

replace the seals. Localized corrosion was discovered on the sealing surface of the lid. The fuel was unloaded while repairs were made to the sealing surface. After the sealing surfaces were restored and the seals replaced, the cask was reloaded, leak tested, and returned to the storage pad. During these operations, no releases of radiation to the environment occurred and no spent fuel degradation was found. These two casks were initially loaded and placed in storage in 1996. More information can be found in NRC Inspection Report 72-002/2000-06.

The petitioner believes that the NRC has not evaluated phenomena such as high-temperature zinc reactivity and thermal shock that will allow site personnel very little time to evaluate the situation and initiate corrective actions. The NRC staff reviews areas such as thermal loading, inadvertent criticality, and structural or containment failure for normal and abnormal conditions that are addressed by the designer of the storage system. NRC places thermal load limit restrictions on casks approved for use and requires that fuel be stored in an inert atmosphere. Although no adverse effects of zinc on the cladding of the spent fuel stored in NRC certified casks have as yet been identified, NRC has initiated a research project to investigate the possible effects of zinc on spent fuel cladding.

The NRC staff believes that the petitioner has identified a valid concern regarding the potential recovery of fuel assemblies that unexpectedly degrade during storage. However, in this unlikely event, the NRC staff has concluded that there is reasonable assurance that a licensee can safely unload degraded fuel or address other problems. This conclusion is based on the NRC's defense-in-depth approach to safety that includes requirements to design and operate spent fuel storage systems that minimize the possibility of degradation; requirements to establish competent organizations staffed with experienced, trained, and qualified personnel; and NRC inspections to confirm safety and compliance with requirements. The NRC staff finds acceptable these procedures for detecting degraded fuel through sampling and, on the basis of the sample results, the implementation of appropriate recovery provisions that reflect the ALARA (as low as is reasonably achievable) requirements. The NRC staff's acceptance of this approach is based on the fact that the spent fuel storage cask can be maintained in a safe condition during the time needed to develop the necessary procedures and to assemble

the appropriate equipment before proceeding with cask unloading. The NRC staff also relies on the considerable radiological safety experience available in the nuclear industry in its assessment that appropriately detailed procedures can be prepared for the specific circumstances in a timely manner.

For the reasons cited in this document, the NRC denies this petition.

Dated at Rockville, Maryland, this 18th day of January, 2001.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 01-3025 Filed 2-5-01; 8:45 am]

BILLING CODE 7590-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 438

[FRL-6941-8]

RIN 2040-AB79

#### Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Metal Products and Machinery Point Source Category; Announcement of Meeting

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

**ACTION:** Announcement of meeting.

**SUMMARY:** EPA is conducting an additional public meeting and hearing on the pretreatment standards for the Metal Products and Machinery (MP&M) proposed rule in Chicago, Illinois on March 8, 2001.

EPA proposed effluent limitations guidelines and standards for the MP&M Industry in the **Federal Register** on January 3, 2001 (66 FR 425). In that document EPA announced public meetings and pretreatment hearings in three locations: Oakland, CA; Dallas, TX; and Washington, DC. Based on stakeholder requests, EPA is adding an additional public meeting and pretreatment hearing in Chicago, IL. For information on the specific location, see the **ADDRESSES** section below.

**DATES:** EPA is conducting a public meeting (9:00 AM-12:00 PM) and hearing on the pretreatment standards (1:00 PM-4:00 PM) for the MP&M proposed rule on March 8, 2001.

**ADDRESSES:** The Metal Products and Machinery public meeting and pretreatment hearing will be held at the EPA Region 5 offices in the Metcalfe Federal Building, 77 West Jackson Blvd., Room 331, Chicago, IL (312) 353-2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Ebner at (202) 260-5397 or Ms. Shari Barash at (202) 260-7130 or by E-mail: ebner.michael@epa.gov or barash.shari@epa.gov.

