This action involves only one source, EMD. EMD is not a small entity. Therefore, the USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities.

Under Executive Order 12866, this action is not "Major." It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Dated: March 17, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.741 is amended by revising paragraphs (e)(5) and (z)(1) and adding paragraph (e)(7) to read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties.

* * * * *

(e) * * *

(5) *Compliance schedule.* Except as specified in paragraph (e)(7) of this section, every owner or operator of a coating line (of a type included within paragraph (e)(1)(i) of this section) shall comply with the requirements of paragraph (e)(1),(e)(2) or (e)(3) of this section and paragraph (e)(6) of this section in accordance with the appropriate compliance schedule as specified in paragraph (e)(5)(i),(ii),(iii) or (iv) of this section.

(i) No owner or operator of a coating line which is exempt from the limitations of paragraph (e)(1) of this section because of the criteria in paragraph (e)(3)(i) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraph (e)(6)(i) of this section. Wood furniture coating lines are not subject to paragraph (e)(6)(i) of this section.

(ii) No owner or operator of a coating line complying by means of paragraph (e)(1)(i) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (e)(1)(i) and (e)(6)(ii) of this section.

(iii) No owner or operator of a coating line complying by means of paragraph (e)(1)(ii) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (e)(1)(ii) and (e)(6)(iii) of this section.

(iv) No owner or operator of a coating line complying by means of paragraph (e)(2) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (e)(2) and (e)(6)(iv) of this section.

* * * * *

(7) *Compliance schedule for diesel electric locomotive coatings.* Notwithstanding any other provision of this subpart, the compliance date for the emission limitations and standards for "topcoat" and "final repair coat" operations only as applied to General Motors Corporation at their diesel electric locomotive coating lines in Cook County, Illinois, codified at 40 CFR 52.741(e)(1)(i)(M) (*2*) and (*3*) is specified in this paragraph (e)(7). Compliance with the requirements of paragraph (e)(1), (e)(2) or (e)(3) of this section and paragraph (e)(6) of this section must be in accordance with the appropriate compliance schedule as specified in paragraph (e)(7)(i),(ii),(iii), or (iv) of this section.

(i) No owner or operator of a coating line which is exempt from the limitations of paragraph (e)(1) of this section because of the criteria in paragraph (e)(3)(i) of this section shall operate said coating line on or after March 25, 1995, unless the owner or operator has complied with, and continues to comply with, paragraph (e)(6)(i) of this section.

(ii) No owner or operator of a coating line complying by means of paragraph (e)(1)(i) of this section shall operate said coating line on or after March 25, 1995, unless the owner or operator has complied with, and continues to comply with, paragraph (e)(1)(i) and (e)(6)(ii) of this section.

(iii) No owner or operator of a coating line complying by means of paragraph (e)(1)(ii) of this section shall operate said coating line on or after March 25, 1995, unless the owner or operator has complied with, and continues to comply with, paragraphs (e)(1)(ii) and (e)(6)(iii) of this section.

(iv) No owner or operator of a coating line complying by means of paragraph (e)(2) of this section shall operate said coating line on or after March 25, 1995, unless the owner or operator has complied with, and continues to comply with, paragraphs (e)(2) and (e)(6)(iv) of this section.

* * * * *

(z) *Rules stayed.* Not withstanding any other provision of this subpart, the effectiveness of the following rules is stayed as indicated below.

(1) The following rules are stayed from July 1, 1991, until USEPA completes its reconsideration as indicated: (i) 40 CFR 52.741 (u) and (v), including 40 CFR 52.741 (u)(4) and (v)(4) only as applied to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park, Illinois; and (ii) 40 CFR 54.741(u), including 40 CFR 52.741(u)(4), only as applied to Allsteel, Incorporated's adhesive lines at its metal furniture manufacturing operations in Kane County, Illinois.

* * * * *

[FR Doc. 94–7057 Filed 3–24–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[LA–9–1–5734; FRL–4840–4]

Approval and Promulgation of Implementation Plans; Louisiana Stage II Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking action to approve the Louisiana Stage II State Implementation Plan (SIP), which includes a SIP Supplement dated November 15, 1992, and State regulations (title 33, chapter 21. Control of Emission of Organic Compounds, section 2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, and section 6523. Fee Schedule Listing), as a revision to the Louisiana SIP for ozone. On November 10, 1992, Louisiana submitted a SIP revision request to the EPA to satisfy the requirement of section 182(b)(3) of the Clean Air Act Amendments (CAAA) of 1990. This SIP revision requires owners and operators of gasoline dispensing facilities to install and operate Stage II vapor recovery equipment in the Louisiana ozone nonattainment areas classified as moderate or worse. This revision applies to the Louisiana parishes of Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee.

