The Commission is exempt from Executive Order 12866 and its provisions do not apply to this rule. Even if the Order were applicable, the rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. The implementation of the rule will have no adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Secretary of the Panama Canal Commission certifies these changes meet the applicable standards set out in sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects

35 CFR Part 113

Cargo vessels, Hazardous materials transportation, Reporting and recordkeeping requirements.

35 CFR Part 115

Organization and functions (Government agencies), Panama Canal.

For the reasons stated in the Preamble, the Panama Canal Commission amends 35 CFR Parts 113 and 115 as follows:

PART 113—DANGEROUS CARGOES

1. The authority citation for part 113 is revised to read as follows:

Authority: 22 U.S.C. 3811; EO 12215, 45 FR 36043, 3 CFR 1980 Comp., p. 257.

2. Revise § 113.49(b) to read as follows:

§ 113.49 Class 1, Explosives.

* * * * *

(b) Explosive cargo to be used for other than official U.S. Government purposes may not be loaded or off-loaded at facilities of the Panama Canal Commission. Explosive anchorages prescribed in §§ 101.8(a)(2) and (3) and 101.8(c)(2) of this chapter may be used upon approval of the Marine Safety Advisor, or his designee, and with the concurrence of the Canal Operations Captain.

* * * * *

PART 115—BOARD OF LOCAL INSPECTORS; COMPOSITION AND FUNCTIONS

1. The authority citation for part 115 continues to read as follows:

Authority: 22 U.S.C. 3778; E.O. 12215, 45 FR 36043, 3 CFR 1980 Comp., p. 257.

§ 115.2 [Amended]

2. Amend § 115.2 as follows:

In paragraph (b) remove the word ''Administrator'' and add, in its place, the words ''Marine Operations Director''.

Dated: April 10, 1998.

John A. Mills,

Secretary.

[FR Doc. 98–9965 Filed 4–15–98; 8:45 am]

BILLING CODE 3640–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 292

RIN 0596–AB39

Smith River National Recreation Area; Correction

AGENCY: Forest Service, USDA.

ACTION: Final rule; correction.

SUMMARY: In the **Federal Register** of March 27, 1998, the Department published a final rule implementing Section 8(d) of the Smith River National Recreation Area Act of 1990. The final rule contained incorrect amendatory language. This document corrects that document.

EFFECTIVE DATE: This correction is effective on April 27, 1998. As noted in the final rule published March 27, 1998, the final rule is effective on April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Betty Anderson, Directives and Regulations Branch, Information Resources Management Staff, Forest Service, (703) 235–2994.

SUPPLEMENTARY INFORMATION: In the March 27, 1998, final rule for the Smith River National Recreation Area, the amendatory language incorrectly stated that a new subpart G was being added to part 292. This document corrects the amendatory language in rule FR Doc. 98–7924 (63 FR 15042, Part III) as follows:

On page 15059, in the second column, in paragraph 5, on line 4, in the amendatory language ''amended by adding a new subpart G'' is corrected to read ''amended by revising subpart G.''

Dated: April 10, 1998.

Sandra Key,

Acting Associate Chief.

[FR Doc. 98–10050 Filed 4–15–98; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 74

[FRL–5996–6]

RIN 2060–AH36

Acid Rain Program: Revisions to Sulfur Dioxide Opt-Ins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Title IV of the Clean Air Act, as amended by Clean Air Act Amendments of 1990, (''Act'') authorizes the Environmental Protection Agency (''EPA'' or ''Agency'') to establish the Acid Rain Program. The purpose of the Acid Rain Program is to significantly reduce emissions of sulfur dioxide and nitrogen oxides from electric generating plants in order to reduce the adverse health and ecological impacts of acidic deposition (or acid rain) resulting from such emissions. This final rule is intended to promote participation in the title IV opt-in program by clarifying existing regulations, allowing a limited exception to the general rule of one designated representative for all affected units at a source, revising the conditions under which the Agency may cancel current-year allowance allocations, and allowing thermal energy plans to be effective on a quarterly basis.

DATES: This rule is effective May 18, 1998.

Judicial Review. Under section 307(b)(1) of the Act, judicial review of this rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of these final rule revisions. Under section 307(b)(2) of the Act, the requirements that are the subject of today's document may not be challenged in civil or criminal proceedings brought by the EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A–97–23, containing supporting information used to develop the rule is available for public inspection and copying from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays, at EPA's Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Kathy Barylski at (202) 564–9074, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460; or

the Acid Rain Hotline at (202) 564–9620. Electronic copies of this rulemaking can be accessed through the Acid Rain Division website at www.epa.gov/acidrain.