**SUPPLEMENTARY INFORMATION:** During the public meeting, EPA will present information on the applicability of the proposed regulation, the technology options selected as the basis for the proposed limitations and standards, and the compliance costs and pollutant reductions. EPA will also allow time for questions and answers during this session. During the pretreatment hearing, the public will have the opportunity to provide oral comment to EPA. EPA will not address any issues raised during the pretreatment hearing at that time, but these comments will be recorded and included in the public record for the rule. Persons wishing to present formal comments at the public hearing should contact Mr. Michael Ebner before the hearing and should have a written copy of their comments for submittal.

Documents related to the proposed regulation are available on the MP&M web site (<http://www.epa.gov/ost/guide/mpm/rule.html>).

If you wish to submit written comments on the proposed MP&M rule, the comment period closes on May 3, 2001. Please see the Notice of Proposed Rulemaking in the **Federal Register** (66 FR 425; January 3, 2001) for information on "How to Submit Comments."

**Geoffrey H. Grubbs,**

*Director, Office of Science and Technology.*

[FR Doc. 01-3089 Filed 2-5-01; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 51

[CC Docket No. 98-147; CC Docket No. 96-98; FCC 01-26]

#### Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document clarifies the Commission's rules with regard to an incumbent local exchange carrier's (LEC) obligation to provide line sharing in those instances in which the loop is serviced by a remote terminal, and seeks

comment in a Further Notice of Proposed Rulemaking on the technical and economic issues associated with implementing this requirement.

**DATES:** Comments are due February 27, 2001 and reply comments are due March 13, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jessica Rosenworcel, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1580.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, and the Commission's Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, released January 19, 2001 and adopted January 19, 2001. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY-B400, 445 12th Street, SW., Washington, DC. It is also available on the Commission's website at <http://www.fcc.gov>.

### Synopsis of Reconsideration Order

1. The Commission adopts a Third Further Notice of Proposed Rulemaking in the Advanced Services proceeding, CC Docket No. 98-147, and a Sixth Further Notice of Proposed Rulemaking in the Local Competition proceeding, CC Docket No. 96-98. The Commission requests comment on issues that have been raised with respect to line sharing where an incumbent LEC has deployed fiber in the loop. The Commission clarifies that the requirement to provide line sharing applies to the entire loop, even where the incumbent LEC has deployed fiber in the loop, e.g., where the loop is served by a remote terminal.

### Initial Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (Third Further Notice). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA

and must be filed by the deadlines for comments on the Third Further Notice, as described in paragraph 67. The Commission will send a copy of the Third Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.<sup>2</sup> In addition, the Third Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.<sup>3</sup>

5. This Third Further Notice continues our efforts to promote innovation, investment, and competition in the market for advanced services. We invite comment on whether we should amend our line sharing or unbundled network element rules to ensure that competitive local exchange carriers (LECs) are able to gain access to the high frequency portion of the loop for the provision of advanced services where an incumbent LEC has deployed fiber in the loop on which it is providing voice service. Specifically, the Commission seeks comment on the technical and economic feasibility of different types of line sharing arrangements where an incumbent LEC has deployed fiber in the loop.

6. The Third Further Notice is adopted pursuant to sections 1-4, 201, 202, 251-254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 201, 202, 251-254, 256, 271, and 303(r).

### Description and Estimate of the Number of Small Entities Affected by This Third Further Notice

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposals in this Third Further NPRM, if adopted.<sup>4</sup> In the IRFA to the Advanced Services Order and NPRM, we adopted the analysis and definitions set forth in determining the small entities affected by this Third Further Notice for purposes of this IRFA. The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction."<sup>5</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.<sup>6</sup> Under the Small Business Act, a "small business concern" is one

that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).<sup>7</sup> We describe and estimate below the number of small telephone companies that may be affected by the proposals in the Third Further Notice, if adopted.

8. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its Carrier Locator report, derived from filings made in connection with the Telecommunications Relay Service (TRS).<sup>8</sup> According to data in the most recent report, there are 4,144 interstate carriers.<sup>9</sup> These carriers include, *inter alia*, LECs, wireline carriers and service providers, interexchange carriers, competitive access providers, operator services providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

9. The SBA has defined establishments engaged in providing "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.<sup>10</sup> We discuss below the total estimated number of telephone companies and small businesses in this category and then attempt to refine further those estimates.

10. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."<sup>11</sup> The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.<sup>12</sup> We have therefore included small incumbent LECs in this RFA analysis, although we

<sup>7</sup> 15 U.S.C. 632; see, e.g., *Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

<sup>8</sup> FCC, Carrier Locator: Interstate Service Providers, Figure 1 (Jan. 2000) (Carrier Locator).

<sup>9</sup> *Id.*

<sup>10</sup> 13 CFR 121.201, SIC Codes 4812 and 4813. See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987).

<sup>11</sup> 5 U.S.C. 601(3)

<sup>12</sup> Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (filed May 27, 1999) (SBA May 27, 1999 Letter).

<sup>1</sup> See 5 U.S.C. 603.

<sup>2</sup> See 5 U.S.C. 603(a).

<sup>3</sup> See *id.*

<sup>4</sup> See 5 U.S.C. 603(b)(3).

<sup>5</sup> 5 U.S.C. 601(6).

<sup>6</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. 632).

emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

11. *Total number of telephone companies affected.* The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.<sup>13</sup> These firms include a variety of different categories of carriers, including LECs, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 4,144 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."<sup>14</sup> For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 4,144 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules proposed in this Third Further Notice.

12. *Wireline carriers and service providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.<sup>15</sup> According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.<sup>16</sup> All but 26 of the 2,231 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,205 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's

definition. Consequently, we estimate that there are fewer than 2,205 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules proposed in the Third Further Notice.

13. *Local exchange carriers.* The Commission has not developed a special size definition of small LECs or competitive LECs. The closest applicable definition for these types of carriers under SBA rules is, again, that used for telephone communications companies other than radiotelephone (wireless) companies.<sup>17</sup> The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).<sup>18</sup> According to our most recent data, there are 1,348 incumbent LECs, 212 competitive LECs,<sup>19</sup> and 442 resellers.<sup>20</sup>

14. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are no more than 1,348 small entity incumbent LECs, 212 competitive LECs, and 442 resellers that may be affected by the proposals in this Third Further Notice.<sup>21</sup>

#### **Description of Projected Reporting, Record Keeping, and Other Compliance Requirements**

15. In the Third Further Notice in CC Docket No. 98-147 and Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, we invite comment on whether we should amend our line sharing or unbundled network element rules to ensure that competitive LECs are able to gain access to the high frequency portion of the loop for the provision of advanced services where an incumbent LEC has deployed fiber in the loop on which it is providing voice service. Specifically, we seek comment on the ways in which competitive LECs can access the high frequency portion of the loop for line sharing where an

incumbent LEC has deployed fiber in the loop. We also seek comment on the technical feasibility and practical considerations associated with different methods of providing such access. At a minimum, these methods include collocation of a competitor's digital subscriber line access multiplexer (DSLAM) at the remote terminal, or alternatively, the use of "plug in" line cards in remote terminal equipment that perform a function similar to that of a traditional DSLAM. With regard to the feeder segment of the loop, there are alternatives for transmitting a competitor's data traffic between the remote terminal and the central office, such as the use of dark fiber or other feeder subloop offerings. Therefore, we also seek comment on all possible alternatives and technical feasibility issues associated with transmission of a competitive LEC's bit stream between the remote terminal and the central office.

16. If the Commission does not amend its rules, no additional compliance requirements are anticipated from further consideration of these issues. However, the Commission may amend or clarify its line sharing or unbundled network element rules to impose further obligations upon incumbent LECs to ensure competitive LEC access to the high frequency portion of the loop for the provision of advanced services. Depending upon the specific nature of any new obligations, small entities, including small incumbent LECs, may be subject to additional reporting, recordkeeping, and other compliance requirements. If further requirements are imposed, compliance with further requests for unbundled network elements may require the use of engineering, technical, operational, accounting, billing, and legal skills.

#### **Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered**

17. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from

<sup>13</sup> United States Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size 1-123 (1995) (1992 Census).