DATES: This final rule will be effective May 24, 1994, unless notice is received by April 25, 1994, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSES: Comments should be sent to James F. Davis at USEPA, Region 6 (6T–AP), 1445 Ross Avenue, suite 1200, Dallas, Texas 75202–2733. The State submittal and the technical support document (TSD) are available for public review at the above address and at the Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: James F. Davis at (214) 655–7584. A copy of today's revision to the Louisiana SIP is also available for inspection at: Air Docket 6102, US Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Under section 182(b)(3) of the CAAA, the EPA was required to issue guidance as to the effectiveness of Stage II systems. The EPA issued technical guidance in November 1991 and enforcement guidance in December 1991 to meet this requirement.[1] In addition, on April 16, 1992, the EPA published the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) (57 FR 13498). The guidance documents and the General Preamble interpret the Stage II statutory requirement and indicate what the EPA believes a State submittal needs to include to meet that requirement.

The EPA has designated the Baton Rouge and Lake Charles areas as ozone nonattainment in the State of Louisiana. The Baton Rouge nonattainment area is classified as serious and contains the following six parishes: Ascension, East Baton Rouge, West Baton Rouge, Iberville, Livingston, and Pointe Coupee. The Lake Charles ozone nonattainment area is classified as marginal and therefore is not required to implement a Stage II program. The designations for ozone were published in the FR on November 6, 1991, and November 30, 1992, and have been codified in the Code of Federal Regulations (CFR). See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.300 through 81.437. Under section 182(b)(3) of the CAAA, Louisiana was required to submit Stage II vapor recovery rules for the Baton Rouge nonattainment area by November 15, 1992. On November 10, 1992, Governor Edwin W. Edwards submitted to the EPA, Stage II vapor recovery rules and a SIP Supplement dated November 15, 1992, which were adopted by the State on November 10, 1992, and were published in the Louisiana Register on November 20, 1992. By today's action, the EPA is approving this submittal. The EPA has reviewed the State submittal against the statutory requirements and for consistency with EPA guidance. A summary of the EPA's analysis is provided below. In addition, a more detailed analysis of the State submittal is contained in a TSD, dated September 24, 1993, which is available from the EPA Region 6 Office, listed above.

Applicability

Under section 182(b)(3) of the CAAA, States were required by November 15, 1992, to adopt regulations requiring owners or operators of gasoline dispensing systems to install and operate vapor recovery equipment at their facilities. The CAAA specifies that these State rules must apply to any facility that dispenses more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer, any facility that dispenses more than 50,000 gallons of gasoline per month. Section 324 of the CAAA defines an independent small business marketer, which is fully set forth in the TSD. The State has adopted the statutory definition of independent small business marketer in its regulations.

The State has adopted a general applicability requirement of 10,000 gallons per month. The State has also chosen to exempt independent small business marketers dispensing under 50,000 gallons per month.

As more fully discussed in the EPA's Enforcement Guidance and the General Preamble (57 FR 13514), the State has provided that the gallons of gasoline dispensed per month will be based on the average gasoline throughput for the most recent two year period without facility shutdown, and calculated monthly. If two year data is not available, the calculation is based on the monthly average for the most recent 12 calendar months (including only those months for which the facility was operating). The EPA finds the applicability requirements in the Louisiana Stage II rule to be acceptable.

Implementation of Stage II

The CAAA specifies the time by which certain facilities must comply with the State regulation. For facilities that are not owned or operated by an independent small business marketer, these times, calculated from the time of State adoption of the regulation, are: (1) Six months for facilities for which construction began after November 15, 1990; (2) one year for facilities that dispense at least 100,000 gallons of gasoline per month; and (3) two years for all other facilities. The Louisiana Stage II rule time schedule sets a compliance schedule of six months after State rule promulgation, one year after State rule promulgation, and two years after State rule promulgation, respectively for the above three deadlines. For independent small business marketers, section 324(a) of the CAAA provides that the time periods may be: (1) 33 percent of the facilities owned by an independent small business marketer by the end of the first year after the regulations take effect; (2) 66 percent of such facilities by the end of the second year; and (3) 100 percent of such facilities after the third year. Although Louisiana promulgated its Stage II regulations on November 20, 1992, five days after the SIP was required to be submitted, the EPA believes it is appropriate to accept the State's compliance schedule.

The EPA is approving the submitted time table for the following reasons. First, the CAAA states that the adoption date must be used to calculate the compliance schedule for Stage II implementation at facilities. In this case, the EPA accepts Louisiana's approach of triggering compliance dates from the date when the regulations were promulgated. The compliance deadlines triggered by this date begin only five days after the time schedule specified by the CAAA. The EPA considers an additional five days to be of minimal impact and will have no adverse impact on the integrity of the program. Also, the timetable initiation date established by the State on November 20, 1992, began shortly after adoption of the regulations. Secondly, remedying this deficiency by amending the compliance schedule would cause further delay in the implementation of Stage II in Louisiana, in that a State revision to the Stage II rule could establish a new and later adoption date and hence later compliance deadlines. Lastly, the Louisiana rule otherwise fulfills the Stage II requirements, and the EPA believes it will provide substantial air

[1] These two documents are entitled "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA–450/3–91–022) and "Enforcement Guidance for Stage II Vehicle Refueling Control Programs."

quality benefits to the regulated area. Therefore, the EPA believes it is in the public interest to approve and make enforceable this requirement at the earliest time feasible.

