

process of developing the proposed regulation.

This rule does not have federalism implications. It will apply only to a single facility, and it will therefore not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

H. Does This Rule Comply With the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so will be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standard. This rulemaking does not involve technical standards developed by any voluntary consensus standards bodies. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Does This Rule Comply With the Congressional Review Act?

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. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 430

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: July 21, 2000.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, title 40 Chapter I of the Code of Federal Regulations is amended as follows:

PART 430—THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

1. The authority citation for part 430 continues to read as follows:

Authority: Sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, as amended, (33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361), and section 112 of the Clean Air Act, as amended (42 U.S.C. 7412).

2. Section 430.03 is amended by adding paragraph (k) to read as follows:

§ 430.03 Best management practices (BMPs) for spent pulping liquor, soap, and turpentine management, spill prevention, and control.

* * * * *

(k) The provisions of paragraphs (c) through (j) of this section do not apply to the bleached papergrade kraft mill, commonly known as the Androscoggin Mill, that is owned by International Paper and located in Jay, Maine. In lieu of imposing the requirements specified in those paragraphs, the permitting authority shall establish conditions for the discharge of COD and color for this mill on the basis of best professional judgment.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 00-182]

Computation of Time

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order adopts minor amendments to the Commission's computation of time rule. The clarifications will make it easier for the public to interpret the rules thereby providing better service to the public.

DATES: Effective July 27, 2000.

FOR FURTHER INFORMATION CONTACT: Marjorie Bertman, Office of General Counsel, (202) 418-1720.

SUPPLEMENTARY INFORMATION:

1. In this order we make minor amendments to the Commission's computation of time rule, 47 CFR 1.4, to clarify the rule. We clarify that the date of "public notice" for all rulemaking documents required by the Administrative Procedure Act (APA), 5 U.S.C. 552(a), 553, to be published in the **Federal Register**, is the date of publication in the **Federal Register**. We also clarify the date of "public notice" for Commission determinations in section 271 proceedings, 47 U.S.C. 271.

2. Section 1.4 establishes the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission. It also applies to computation of time for seeking both reconsideration and judicial review of Commission decisions. Section 1.4(b) provides that unless otherwise indicated, the first day to be counted when a time period begins with an action taken by the Commission is the day after the day on which "public notice" of the action is given. Section 1.4(b)(1) defines the term "public notice" for documents in "notice and comment rulemaking proceedings" as the date of publication in the **Federal Register**, and section 1.4(b)(2) defines "public notice" for non-rulemaking documents as the release date, whether or not the document is published in the **Federal Register**.

3. The existing rules do not indicate specifically what the date of "public notice" should be for rulemaking documents required to be published in the **Federal Register**, see 5 U.S.C. 552(a)(C)-(E), 553(b), but that are adopted without notice and comment in accordance with the exceptions provided in the APA. Such rulemakings include rules involving a military or foreign affairs function, interpretive rules, rules of agency organization procedure or practice, general statements of policy, or rules adopted when the agency for good cause finds that notice and comment are impracticable, unnecessary or contrary to the public interest. 5 U.S.C. 553(a)(b)(A), (B). In order to make clear what the "public notice" date is for these non-notice and comment rulemaking proceedings, we are amending section 1.4(b)(1). The rule will now indicate that the date of publication in the **Federal Register** is the date of "public notice" for all notice and comment rulemakings and for all rulemaking documents required by the APA to be

published in the **Federal Register**. We note that interlocutory procedural rulings in rulemaking proceedings, such as orders granting extensions of time or other miscellaneous procedural orders that directly pertain to a rulemaking itself, are governed by amended section 1.4(b)(1), because these procedural orders in rulemaking dockets are required to be published in the **Federal Register**.

4. We also clarify that proceedings that do not fall within the class of rulemaking decisions that must be published in the **Federal Register**, such as adjudicatory matters, e.g. individual licensing decisions and waivers as to specific parties, do not come within the scope of section 1.4(b)(1), even if the decisions happen to be related to, or issued in, an on-going rule making docket. In so doing, we expressly depart from the interpretation of our computation of time rule that was announced in *Adams Telcom, Inc. v. FCC*, 997 F.2d 955 (D.C. Cir. 1993). The date of public notice for decisions in such non-rulemaking matters is the release date of the document that contains the Commission's decision, not the date of publication in the **Federal Register**.