SUPPLEMENTARY INFORMATION:

I. Affected Entities

Entities potentially affected by this action are fossil fuel fired boilers or turbines that serve generators producing electricity, generate steam, or cogenerate electricity and steam. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Electric service providers, boilers from a wide range of industries.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in § 74.2 of title 40 of the Code of Federal Regulations and the revised §§ 72.6, 72.7, 72.8, and 72.14 (62 FR 55460, 55476–80, October 24, 1997). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

The overall goal of the Acid Rain Program is to achieve significant environmental benefits through reductions in emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X), the primary precursors of acid rain. To achieve this goal at the lowest cost to society, the program employs both traditional and innovative, market-based approaches for controlling air pollution. In addition, the program encourages energy efficiency and promotes pollution prevention.

The Acid Rain Program departs from traditional regulatory methods by introducing an SO_2 allowance trading system that lowers the cost of reducing emissions by allowing electric utilities to seek out the least costly methods of control. Affected utility units under title IV of the Act are allocated allowances based on formulas in the Act. These units may trade allowances, provided that at the end of each year, each unit holds enough allowances to cover its annual SO_2 emissions.

Although the Acid Rain Program is mandated only for utility sources, section 410 provides opportunities for SO_2-emitting sources not otherwise affected by title IV requirements (e.g., industrial sources) to participate through the opt-in program. Entry of sources into the opt-in program is voluntary. Opt-in sources are allocated allowances and, by making cost-effective emissions reductions so that their allowance allocations will exceed their emissions, will have allowances that may be sold in the SO_2 allowance trading system. These allowances provide greater compliance flexibility for affected units.

In 1995, EPA issued final opt-in regulations implementing section 410 (60 FR 17100, April 4, 1995). On June 5, 1995, an owner of several potential opt-in sources filed a petition for review of the existing opt-in regulations. The litigation was settled on January 9, 1997. On September 25, 1997, EPA proposed opt-in regulation revisions, several of which resulted from that settlement.

III. Part 74: Opt-Ins

A. Designated Representative

Under the existing opt-in rule, combustion or process sources located at the same source as affected units are required to have the same designated representative as the affected utility units. *See* 40 CFR 74.4(b). (Hereinafter, this requirement is referred to as the ''single-designated-representative requirement''.) Based on comments and settlement of litigation on the issue, EPA proposed to establish a procedure for nonutility combustion or process sources located with affected utility units to elect an exception to the single-designated-representative requirement.

One comment was received on this proposed revision.[1] The commenter, who is a party to the January 9, 1997 opt-in rule settlement, generally supported allowing a separate designated representative for opt-in sources at the same source as affected utility units. However, the commenter objected to certain language in the proposed rule.

The proposed rule required that, in order to use the separate designated representative provision, a combustion source must have ''no owner of which the principal business is the sale, transmission, or distribution of electricity or that is a public utility under the jurisdiction of a State or local utility regulatory commission.'' The commenter claimed that the language concerning the principal business of the combustion source owner would bar a combustion source owned by a wholly-owned electric generating subsidiary of an industrial company from using the provision but would allow use of the provision if the source was instead directly owned by the industrial company. According to the commenter, the use of ''separate corporate forms'' should not have this effect on the ability to have a separate designated representative. The commenter also claimed that, even if a State utility regulatory authority did not currently regulate the wholly-owned electric generating subsidiary, the State authority might assert jurisdiction sometime in the future, thereby preventing use of the provision.

In light of the commenter's objections and in order to reduce the complexity of the separate designated representative provision, EPA is revising, in today's final rule, the proposed provision. On one hand, as discussed in the proposal, the provision is intended to encourage nonutility opt-ins by allowing a nonutility opt-in source located at the same source as utility units to select a different designated representative than the utility units. 62 FR 50457. Because a nonutility opt-in source is part of industrial operations (e.g., produces electricity for use in the owner's industrial facilities), the owner is more likely to have heightened concern about competitive disadvantage and maintaining the confidentiality of information about the opt-in source and related industrial operations. Having a single designated representative for a nonutility opt-in source and utility units may make information (e.g., the industrial company's electricity generating costs and processes using electricity) available to the designated representative, who may be an employee of the utility owner. On the other hand, as discussed in the proposal, EPA believes that generally opt-in sources should face the same requirements as other affected units. *Id.; see also* 58 FR 50088, 50090–91,

[1] One comment received during the comment period for the proposed opt-in revisions addressed a number of matters, but did not comment on any of the proposed opt-in revisions. The comment is therefore outside the scope of this rulemaking.