Additional Program Requirements

The State requires that Stage II systems be tested and certified to meet a 95 percent emission reduction efficiency. The EPA has indicated three acceptable methods of demonstrating a 95 percent emission reduction efficiency: (1) A method tested and approved by the California Air Resources Board (CARB); (2) a testing program that is equivalent to the CARB program, that will be conducted by the Program Oversight Agency (POA), or by a third party recognized by the POA, and submitted and approved by the EPA for incorporation into the SIP; or (3) a system approved by the CARB. The State has chosen to use a system approved by the CARB, or an equivalent certification authority approved by the administrative authority*. The State regulations define the administrative authority* to include both the State Department of Environmental Quality and the EPA. Thus, equivalent system certification authorities would have to be formally approved by the EPA and could be incorporated into the SIP.

The State requires sources to verify proper installation and function of Stage II equipment through use of a liquid blockage test and a leak test prior to system operation and every five years or upon major modification of a facility's Stage II equipment (i.e., 75 percent or more Stage II equipment change).

With respect to recordkeeping, the State has adopted those items recommended in the EPA's guidance and specifies that sources subject to Stage II must make the following documents available upon request: (1) Application approval records and station operating license; (2) system installation and testing results; (3) equipment maintenance and compliance records; (4) training certification files; and (5) inspection records. In addition, the State has committed in its SIP supplement to maintain general station and enforcement files, including information such as facility name, address, phone number, owner/operator names, a State assigned reference number, date of initial compliance with the regulations, number of pumps, monthly gasoline throughput, and State enforcement actions. The State has also established an inspection function consistent with that described in the EPA's guidance. The State commits to conducting inspections of facilities including a visual inspection of the Stage II equipment and of the required records and a functional test of the Stage II equipment. According to the Supplement, the State shall inspect each facility at least one time per year. Finally, the State has established procedures for enforcing violations of the Stage II requirements. Civil penalties may be assessed of up to $25,000 per day per violation. The EPA finds the State's program for implementation and enforcement of the Stage II program to be consistent with the EPA guidelines.

Rulemaking Action

Since the EPA finds that the State has adopted a Stage II SIP in accordance with section 182(b)(3) of the CAAA, as interpreted in the EPA's guidance, the EPA is giving notice of its intent to approve the submittal as a direct final action meeting the requirements of section 182(b)(3).

The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial revision and anticipates no adverse comments. This action will become effective May 24, 1994, unless by April 25, 1994 notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent documents. One document will withdraw the final action, and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective May 24, 1994.

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

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the EPA may certify that the rule will not have a significant 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.

SIP approvals under section 110 and subchapter I, part D of the CAAA 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, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAAA forbids the 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)).

This action has been classified as a table two action by the Regional Administrator under the procedures published in the FR on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived table two and table three SIP revisions from the requirements of section three of Executive Order 12291 for a period of two years (54 FR 2222). The EPA has submitted a request for a permanent waiver for table two and table three SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on the EPA's request. This request is still applicable under Executive Order 12866.

List of Subjects in 40 CFR Part 52

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

Note—Incorporation by reference of the SIP for the State of Louisiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 4, 1994.

Jane N. Saginaw,

Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The athority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart T—Louisiana

2. § 52.970 is amended by adding paragraph (c)(61) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(61) A revision to the Louisiana SIP to include revisions to LAC, Title 33,

"Environmental Quality," Part III. Air, Chapter 21, Control of Emission of Organic Compounds, Section 2132—Stage II Vapor Recovery Systems for Control of Vehicle Refuelling Emissions at Gasoline Dispensing Facilities effective November 20, 1992, and submitted by the Governor by cover letter dated November 10, 1992.

(i) Incorporation by reference.

(A) Revisions to LAC, Title 33, "Environmental Quality," Part III. Air, Chapter 21, Control of Emission of Organic Compounds, Section 2132—Stage II Vapor Recovery Systems for Control of Vehicle Refuelling Emissions at Gasoline Dispensing Facilities, effective November 20, 1992; and Chapter 65, Section 6523—Fee Schedule Listing, effective November 20, 1992.

(ii) Additional materials.

(A) November 15, 1993, narrative plan addressing: legal authority, control strategy, compliance schedules, air quality surveillance, public notice, determination of regulated universe, Louisiana Department of Environmental Quality recordkeeping, facility recordkeeping, annual in-use above ground inspections, program penalties, training, and benefits.

[FR Doc. 94-7056 Filed 3-24-94; 8:45 am]

BILLING CODE 6560-50-P

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40 CFR Parts 712 and 716

[OPPTS-82041A; FRL-4768-2]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals; Stay of Certain Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; stay.

SUMMARY: EPA is staying certain provisions of a final rule which was published in the **Federal Register** of December 27, 1993, adding chemical substances to two model information-gathering rules: The Toxics Substances Control Act (TSCA) Section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA Section 8(d) Health and Safety Data Reporting Rule. EPA received correspondence requesting clarification of the chemical identities of certain propylene glycol ethers and esters and the removal of certain other propylene glycol ethers and esters from the reporting requirement. EPA is staying the final rule as it relates to chemical substances under the category propylene glycol ethers and esters in order to resolve these issues and determine those chemical substances on which reporting will be required.