5. Finally, we are amending section 1.4(b)(2) to make clear that "public notice" for section 271 determinations is the date of release of the Commission's decision. Section 271(d)(5) of the Communications Act, 47 U.S.C. 271(d)(5), adopted as part of the Telecommunications Act of 1996, requires the Commission, not later than 10 days after issuing a determination approving or denying an authorization request from a Bell Operating Company to provide interLATA services pursuant to section 271, to publish a brief description of its written determination in the **Federal Register**. Although the statute requires their publication in the **Federal Register**, decisions with respect to section 271 applications are adjudications, not rulemakings. The brief summaries of the Commission's section 271 determinations thus appear in the notices category of the **Federal Register**, not the rules category. Consistent with their adjudicatory status, the date of public notice for section 271 decisions is properly the date of release, and the rules are amended to state this explicitly.

6. The rule amendments adopted herein involve rules of agency organization, procedure, or practice, and the notice and comment and effective date provisions of the Administrative Procedure Act are therefore inapplicable. 5 U.S.C. 553(b)(A), (d).

7. Because members of the public relied on the prior interpretation of our rules announced in *Adams Telcom, Inc.*, the amended rule as it applies with respect to these adjudicatory decisions (and which is explained in a new note to amended section 1.4(b)(1)), applies only to Commission decisions released on or after the effective date of the amended rule. The other clarifications to the computation of time rules contained in this order are, however, applicable to all Commission decisions, whether released before or after the effective date of the new rules, as they merely codify existing interpretations and practice.

8. Pursuant to sections 4(i), 4(j), 303(r), 47 U.S.C. 4(i), 4(j), 303(r), 47 CFR Part I is amended as set forth below, effective July 27, 2000.

List of Subjects 47 CFR Part 1

Practice and procedure.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Change

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part I continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.4 is amended by revising the introductory text of paragraphs (b)(1) and (b)(2) and by adding a note to paragraph (b)(1) to read as follows:

§ 1.4 Computation of time.

* * * * *

(b) * * *

(1) For all documents in notice and comment and non-notice and comment rulemaking proceedings required by the Administrative Procedure Act, 5 U.S.C. 552, 553, to be published in the **Federal Register**, including summaries thereof, the date of publication in the **Federal Register**.

Note to paragraph (b)(1): Licensing and other adjudicatory decisions with respect to specific parties that may be associated with or contained in rulemaking documents are governed by the provisions of § 1.4(b)(2).

(2) For non-rulemaking documents released by the Commission or staff, including the Commission's section 271

determinations, 47 U.S.C. 271, the release date.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 24

[WT Docket No. 95-157, RM-8643; FCC 00-123]

Amendment of the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation; Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission clarifies certain aspects of its rules governing the relocation of microwave facilities from the 1850-1990 Megahertz (MHz) band. These rule clarifications are consistent with the Commission's goal of ensuring the efficient relocation of fixed microwave incumbents from the 1850-1990 MHz band to higher bands and the efficient rollout of broadband PCS service in the 1850-1990 MHz band.

DATES: Effective August 28, 2000.

FOR FURTHER INFORMATION CONTACT: Joel Taubenblatt, Wireless Telecommunications Bureau, Commercial Wireless Division, at (202) 418-1513.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration (MO&O) in WT Docket No. 95-157, adopted April 5, 2000, and released July 19, 2000. In this document, the Commission addresses petitions for reconsideration and/or clarification of, and a petition for declaratory ruling concerning, the Commission's rules governing the relocation of microwave facilities from the 1850-1990 Megahertz (MHz) band. The Commission clarifies certain aspects of these rules, as discussed below, and denied the remaining requests in the petitions.

2. In 1992, the Commission reserved 220 megahertz of spectrum, including the 1850-1990 MHz band, for reallocation from private and common carrier fixed microwave services (microwave incumbents) to services using emerging technologies. The Commission also established procedures for microwave incumbents to be