September 24, 1993. Balancing the importance of imposing consistent requirements on opt-in sources and utility units against the desire to encourage industrial opt-ins, EPA concludes that it should allow only a limited exception—applicable in a few cases—to the single-designated-representative requirement. While the proposal carved out a limited exception using a test focused on the owner (i.e., the nature of, and regulatory jurisdiction over, the owner's principal business) of the opt-in sources, EPA maintains that a simpler approach is available, i.e., one focused on the opt-in source itself. The Acid Rain regulations specifically address four categories of combustion sources that are unaffected units and that therefore may qualify as opt-in sources: (1) combustion devices that have not served, and do not serve, generators producing electricity for sale; (2) simple combustion turbines that commenced operation before November 15, 1990; (3) combustion devices that commenced commercial operation before November 15, 1990 and that have served, and serve, only generators of 25 MWe or less producing electricity for sale; and (4) cogeneration, qualifying, independent power production, or solid waste incineration facilities that meet certain requirements. *See* 40 CFR 72.6(b) (explaining the categories of unaffected units) and 74.2 (stating that affected units under § 72.6 are not eligible to be opt-in sources). The limited exception to the single-designated-representative requirement is aimed at the first category of combustion source, i.e., units that are part of industrial, not utility operations. No commenter has suggested that the exception should be extended to any other categories of combustion sources.

EPA notes, in addition, that sources other than those in the first category would generally not be eligible for the exception as originally proposed because they would most likely be part of utility operations and the proposal barred sources whose owners are principally in the business of selling, transmitting, or distributing electricity or are subject to State or local utility regulation. Moreover, for the reasons discussed above, EPA maintains that it should limit the exception to the clearest cases where the single-designated-representative requirement may inhibit entry into, or continued participation in, the opt-in program: i.e., the few cases where an opt-in source is co-located with utility units and is involved in industrial, rather than utility (i.e., electricity sales), operations.

Consequently, today's final rule limits the use of the exception to a combustion source (or process source) that, on the date on which the source's initial opt-in application is submitted and thereafter, does not serve a generator producing electricity for sale. Such a combustion or process source that is located at the same source as affected utility units may elect to have a different designated representative than the utility units. For example, a combustion source that is owned by an industrial company and that is used exclusively to generate electricity for use in the industrial company's industrial facilities could qualify for the exception to the single-designated-representative requirement. Similarly, such a combustion source could qualify even if it is owned by the wholly-owned subsidiary of the industrial company, instead of being owned directly by the industrial company. This approach in today's final rule meets the commenter's concerns that the corporate form of ownership of the source, or law concerning the jurisdiction of the State utility regulatory commission, not change the applicability of the exception to a combustion source that would otherwise qualify for the exception.

With the approach of basing the exception on the fact that a combustion source is not, as of the submission of the initial opt-in permit application and thereafter, serving a generator producing electricity for sale, it is necessary to include a provision for termination of the exception if and when that requirement is no longer met in the future. Today's final rule therefore provides for automatic termination of the election of the exception when the requirements for election are no longer met and requires submission of a superseding certificate of representation consistent with single-designated-representative requirement for all affected units at a given source. This is analogous to the automatic termination provisions for other exceptions under the Acid Rain Program. *See* 40 CFR 72.7(f)(4) (new units exemption) 72.8(d)(6), (retired units exemption), and 72.14(d)(4) (industrial utility-units exemption).

B. Thermal Energy Plans

The existing opt-in rule allows combustion sources to become opt-in sources at the beginning of any calendar quarter, not only at the beginning of a calendar year. *See* 40 CFR 74.28. However, in the proposed revisions to the rule, EPA noted that the thermal energy provision at § 74.47 only provided for calendar year plans. Therefore, EPA proposed revisions to allow (and take account of the possibility of) the submission of thermal energy plans at the beginning of any calendar quarter. No comments were received on these proposed revisions. With one exception, EPA has finalized the proposed revisions for the reasons stated in the proposal.