DATES: This stay is effective March 25, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 545-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 27, 1993 (58 FR 68311), EPA added 24 chemical substances and two categories of substances to both the PAIR and the section 8(d) Health and Safety Data Reporting Rule. Any person believing section 8(a) or 8(d) reporting required by this rule to be unwarranted was given opportunity to provide EPA in detail the reasons for that belief.

EPA received correspondence from several chemical companies and the Chemical Manufacturers Association's (CMA) Propylene Glycol Ether Panel which raised questions concerning the appropriate identification of some chemicals listed under the category propylene glycol ethers and esters and requested that certain chemical substances in this category be removed from the rule. These substances were among those recommended for testing by the Interagency Testing Committee (ITC) and added to the section 4(e) Priority List in its 31st Report to the EPA Administrator. Pursuant to 40 CFR 712.30(c) and 716.105(b), EPA routinely adds substances to the TSCA 8(a) and 8(d) rules when the ITC adds substances to the section 4(e) Priority List.

To provide sufficient time for EPA and ITC member agencies to review these issues, EPA is staying the provisions of the final rule that relate to the category propylene glycol ethers and esters. EPA will announce, via notice in the **Federal Register**, the final reporting requirements for this category when the issues have been resolved.

List of Subjects in 40 CFR Parts 712 and 716

Environmental protection, Chemicals, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: March 21, 1994.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712—[AMENDED]

1. In part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 712.30 [Amended]

b. Section 712.30(x) is amended by staying the "propylene glycol ethers and esters" category and all related dates.

PART 716—[AMENDED]

2. In part 716:

a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

§ 716.120 [Amended]

b. Section 716.120(d) is amended by staying the "propylene glycol ethers and esters" category and all related dates.

[FR Doc. 94-7093 Filed 3-24-94; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 99

[GEN Docket No. 90-314 and ET Docket No. 92-100; FCC 94-30]

Narrowband Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Memorandum Opinion and Order (*MO&O*) finalizes the spectrum allocation, service rules, and pioneer's preference decisions for the narrowband personal communications service (PCS). This action is taken in response to eight petitions for reconsideration and clarification of the First Report and Order (*R&O*). These rules are intended to foster introduction of this new service to the public, contribute to development of the national information infrastructure, and provide for ubiquitous wireless access to new voice and data services. Facilitating the introduction of these services will create new jobs and promote U.S. competitiveness in the global telecommunications market.

EFFECTIVE DATE: April 25, 1994.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 653-8114.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *MO&O* in GEN Docket No. 90-314 and ET Docket No. 92-100, adopted February 3, 1994, and released March 4, 1994. The complete text of this *MO&O* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of MO&O

1. In the *R&O*, 58 FR 42681 (August 11, 1993), the Commission defined PCS very broadly to encompass a wide variety of mobile and ancillary fixed communication services, which could provide services to individuals and business, and be integrated with a variety of competing networks. Narrowband PCS was defined as PCS services operating in the 901–902 MHz, 930–931 MHz and 940–941 MHz bands. Narrowband PCS services are expected to include advanced voice paging, two-way acknowledgment paging, data messaging, and both one-way and two-way messaging and facsimile. Three megahertz (MHz) of spectrum were allocated for narrowband PCS services; 2 MHz were made available for immediate licensing and 1 MHz remains to be addressed in the future. A channel plan was adopted based on 50 kHz-wide channels with 26 channels generally available to all interested parties. In addition, eight 12.5 kHz-wide (paging response) channels were made available only to existing paging licensees. Three different-sized PCS service areas were adopted: Nationwide, areas based on Major Trading Areas (MTAs), and areas based on Basic Trading Areas (BTAs). (MTAs and BTAs are defined in Rand McNally's 1992 Commercial Atlas & Marketing Guide at pages 38–39.) Eleven channels were made available on a nationwide basis; 13 channels were made available on a MTA basis; and 10 channels, including the 8 paging response channels, were made available on a BTA basis. Each entity was permitted to acquire up to three licenses per geographic area. Geographic-based construction requirements were adopted that required nationwide licensees to construct 250 base stations in 5 years and 500 base stations in 10 years; MTA licensees to construct 25 base stations or serve 25 percent of the MTA's geographic area in 5 years and to construct 50 base stations or serve 50 percent of the MTA's area in 10 years; and BTA licensees to construct 1 base station and initiate service in 1 year. In order for a base station to be counted toward the required number of base stations, the base station had to serve 3,000 square kilometers (km^2). Base stations that serve less than this area had to be aggregated to form an equivalent service area. Finally, in the *R&O* the Commission granted Mobile Telecommunication Technologies, Inc. (Mtel) a pioneer's preference for a nationwide 50 kHz-wide channel for developing and testing "multicarrier modulation" technology capable of transmitting a 24 kilobit per second simulcast signal in a single 50 kHz channel and for designing a system capable of providing a variety of new two-way services in a single 50 kHz channel. An additional 18 pioneer's preference requests were denied. On reconsideration, in the *MO&O* the Commission took the following action:

2. *Service definition*. PageMart, Inc. (PageMart) requested that traditional paging services be excluded from the new narrowband PCS spectrum, arguing that the Commission provided no safeguards to ensure that the spectrum would be used for advanced messaging and paging services. The Commission declined to amend the board definition of service adopted in the *R&O*, stating that it would not be desirable to limit the range of services and technologies that are allowed to use these frequencies and that the definition adopted in the *R&O* will allow the market to determine the mix of services and technologies that best meets the needs of the public.