<sup>14</sup> 15 U.S.C. 632(a)(1).

<sup>15</sup> 1992 Census at Firm Size 1-123.

<sup>16</sup> 13 CFR 121.201, SIC Code 4813

<sup>17</sup> *Id.* at SIC Code 4813.

<sup>18</sup> See 47 CFR 64.601 *et seq.*; Carrier Locator at Fig. 1.

<sup>19</sup> The total for competitive LECs includes both competitive LECs and competitive access providers.

<sup>20</sup> Carrier Locator at Fig. 1. The total for resellers includes both toll resellers and local resellers.

<sup>21</sup> This TRS category also includes competitive access providers.

coverage of the rule, or any part thereof, for small entities.<sup>22</sup>

18. In the Third Further Notice, we seek to develop a record sufficient to adequately address issues related to developing long-term policies for ensuring that competitive carriers have access to unbundled network elements as changes are made to traditional telephone networks. In addressing these issues, we seek to ensure that competing providers, including small entity carriers, obtain access to inputs necessary to the provision voice and advanced telecommunications services. We believe that the issues on which we invite comment could impose minimal burdens on small entities, including both telecommunications carriers that request unbundled network elements and the incumbent LECs that, under section 251 of the Communications Act, must provide unbundled network elements to requesting carriers. As indicated above, both groups of carriers include entities that, for purposes of this IRFA, are classified as small entities. In framing the issues in this Third Further Notice, we have sought to develop a record on the potential impact our proposed rules could have upon small entities. We thus ask that commenters propose measures to avoid significant economic impact on small business entities.

#### List of Subjects in 47 CFR Part 51

Communications common carriers, Telecommunications, Interconnection.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01-2916 Filed 2-5-01; 8:45 am]

BILLING CODE 6712-01-U

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA01-182, MM Docket No. 01-23, RM-9960]

##### Digital Television Broadcast Service; Ontario, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by USA Station Group Partnership of Southern California, licensee of Station KHSC-TV, NTSC Channel 46, Ontario, California, requesting the substitution of DTV Channel 29 for Station KHSC-TV's

assigned DTV Channel 47. DTV Channel 29 can be allotted to Ontario, California, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (34-13-37 N. and 118-03-58 W.). As requested, we propose to allot DTV Channel 29 to Ontario with a power of 155 and a height above average terrain (HAAT) of 927 meters. However, since the community of Ontario is located within 275 kilometers of the U.S.-Mexican border, concurrence by the Mexican government must be obtained for this allotment.

**DATES:** Comments must be filed on or before March 26, 2001, and reply comments on or before April 10, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jacqueline P. Cleary, Sumeet Seam, Hogan & Hartson L.L.P., 555 13th Street, NW, Washington, DC 20004-1106 (Counsel for USA Station Group Partnership of Southern California).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-23, adopted January 30, 2001, and released January 31, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., 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, 1231 20th Street, NW, Washington, DC 20036.

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

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

##### § 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California is amended by removing DTV Channel 47 and adding DTV Channel 29 at Ontario.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01-2913 Filed 2-5-01; 8:45 am]

BILLING CODE 6712-01-P

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA 01-247, MM Docket No. 01-28, RM-10043]

##### Digital Television Broadcast Service; Albuquerque, NM

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by The Board of Regents of the University of New Mexico and the Board of Education of the City of Albuquerque, New Mexico, licensee of noncommercial education station KNME-TV, NTSC channel \*5, Albuquerque, New Mexico, proposing the substitution of DTV channel \*35 for station KNME-TV's assigned DTV \*25. DTV Channel \*35 can be allotted to Albuquerque, New Mexico, in compliance with the principal community coverage requirements of Section 73.625(a) at reference coordinates (35-12-44 N. and 106-26-57 W.). As requested, we propose to allot DTV Channel \*35 to Albuquerque with a power of 250 and a height above average terrain (HAAT) of 1289 meters.

**DATES:** Comments must be filed on or before March 26, 2001, and reply comments on or before April 10, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments

<sup>22</sup> 5 U.S.C. 603(c).