The only change, in today's final rule, to the proposed revisions is that EPA is not adopting the proposed revisions to paragraph (a)(3)(vii) of § 74.47. The existing rule requires the thermal energy plan to include the ''allowable SO_2 emissions rate'' for the calendar year in which the plan will take effect. In § 72.2, ''allowable SO_2 emissions rate'' is defined as the ''most stringent federally enforceable emissions limitation for sulfur dioxide * * * for the specified calendar year''. 40 CFR 72.2. The proposal added references in § 74.47(a)(3)(vii) to the allowable SO_2 emissions rate for the calendar year and month for which the thermal energy plan will take effect. This change would be inconsistent with the above-quoted definition in § 72.2 and so is not being adopted.

As already provided in the existing rule, if more than one federally enforceable emissions limitation applies during the year, the allowable SO_2 emission rate in § 74.47(a)(3)(vii) will be the most stringent of these limits.

C. Deduction of Allowances From ATS Accounts

For any affected unit, including an opt-in source, EPA draws upon future-year allowances in the affected unit's Allowance Tracking System (ATS) account to offset excess emissions for a year for which compliance is being determined. *See* 40 CFR 77.5. However, under the existing opt-in rule, when the opt-in source shuts down, is reconstructed, becomes an affected unit under § 72.6, or fails to renew its opt-in permit, EPA eliminates future-year allowance allocations (40 CFR 74.46) and retains the option of canceling current-year opt-in allowance allocations (including allowances that have been transferred to other ATS accounts) in order to offset excess emissions or account for the termination of participation in the opt-in program (40 CFR 74.50). As proposed, EPA is revising the rule to provide that an opt-in allowance may not be deducted under § 74.50(a) from any ATS account, other than the account of the opt-in source allocated such allowance, (i) after EPA has completed the process of recordation as set forth in § 73.34(a) following the deduction of allowances from the opt-in source's compliance subaccount for the year for which such allowance may first be used or (ii) if the

opt-in source claims in an annual compliance certification report an estimated reduction in heat input from improved efficiency, under § 74.44(a)(1)(B), after EPA has completed action on the confirmation report concerning such claimed reduction pursuant to §§ 74.44(c)(2)(iii)(E)(3)–(E)(5) for the year for which such allowance may first be used. No comments were received on this revision, and, for the reasons stated in the proposal, the revision is adopted as proposed.

D. Miscellaneous

EPA proposed a number of modifications and corrections to the combustion source opt-in rules to reflect changes in the Acid Rain Program and operating permits program under title V of the Clean Air Act since the publication of the final opt-in rule on April 4, 1995. In particular, the Agency has finalized the operating permits rule in part 71 and the Acid Rain permit rule in part 72. The proposed modifications and corrections were described in the ''Miscellaneous'' section of the preamble to the proposal. No comments were received, and the proposed changes are adopted as final.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735, October 4, 1993, the Administrator must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action.'' As such, this action is not subject to the requirements of the order and was not submitted to OMB for review.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

The revisions to part 74 will not have a significant or unique effect on any regulated entities or State permitting authorities. Moreover, the revisions potentially reduce the burden on certain opt-in sources, by allowing the election of a separate designated representative and by allowing thermal energy plans to begin on the calendar quarter. Also, the revisions potentially reduce the burden on the utility sector by limiting when EPA may deduct allowances from ATS accounts.

C. Paperwork Reduction Act

These revisions to the opt-in rule would not impose any new information collection burden. OMB has previously approved the information collection requirements contained in the opt-in rules, 40 CFR part 74, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* and has assigned OMB control number 2060–0258. 60 FR 17111.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the original ICR may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency, 401 M St. SW. (2137), Washington, D.C. 20460 or by calling (202) 260–2740.

D. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. In the preamble of the April 4, 1995 opt-in rule, the Administrator certified that the rule, including the provisions revised by today's rule, would not have a significant economic impact on small entities. 60 FR 17111. Today's revisions are not significant enough to change the overall economic impact addressed in the April 4, 1995 preamble. Moreover, as discussed above, the revisions provide regulated entities with additional flexibility (e.g., the option to have a separate designated representative and to have a thermal energy plan that begins in the second, or later, quarter of the year).

E. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 74

Environmental protection, Acid rain, Air pollution control, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 9, 1998.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 74 is amended as set forth below.

PART 74—[AMENDED]

1. The authority citation for part 74 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

§ 74.3 [Amended]

2. Section 74.3 is amended by:

i. In paragraph (b), revising the words ''parts 70 and 72'' to read ''parts 70, 71, and 72'';

ii. In paragraph (b), revising the words ''part 70'' to read ''parts 70 and 71''; and

iii. Adding at the end of paragraph (d) the words '',consistent with subpart E of this part.''