3. *Channel plan*. PageMart requested that a greater variety in the size of channels be provided, arguing that the channel plan would limit efficient use of this spectrum, encourage warehousing and speculation, and inhibit development of services that require either smaller or larger channels. The Commission declined to amend the 50 kHz-based channel plan adopted in the *R&O*, stating that the services proposed in this docket would be best accommodated by its 50 kHz-based channel plan, with aggregation possibilities, as adopted.

4. *Service areas*. Paging Network, Inc. (PageNet) requested that larger local and regional service areas be provided, arguing that BTAs are technically unworkable, not representative of existing local paging systems, and not economically viable; and that MTAs pose technical difficulties and are not representative of existing regional services. The Commission responded that MTAs contain sufficient population and geographic area to support viable services and retained MTAs for service areas. However, the Commission revised its service areas to include five large regions in addition to BTAs, MTAs and nationwide. The Commission stated that the regions better reflect the technologies and business plans of the parties proposing to implement large regional systems. The new five large regions are based upon aggregations of MTAs, and each has approximately 20 percent of the nation's population. See § 99.102, *infra*. The Commission also amended the spectrum plan to accommodate the new regional service areas, as follows:

Service area	Channels available
Nationwide	3–50 kHz paired with 12.5 kHz. 5–50 kHz paired with 50 kHz. 3–50 kHz unpaired.
Regions	4–50 kHz paired with 12.5 kHz. 2–50 kHz paired with 50 kHz.
MTA	3–50 kHz paired with 12.5 kHz. 2–50 kHz paired with 50 kHz. 2–50 kHz unpaired.
BTA	2–50 kHz paired with 12.5 kHz.

In addition, the Commission amended the rules governing the paging response channels to provide that four channels will be available on an MTA basis and four on a BTA basis. The Commission stated that designating response channels at the MTA level as well as at the BTA level will make it easier for operators of wider area local and regional systems to upgrade and coordinate their paging operations.

5. *Multiple licenses*. PageMart requested that the limit on acquisition of multiple licenses be reconsidered, arguing that some licensees could hold 300 kHz (three 50 kHz paired channels) and that other licensees would be restricted to significantly less spectrum because each license is for a smaller channel. PageMart also requested that the Commission clarify that existing paging spectrum held by licensees not be counted toward the limit and that existing paging licensees be limited to two paging response channels per geographic area. In response, the Commission clarified that licensees are limited to a total of three licenses, excluding the response channels reserved for the upgrade of exiting paging systems and also excluding existing paging spectrum. Additionally, the Commission clarified application of the multiple ownership limits by defining narrowband PCS licensees as persons or entities with an ownership interest of five or more percent in an entity holding a narrowband PCS license. The Commission agreed with PageMart that the conditions for use of the paging response channels required clarification and thus specified that an

"existing" paging licensee means a paging licensee authorized under parts 22 or 90 as of June 24, 1993, that the existing paging licensee must operate at least one base station in the MTA or BTA for which it requests a response channel, and that the response channels may be used only for mobile-to-base transmissions. The Commission limited existing paging licensees to two response channels per geographic area, stating that this will allow an opportunity for existing paging licensees to provide acknowledgement and messaging capability.

6. *Construction requirement.* Mtel requested that a population-based construction requirement be adopted as an alternative to the geographic coverage standard, arguing that such a standard would emphasize service to the public. In related requests, PageMart and PageNet asked that the method for counting base stations that serve less than 3000 km² be clarified so that a licensee can be certain when it has satisfied its construction obligations. In response to these petitions, the Commission amended the construction requirements as follows. Nationwide narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 750,000 square kilometers or serve 37.5 percent of the U.S. population within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 1,500,000 square kilometers or serve 75 percent of the U.S. population within ten years of initial license grant date. Regional narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 150,000 square kilometers or serve 37.5 percent of the population of the service area within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 300,000 square kilometers or serve 75 percent of the service area population within ten years of initial license grant date. MTA narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 75,000 square kilometers or 25 percent of the geographic area, or serve 37.5 percent of the population of the service area within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 150,000 square kilometers or 50 percent of the geographic are, or serve 75 percent of the population of the service area within ten years of initial license grant date. The Commission stated that these new coverage requirements eliminate the need to specify a specific number of stations and eliminate any previous ambiguity that may have occurred for base stations serving less than 3000 km². The Commission also stated that by including alternative population coverage requirements, it can better ensure that licensees provide new and better service to the public, that such service is implemented promptly, and that the spectrum is efficiently utilized. The BTA construction requirement was not amended.

