notice of any hearing held in this matter. If a hearing is held, the commenter will be entitled to an opportunity to be heard and to present evidence. If no hearing is held, commenters may petition EPA to set aside any subsequent final Order and to hold a hearing. Commenters may also seek judicial review of the final Order pursuant to Clean Water Act section 309(g)(8), 33 U.S.C. 1319(g)(8).

**DATES:** Persons wishing to comment on the proposal to issue a final Administrative Order may do so by submitting written comments, postmarked no later than fifteen days from the date this Notice is published, to the address below.

**ADDRESSES:** U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**FOR FURTHER INFORMATION CONTACT:** Requests for copies of the Administrative Complaint or further information on the matter should be directed to Marcela von Vacano at (415) 972-3905, or via mail at the above address, Mail Code ORC-2.

**Catherine Kuhlman,**

*Acting Director, Water Division.*

[FR Doc. 02-27620 Filed 10-29-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7402-3; CWA-HQ-2002-6001; EPCRA-HQ-2002-6001; CAA-HQ-2002-6001; RCRA-HQ-2002-6001]

### Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding NEXTEL Communications, Inc., et. al. and NII Holdings, Inc.

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

**ACTION:** Notice.

**SUMMARY:** EPA has entered into a consent agreement with NEXTEL Communications, Inc. and its subsidiaries, and NII Holdings, Inc., collectively referred to as "NEXTEL", to resolve violations of the Clean Water Act ("CWA"), the Clean Air Act ("CAA"), the Resource Conservation and Recovery Act ("RCRA"), and the Emergency Planning and Community Right-to-Know Act ("EPCRA") and their implementing regulations.

The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order. EPA is also providing public notice of, and opportunity for interested parties to comment on, the CAA, RCRA, and EPCRA portions of this consent agreement.

NEXTEL failed to prepare Spill Prevention Control and Countermeasure ("SPCC") plans for forty-eight facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations.

NEXTEL failed to obtain the appropriate operating permits or exemptions at eight facilities in violation of CAA section 110, 42 U.S.C. 7410, and various state implementation plan ("SIP") requirements for emergency generators. EPA, as authorized by CAA section 113(d)(1), 42 U.S.C. 7413(d)(1), has assessed a civil penalty for these violations.

NEXTEL failed to file an emergency planning notification with the State Emergency Response Commission ("SERC") and to provide the name of an emergency contact to the Local Emergency Planning Committee ("LEPC"). NEXTEL failed to submit Material Safety Data Sheets ("MSDS") or a list of chemicals to the LEPC, the SERC, and the fire department with jurisdiction over each facility for seventy-five facilities in violation of EPCRA section 311, 42 U.S.C. 11021. At sixty-six facilities, NEXTEL failed to submit an Emergency and Hazardous Chemical Inventory form to the LEPC, the SERC, and the fire department with jurisdiction over each facility in violation of EPCRA section 312, 42 U.S.C. 11022. EPA, as authorized by EPCRA section 325, 42 U.S.C. 11045, has assessed a civil penalty for these violations.

NEXTEL failed to make a hazardous waste determination and improperly disposed of hazardous waste at one facility in violation of 9 VAC 20-60-261(A), [40 CFR 261.5(g)(1) and (g)(3)]. NEXTEL violated RCRA section 9003(d), 42 U.S.C. 6991b(d) when the insurance policy for underground storage tanks failed to use the terms "corrective action" or "sudden, non-sudden or accidental release" to describe coverage for four facilities. At one facility NEXTEL failed to notify the State or local agency or department of the existence of an underground storage tank in violation of RCRA section 9002(a), 42 U.S.C. 6991(a)(1). NEXTEL

failed to follow all of the relevant underground storage tank regulations in violation of RCRA section 9003, 42 U.S.C. 6991b at one facility.

**DATES:** Comments are due on or before November 29, 2002.

**ADDRESSES:** Send written comments to the Docket Office, Enforcement and Compliance Docket and Information Center (2201T), Docket Number EC-2002-021, U.S. Environmental Protection Agency, EPA West, 1200 Pennsylvania Avenue NW., Room B133, Washington, DC 20460 (in triplicate if possible.)

Please use a font size no smaller than 12. Comments may also be sent electronically to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov) or faxed to (202) 566-1511. Attach electronic comments as a text file and try to avoid the use of special characters and any forms of encryption. Please be sure to include the Docket Number EC-2002-021 on your document.

In person, deliver comments to U.S. Environmental Protection Agency, EPA West, 1301 Constitution Avenue, NW., Room B133, Washington, DC 20460. Parties interested in reviewing docket information may do so by calling (202) 566-1512 or (202) 566-1513. A reasonable fee may be charged by EPA for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Beth Cavalier, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564-3271; fax: (202) 564-9001; e-mail: [cavalier.beth@epa.gov](mailto:cavalier.beth@epa.gov).

**SUPPLEMENTARY INFORMATION:** Electronic Copies: Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the **Federal Register**—Environmental Documents entry (<http://www.epa.gov/fedrgstr>).