3. Section 74.4 is amended by adding paragraph (c) to read as follows:

§ 74.4 Designated representative.

* * * * *

(c)(1) Notwithstanding paragraph (b) of this section, a certifying official of a combustion or process source that is located at the same source as one or more affected utility units and that, on the date on which an initial opt-in permit application is submitted for such combustion or process source and thereafter, does not serve a generator that produces electricity for sale may elect to designate, for such combustion or process source, a different designated representative than the designated representative for the affected utility units.

(2) In order to make such an election, the certifying official shall submit to the Administrator, in a format prescribed by the Administrator: a certification that the combustion or process source for which the election is made meets each of the requirements for election in paragraph (c)(1) of this section; and a certificate of representation for the designated representative of the combustion or process source in accordance with § 72.24 of this chapter. The Administrator will rely on such certificate of representation in accordance with § 72.25 of this chapter, unless the Administrator determines that the requirements for election in paragraph (c)(1) of this section are not met. If, after the election is made, the requirements for election in paragraph (c)(1) of this section are no longer met, the election shall automatically terminate on the first date on which the requirements are no longer met and, within 30 days of that date, a certificate of representation for the designated representative of the combustion or process source shall be submitted consistent with paragraph (b) of this section.

§ 74.10 [Amended]

4. Section 74.10 is amended by, in paragraph (a)(2), revising the word ''§ 74.62'' to read ''§ 75.20 of this chapter''.

§ 74.14 [Amended]

5. Section 74.14 is amended by:

i. In paragraph (b) introductory text, revising the words ''part 70'' to read ''parts 70 and 71''; and

ii. In paragraph (b)(6)(ii), revising the word ''approved'' to read ''approved for operating permits''.

§ 74.16 [Amended]

6. Section 74.16 is amended by, in paragraph (a)(12), adding the words ''and does not have an exemption under § 72.7, § 72.8, or § 72.14 of this chapter'' before the semicolon.

§ 74.18 [Amended]

7. Section 74.18 is amended by:

i. In paragraph (d), revising the words ''§ 74.46(c)'' to read ''§ 74.46(b)(2)''; and

ii. Removing the last sentence from paragraph (e).

§ 74.22 [Amended]

8. Section 74.22 is amended by, in paragraph (c)(2), revising the words ''§ 74.20(a)(2)(A)'' to read ''§ 74.20(a)(2)(i)''.

§ 74.26 [Amended]

9. Section 74.26 is amended by, in paragraph (a)(2), revising the words ''in which'' to read ''for which''.

§ 74.42 [Amended]

10. Section 74.42 is amended by removing from paragraph (a) the word ''(a)''.

§ 74.44 [Amended]

11. Section 74.44 is amended by:

i. In paragraph (a)(1)(i)(G), revising the words ''demand side measures that improve the efficiency of electricity or steam consumption'' to read ''specific measures'';

ii. In paragraph (a)(2)(i), removing the words ''or for the first two calendar years after the effective date of a thermal energy plan governing an opt-in source in accordance with § 74.47 of this chapter'';

iii. In paragraph (a)(2)(iii), adding the words ''of this section'' after the word ''(a)(2)(ii)'';

iv. In paragraph (c)(2)(ii)(B)(*1*), revising the words ''opt-in sources.'' to read ''opt-in sources and Phase I units.'';

v. In paragraph (c)(2)(iii)(F), revising the formula to read as follows:

$$\text{Allowances allocated or acquired} - \text{tons emitted} - \text{the larger of} \left(\begin{array}{c} \text{allowances transferred} \\ \text{to all replacement units} \\ \text{or} \\ \text{allowances deducted} \\ \text{for reduced utilization} \end{array} \right)$$

vi. In paragraph (c)(2)(iii)(F), revising the words '' 'Allowances allocated' shall be the original number of allowances allocated under section § 74.40 for the calendar year.'' to read '' 'Allowances allocated or acquired' shall be the number of allowances held in the source's compliance subaccount at the allowance transfer deadline plus the number of allowances transferred for the previous calendar year to all replacement units under an approved thermal energy plan in accordance with § 74.47(a)(6).''; and

vii. In paragraph (c)(2)(iii)(E)(*3*), revising the words ''allowances necessary'' to read ''allowances that he or she determines is necessary''.