7. *Pioneer's preference.* Pacific Bell, PageMart, and PageNet requested that Mtel be required to pay for its license, that Mtel be required to build the system it proposed, that Mtel not be granted a license before other applicants, and, that Mtel be granted a license for less than a nationwide service area. The Commission declined to require that Mtel pay for its license, stated that Mtel's license application will be processed in due course, and affirmed Mtel's pioneer grant for a nationwide channel. For the license that Mtel may receive as a pioneer, the Commission required Mtel to build a system that substantially uses the design and technologies upon which its preference award was based and to hold its license for at least three years or until the five-year construction benchmark is met, whichever occurs first.

8. Additionally, Advanced Cordless Technologies, Inc. (ACT), Echo Group L.P. (Echo), Freeman Engineering Associates, Inc. (Freeman), and Global Enhanced Messaging Venture (Global) requested reconsideration of the denial of their pioneer's preference requests. ACT's petition was dismissed as untimely filed. Echo's petition was denied because: (1) The two-way data service it proposed was initially designed for implementation in services in which its use already is authorized; (2) Echo did not demonstrate how its proposal differs from existing or proposed two-way data services on cellular or land mobile frequencies; (3) Echo did not demonstrate with specificity the developments for which it is responsible; and (4) Echo did not explain how it derives its cost figures. Freeman's petition was denied because its system is incompatible with the licensing rules. Global's petition was denied because its system does not qualify as innovative under the Commission's rules.

9. Accordingly, it is ordered that part 99 of the Commission's rules is amended as specified below, effective April 25, 1994.

10. It is further ordered that the petitions for clarification or reconsideration filed by Mobile Telecommunication Technologies, Inc., Paging Network, Inc., and PageMart, Inc. are granted in part as discussed *supra* and ARE DENIED in all other respects.

11. It is further ordered that the petitions for reconsideration filed by Echo Group L.P., Freeman Engineering Associates, Inc., and Global Enhanced Messaging Venture ARE DENIED and that the petition for reconsideration filed by Advanced Cordless Technologies, Inc. is dismissed.

12. It is further ordered that the licensing bureau shall impose the following conditions on the license received by Mobile Telecommunication Technologies, Inc. (Mtel) pursuant to its pioneer's preference award: (1) Mtel shall be required to build a system that substantially uses the design and technologies upon which its preference award was based; and (2) Mtel must hold its license for three years or until the construction requirements applicable to the five-year build-out period specified in § 99.103 of the Commission's rules have been satisfied, whichever occurs first. It is further ordered that the petitions filed by Pacific Bell, Paging Network, Inc., and PageMart, Inc. addressing Mtel's pioneer's preference award are granted to this extent and, in all other respects, are denied.

13. This action is taken pursuant to sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r).

List of Subjects in 47 CFR Part 99

Personal communications service, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 99 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 99—PERSONAL COMMUNICATIONS SERVICES

1. The authority citation in part 99 is revised to read as follows:

Authority: Secs. 4, 301, 302, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 301, 302, 303, and 332, unless otherwise noted.

§ 99.13 [Amended]

2. Section 99.13 is removed.

3. Section 99.101 is added to read as follows:

§ 99.101 Multiple ownership restrictions.

Narrowband PCS licensees shall not have an ownership interest in more than three of the 26 channels listed in § 99.129 in any geographic area. For the purpose of this restriction, a narrowband PCS licensee is any person or entity with an ownership interest of five or more percent in an entity holding a narrowband PCS license.

4. Section 99.102 is revised to read as follows:

§ 99.102 Service areas.

Narrowband PCS service areas are nationwide, regional, Major Trading Areas (MTAs) and Basic Trading Areas (BTAs) as defined below. MTAs and BTAs are based on the Rand McNally 1992 Commercial Atlas & Marketing Guide, 123rd Edition, at pages 38–39 ("BTA/MTA Map"). Rand McNally organizes the 50 States and the District of Columbia into 47 MTAs and 487 BTAs. The BTA/MTA Map is available for public inspection at the Office of Engineering and Technology's Technical Information Center, Room 7317, 2025 M Street, NW., Washington, DC.

(a) The nationwide service area consists of the fifty states, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and United States Virgin Islands.

(b) The regional service areas are defined as follows:

(1) Region 1 (Northeast): The Northeast Region consists of the following MTAs: Boston-Providence, Buffalo-Rochester, New York, Philadelphia, and Pittsburgh.

(2) Region 2 (South): The South Region consists of the following MTAs: Atlanta, Charlotte-Greensboro-Greenville-Raleigh, Jacksonville, Knoxville, Louisville-Lexington-Evansville, Nashville, Miami-Fort Lauderdale, Richmond-Norfolk, Tampa-St. Petersburg-Orlando, and Washington-Baltimore; and, Puerto Rico and United States Virgin Islands.

(3) Region 3 (Midwest): The Midwest Region consists of the following MTAs: Chicago, Cincinnati-Dayton, Cleveland, Columbus, Des Moines-Quad Cities, Detroit, Indianapolis, Milwaukee, Minneapolis-St. Paul, and Omaha.