## I. Background

NEXTEL Communications, Inc., its subsidiaries, and NII Holdings, Inc. are telecommunications companies incorporated in the States of Delaware, Georgia, and Texas. NEXTEL is located at 2001 Edmond Halley Drive, Reston, Virginia, 20191 and NII Holdings, Inc. is located at 10700 Parkridge Boulevard, Suite 600, Reston, Virginia, 20191. NEXTEL disclosed, pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations" ("Audit Policy"), 65 FR 19618 (April 11, 2000), that they failed to prepare SPCC plans for forty-eight facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40

CFR part 112. NEXTEL disclosed that for eight facilities they had failed to obtain operating permits or exemptions in violation of CAA section 110, 42 U.S.C. 7410, and various SIP requirements for emergency generators. Nextel disclosed that at seventy-two facilities they had failed to file emergency planning notifications with the SERC and failed to provide the name of an emergency contact to the LEPC, in violation of EPCRA sections 302 and 393, 42 U.S.C. 7413(a)(1). Nextel further disclosed that at seventy-five facilities they had failed to submit MSDS' or a list of chemicals to the LEPC, SERC, and the fire departments with jurisdiction over the facilities, in violation of EPCRA section 311, 42 U.S.C. 11021; and that at sixty-six facilities had failed to submit an Emergency and Hazardous Chemical Inventory for the LEPC, SERC, and fire departments with jurisdiction over the facilities, in violation of EPCRA section 312, 42 U.S.C. 11022. At four facilities Nextel failed to ensure that the language in their financial assurance insurance policies for underground storage tanks was not exactly as required by regulation, in violation of RCRA section 9003(d), 42 U.S.C. 6991(d). Nextel violated RCRA section 9002(a)(1), 42 U.S.C. 6991(a)(1) when it failed to notify the state of the existence of an underground storage tank at one facility; and Nextel violated RCRA section 9003, 42 U.S.C. 6991b and all of the relevant underground storage tank regulations at one facility. Nextel failed to make a hazardous waste determination and improperly disposed of hazardous waste at one facility in violation of 9-VAC 20-60-261(A).

EPA determined that Nextel met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty (\$1,994,810) and proposed a settlement penalty amount of thirty-five thousand and four dollars (\$35,004). This is the amount of the economic benefit gained by Nextel, attributable to their delayed compliance with the CWA, CAA, RCRA, and EPCRA regulations. Nextel Communications, Inc. has agreed to pay this amount. EPA and Nextel negotiated and signed an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on October 18, 2002 (*In Re: Nextel Communications, Inc et. al. and NII Holdings, Inc.*, Docket Nos. CWA-HQ-2002-6001, EPCRA-HQ-2002-6001, CAA-HQ-2002-6001, and RCRA-HQ-2002-6001). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C.

1321(b)(6). EPA is expanding this opportunity for public comment to all other aspects of this consent agreement.

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311(b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to \$137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

Under CAA section 113(d), the Administrator may issue an administrative order assessing a civil penalty against any person who has violated an applicable implementation plan or any other requirement of the Act, including any rule, order, waiver, permit or plan. Proceedings under CAA section 113(d) are conducted in accordance with 40 CFR part 22.

Under EPCRA section 325, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right to know requirements, or any other requirement of the Act. Proceedings under EPCRA section 325 are conducted in accordance with 40 CFR part 22.

Under RCRA section 3008, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable underground storage tank or hazardous waste requirements, or any other requirement of the Act. Proceedings under RCRA section 3008 are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 29, 2002. All comments will be transferred to the Environmental Appeals Board ("EAB") of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.4(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

#### List of Subjects

Environmental protection.

Dated: October 24, 2002.

**Rosemarie A. Kelley,**

*Acting Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.*

[FR Doc. 02-27622 Filed 10-29-02; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collections Approved by Office of Management and Budget

October 22, 2002.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Paul J. Laurenzano, Federal Communications Commission, (202) 418-1359 or via the Internet at [plaulenz@fcc.gov](mailto:plaulenz@fcc.gov).

*OMB Control No.:* 3060-0989.

*Expiration Date:* 11/30/2002.

*Title:* Procedures for Applicants Requiring Section 214 Authorization for Domestic Interstate Transmission Lines Acquired Through Corporate Control, 47 CFR Sections 63.01, 63.03, and 63.04.

*Form No.:* N/A.

*Estimated Annual Burden:* 35 responses; 1,655 total annual hours; 3-65 hours per respondent.

*Needs and Uses:* The Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations Report and Order released March 21, 2002, provides presumptive streamlining categories, allows for joint applications for international and domestic transfers of control, clarifies confusion about content of applications, provides timelines for streamlined transaction review, provides a pro forma transaction process, allows asset acquisitions to be treated as transfers of control and deletes obsolete sections of the Commission's rules. The information will be used to ensure that applicants comply with the requirements of 47 U.S.C. section 214.

*OMB Control No.:* 3060-0793.

*Expiration Date:* 10/31/2005.

*Title:* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Procedures for Self-Certifying as a Rural Carrier.

*Form No.:* N/A.