12. Section 74.47 is amended by:

i. Adding in paragraph (a)(3)(i), after the word ''year'' in each place it appears, the word ''and quarter''; and

ii. Revising paragraphs (a)(1), (a)(3)(viii), (a)(3)(ix), (a)(3)(x), (a)(3)(xi), (a)(3)(xii), and (a)(4) to read as follows:

§ 74.47 Transfer of allowances from the replacement of thermal energy—combustion sources.

(a) Thermal energy plan. (i) General provisions. The designated representative of an opt-in source that seeks to qualify for the transfer of allowances based on the replacement of thermal energy by a replacement unit shall submit a thermal energy plan subject to the requirements of § 72.40(b) of this chapter for multi-unit compliance options and this section. The effective period of the thermal energy plan shall begin at the start of the calendar quarter (January 1, April 1, July 1, or October 1) for which the plan is approved and end December 31 of the last full calendar year for which the opt-in permit containing the plan is in effect.

* * * * *

(3) * * *

(viii) The estimated annual amount of total thermal energy to be reduced at the opt-in source, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy to be reduced starting April 1, July 1, or October 1 respectively and ending on December 31;

(ix) The estimated amount of total thermal energy at each replacement unit for the calendar year prior to the year for which the plan is to take effect, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy for the portion of such calendar year starting April 1, July 1, or October 1 respectively;

(x) The estimated annual amount of total thermal energy at each replacement unit after replacing thermal energy at the opt-in source, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy at each replacement unit after replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

(xi) The estimated annual amount of thermal energy at each replacement unit, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, replacing thermal energy at the opt-in source, and, for a plan starting April 1, July 1, or October 1, such estimated amount of thermal energy replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

(xii) The estimated annual total fuel input at each replacement unit after replacing thermal energy at the opt-in source and, for a plan starting April 1, July 1, or October 1, such estimated total fuel input after replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

* * * * *

(4) *Submission.* The designated representative of the opt-in source seeking to qualify for the transfer of allowances based on the replacement of thermal energy shall submit a thermal energy plan to the permitting authority by no later than six months prior to the first calendar quarter for which the plan is to be in effect. The thermal energy plan shall be signed and certified by the designated representative of the opt-in source and each replacement unit covered by the plan.

* * * * *

13. Section 74.50 is amended by redesignating the introductory text of paragraph (a) as paragraph (a)(1), redesignating paragraphs (a)(1) through (a)(4) as paragraphs (a)(1)(i) through (a)(1)(iv), and adding paragraph (a)(2) to read as follows:

§ 74.50 Deducting opt-in source allowances from ATS accounts.

(a) * * *

(2) An opt-in allowance may not be deducted under paragraph (a)(1) of this section from any Allowance Tracking System Account other than the account of the opt-in source allocated such allowance:

(i) After the Administrator has completed the process of recordation as set forth in § 73.34(a) of this chapter following the deduction of allowances from the opt-in source's compliance subaccount for the year for which such allowance may first be used; or

(ii) If the opt-in source includes in the annual compliance certification report estimates of any reduction in heat input resulting from improved efficiency under § 74.44(a)(1)(i), after the Administrator has completed action on the confirmation report concerning such estimated reduction pursuant to § 74.44(c)(2)(iii)(E)(*3*), (*4*), and (*5*) for the year for which such allowance may first be used.

* * * * *

[FR Doc. 98–10143 Filed 4–15–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–118; RM–9061]

Radio Broadcasting Services; Pentwater and Walhalla, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document allots Channel 255A to Walhalla, Michigan, in response to a petition filed by Roger Lewis Hoppe II. *See* 12 FCC Rcd 4127 (1997). There is a site restriction 6.3 kilometers southwest of the community. Canadian concurrence has been obtained for the allotment of Channel 255A at Walhalla at coordinates 43–54–08 and 86–10–13. A one-step application filed by Bay View Broadcasting, Inc. requesting the substitution of Channel 274A for Channel 276A at Pentwater, Michigan, has been considered as a counterproposal in this proceeding (BPH–970319IE). The allotment of Channel 255A at Walhalla instead of Channel 274A removes the conflict with the pending application at Pentwater. With this action, this proceeding is terminated. A filing window for Channel 255A at Walhalla, Michigan, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

EFFECTIVE DATE: May 18, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–118, adopted March 25, 1998, and released April 3, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc.,1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800; facsimile (202) 857–3805.