(4) Region 4 (Central): The Central Region consists of the following MTAs: Birmingham, Dallas-Fort Worth, Denver, El Paso-Albuquerque, Houston, Kansas City, Little Rock, Memphis-Jackson, New Orleans-Baton Rouge, Oklahoma City, San Antonio, St. Louis, Tulsa, and Wichita.

(5) Region 5 (West): The West Region consists of the following MTAs: Honolulu, Los Angeles-San Diego, Phoenix, Portland, Salt Lake City, San Francisco-Oakland-San Jose, Seattle (including Alaska), and Spokane-Billings; and, American Samoa, Guam, and the Northern Mariana Islands.

(c) The MTA service areas are based on the Rand McNally *1992 Commercial Atlas & Marketing Guide*, 123rd Edition, at pages 38–39, with the following exceptions and additions:

(1) Alaska is separated from the Seattle MTA and is licensed separately.

(2) Guam and the Northern Mariana Islands are licensed as a single MTA-like area.

(3) Puerto Rico and the United States Virgin Islands are licensed as a single MTA-like area.

(4) American Samoa is licensed as a single MTA-like area.

(d) The BTA service areas are based on the Rand McNally *1992 Commercial Atlas & Marketing Guide*, 123rd Edition, at pages 38–39, with the following additions: American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands are licensed separately as BTA-like areas.

5. Section 99.103 is revised to read as follows:

§ 99.103 Construction requirements.

(a) Nationwide narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 750,000 square kilometers or serve 37.5 percent of the U.S. population within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 1,500,000 square kilometers or serve 75 percent of the U.S. population within ten years of initial license grant date.

(b) Regional narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 150,000 square kilometers or serve 37.5 percent of the population of the service area within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 300,000 square kilometers or serve 75 percent of the service area population within ten years of initial license grant date.

(c) MTA narrowband PCS licensees shall construct base stations that provide coverage to a composite area of 75,000 square kilometers or 25 percent of the geographic area, or serve 37.5 percent of the population of the service area within five years of initial license grant date; and, shall construct base stations that provide coverage to a composite area of 150,000 square kilometers or 50 percent of the geographic area, or serve 75 percent of the population of the service area within ten years of initial license grant date.

(d) BTA narrowband PCS licensees shall construct at least one base station and begin providing service in its BTA within one year of initial license grant date.

(e) In demonstrating compliance with the above construction requirements, licensees must base their calculations on signal field strengths that ensure reliable service for the technology utilized.

(1) For the purpose of this section, the service radius of a base station may be calculated using the following formula:

$d_{km} = 2.53 \times h_m^{0.34} \times p^{0.17}$

where d_{km} is the radial distance in kilometers,

h_m is the antenna HAAT of the base station in meters, and

p is the e.r.p. of the base station in watts.

(2) Alternatively, licensees may use any service radius contour formula developed or generally used by industry, provided that such formula is based on the technical characteristics of their system.

(f) Upon meeting the five and ten year benchmarks in paragraphs (a), (b) and (c) of this section, licensees shall file a map and other supporting documentation that demonstrates compliance with the geographic area or population coverage requirement. BTA licensees shall file a statement indicating commencement of service. The filing must be received at the Commission on or before expiration of the relevant period.

(g) If the sale of a license is approved, the new licensee is held to the original build-out requirement.

(h) Failure by a licensee to meet the above construction requirements shall result in forfeiture of the license and ineligibility to regain it.

Note: Population-based construction requirements contained in this section shall be based on the 1990 census.

6. Section 99.129 is added to read as follows:

§ 99.129 Frequencies.

The following frequencies are available for narrowband PCS.

(a) Eleven frequencies are available for assignment on a nationwide basis as follows:

(1) Five 50 kHz channels paired with 50 kHz channels:

Channel 1: 940.00–940.05 and 901.00–901.05 MHz;

Channel 2: 940.05–940.10 and 901.05–901.10 MHz;

Channel 3: 940.10–940.15 and 901.10–901.15 MHz;

Channel 4: 940.15–940.20 and 901.15–901.20 MHz; and,
Channel 5: 940.20–940.25 and 901.20–901.25 MHz.

(2) Three 50 kHz channels paired with 12.5 kHz channels:

Channel 6: 930.40–930.45 and 901.7500–901.7625 MHz;
Channel 7: 930.45–930.50 and 901.7625–901.7750 MHz; and,
Channel 8: 903.50–930.55 and 901.7750–901.7875 MHZ.

(3) Three 50 kHz unpaired channels:

Channel 9: 940.75–940.80 MHz;
Channel 10: 940.80–940.85 MHz; and,
Channel 11: 940.85–940.90 MHz.

(b) Six frequencies are available for assignment on a regional basis as follows:

(1) Two 50 kHz channels paired with 50 kHz channels:

Channel 12: 940.25–940.30 and 901.25–901.30 MHz; and,
Channel 13: 940.30–940.35 and 901.30–901.35 MHz.

(2) Four 50 kHz channels paired with 12.5 kHz channels:

Channel 14: 930.55–930.60 and 901.7875–901.8000 MHz;
Channel 15: 930.60–930.65 and 901.8000–901.8125 MHz;
Channel 16: 930.65–930.70 and 901.8125–901.8250 MHz; and,
Channel 17: 930.70–930.75 and 901.8250–901.8375 MHz.

(c) Seven frequencies are available for assignment on a MTA basis as follows:

(1) Two 50 kHz channels paired with 50 kHz channels:

Channel 18: 940.35–940.40 and 901.35–901.40 MHz; and,
Channel 19: 940.40–940.45 and 901.40–901.45 MHz.

(2) Three 50 kHz channels paired with 12.5 kHz channels:

Channel 20: 930.75–930.80 and 901.8375–901.8500 MHz;
Channel 21: 930.80–930.85 and 901.8500–901.8625 MHz; and,
Channel 22: 930.85–930.90 and 901.8625–901.8750 MHz.

(3) Two 50 kHz unpaired channels:

Channel 23: 940.90–940.95 MHz; and,
Channel 24: 940.95–941.00 MHz.

(d) Two 50 kHz channels paired with 12.5 kHz channels are available for assignment on a BTA basis:

Channel 25: 930.90–930.95 and 901.8750–901.8875 MHz; and,
Channel 26: 930.95–931.00 and 901.8875–901.9000 MHz.

7. Section 99.130 is revised to read as follows:

§ 99.130 Paging response channels.

(a) The channels listed in paragraphs (b) and (c) of this section are available to paging licensees licensed pursuant to parts 22 and 90 of this chapter as of June 24, 1993, and which operate at least one base station within the service area for which the licensee requests such a channel. These channels shall be used only in paired communications with existing paging channels to provide mobile-to-base station communications. Eligible paging licensees may hold licenses for a maximum of two of these channels within the same geographic area. These licenses are not counted toward the multiple ownership restrictions of § 99.101.

(b) The following four 12.5 kHz unpaired channels are available for assignment on a MTA basis:

901.9000–901.9125 MHz;
901.9125–901.9250 MHz;
901.9250–901.9375 MHz; and,
901.9375–901.9500 MHz.

(c) The following four 12.5 kHz unpaired channels are available for assignment on a BTA basis:

901.9500–901.9625 MHz;
901.9625–901.9750 MHz;
901.9750–901.9875 MHz; and,
901.9875–902.0000 MHz.

8. Section 99.133 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 99.133 Emission limits.

(a) * * *

(1) * * *

(ii) On any frequency outside the authorized bandwidth and removed from the edge of the authorized bandwidth by a displacement frequency (f_d in kHz) of more than 40 kHz: at least $43+10 \operatorname{Log}_{10}$ (P) decibels or 80 decibels, whichever is the lesser attenuation.

* * * * *

[FR Doc. 94–7038 Filed 3–24–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 24

RIN 1018–AB28

Endangered and Threatened Wildlife and Plants; Designated Ports for Listed Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (the Service) hereby amends the regulations concerning the importation, exportation, and reexportation of plants by adding the U.S. Department of Agriculture (USDA) ports at Mobile, AL, Savannah, GA, Baltimore, MD, Morehead City and Wilmington, NC, Philadelphia, PA, Charleston, SC, and Norfolk, VA, as designated ports for the importation of logs and lumber from trees that are listed as endangered or threatened under the Endangered Species Act of 1973, as amended (the Act), or listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Service is also designating the USDA port at Wilmington, NC, as a port for the exportation of Venus flytrap (*Dionaea muscipula*) plants. The USDA has adequate facilities and personnel at these ports to qualify the ports as designated ports for the importation, exportation, and reexportation of plants under the terms of the Act and CITES. The addition of these ports to the list of designated ports will facilitate trade and the enforcement of the Act and CITES.

EFFECTIVE DATE: March 25, 1994.

FOR FURTHER INFORMATION CONTACT: Marshall P. Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 1849 C Street, NW., (MS 420 C ARLSQ), Washington, DC 20240, telephone (703) 358–2095.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (the Act), requires, among other things, that plants be imported, exported, or reexported only at designated ports or, under certain limited circumstances, at nondesignated ports. Section 9(f) of the Act (16 U.S.C. 1538[f]) provides for the designation of ports. Under section 9(f)(1), the Secretary of the Interior (the Secretary) has the authority to establish designated ports based on a finding that such an action would facilitate enforcement of the Act and reduce the costs of that enforcement. The United States Department of Agriculture (USDA) and the Secretary are responsible for enforcing provisions of the Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) relating to the importation, exportation, and reexportation of plants listed as endangered or threatened under the Act or listed under CITES.

The regulations in 50 CFR part 24, "Importation and Exportation of Plants," are for the purpose of establishing ports for the importation, exportation, and reexportation of plants. Plants that are listed as endangered or threatened in 50 CFR 17.12 or in the appendices to CITES in 50 CFR 23.23 are required to be accompanied by documentation and may be imported, exported, or reexported only at one of