

ditives to the list of safe and suitable optional ingredients.

In accordance with § 10.2(d) (21 CFR 10.2(d)), the petitioner has withdrawn its petition without prejudice to a future filing. Therefore, the Commissioner of Food and Drugs announces that the petition to provide for use of safe and suitable color additives in canned cherries is withdrawn and the rule making procedure on this matter is terminated.

This action is taken under the Federal Food, Drug, and Cosmetic Act (sections 401, 701, 52 Stat. 1046, 1055 as amended by 70 Stat. 919, 72 Stat. 748 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: October 7, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner
for Compliance.

[FR Doc.76-30244 Filed 10-14-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 411]

[FRL 631-2]

CEMENT MANUFACTURING POINT SOURCE CATEGORY

Amendment of New Source Performance Standards

Notice is hereby given that the Environmental Protection Agency (EPA) is proposing to revise standards of performance for new sources for the cement manufacturing point source category (40 CFR Part 411) by revising § 411.35 to the materials storage piles runoff subcategory (Subpart C), pursuant to section 306(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). On February 20, 1974 the EPA promulgated the effluent limitations guidelines for the cement manufacturing point source category by adding Part 411 to Title 40 of the Code of Federal Regulations (39 FR 6590). That regulation established effluent limitations and guidelines for existing sources based on the best practicable control technology currently available and the best available technology economically achievable. Also established were standards of performance for new sources and pretreatment standards for existing and for new sources.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b) (1) (B) of the Act requires the Administrator to propose reg-

ulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b) (1) (A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973, (38 FR 1624) a list of 27 source categories, including the cement manufacturing category. Standards of performance for new cement manufacturing sources were proposed in the FEDERAL REGISTER of September 7, 1973 (38 FR 24462) and promulgated on February 20, 1974 (39 FR 6590). Section 306(b) (1) (B) of the Act authorizes the Administrator in the event of changes in technology and alternatives to revise promulgated standards of performance. In revising Federal standards of performance the Administrator is to consider the cost of achieving the effluent reduction and any non-water quality environmental impact and energy requirements. Section 411.35, proposed below, revises the standards of performance applicable to new sources for the materials storage piles runoff subcategory (Subpart C) of the cement manufacturing point source category.

On February 20, 1974 standards of performance for new sources were promulgated specifying no discharge of pollutants for the materials storage piles runoff subcategory (Subpart C). That standard was based on several alternate technologies. For new wet process plants excess precipitation can be used as make-up water in the mixing of the raw materials. Runoff can be diverted from storage piles by means of diversion berms and ditches, thus minimizing the amount of contaminated storage piles runoff. The storage piles can be situated so as to prevent the discharge of contaminated runoff into navigable waters. Storage piles can also be covered to prevent any contaminated runoff from them.

Since the regulation was promulgated, the industry has decided to construct only totally dry process plants. This has resulted from the concern over fuel cost and availability, since the evaporation of the mixing water in a wet process requires considerable energy. For the same reason it is desirable to store the raw materials in locations where they can naturally dewater to the maximum extent. The storage of raw materials in rain-proof enclosures is a costly alternative which was assumed to be needed in only unusual situations. The present emphasis on building new plants which use the dry process will necessitate the extensive use of these enclosures.

Subsequently, Ideal Basic Industries and the Portland Cement Association representing several cement manufacturing companies petitioned the EPA to revise the new source standards for the materials storage piles runoff subcategory (Subpart C). After several meetings and discussions with the industry, sufficient documentation was presented to initiate review of the standards.

Based upon the data submitted and prior documentation, the Agency believes there is sufficient evidence to revise the standards of performance for new sources for the materials storage piles

runoff subcategory of the cement manufacturing point source category. Treated contaminated materials storage piles runoff will be allowed to be discharged. The Agency has not found sufficient data to justify making the effluent limitations more stringent than the promulgated limitations representing the best practicable control technology currently available and the best available technology economically achievable. Those limitations require discharges of materials storage pile runoff not to exceed 50 milligrams per liter of total suspended solids and to be within the pH range of 6.0 to 9.0. An untreated discharge is allowed during a major rainfall event if the treatment facilities are designed to handle the 10-year 24 hour precipitation event. These limitations can be achieved by the construction of diversion berms and ditches to exclude excess runoff from storage piles areas in order to minimize the volume of contaminated runoff that must be treated in adequately sized and designed sediment ponds with pH control, if necessary.

The proposed regulations will significantly reduce the capital cost of complying with the standards of performance, and the operating costs and energy requirements attributed to environmental controls will be the same as for existing sources.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Cement Manufacturing Point Source Category" and an errata for this report detail the analysis undertaken in support of the regulation being proposed herein and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., SW., Washington, D.C. 20460, at all EPA regional offices, and at State water pollution control offices. Copies of the Development Document are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The errata for that report can be obtained by writing the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Attention: Distribution Officer, WH-552. Comments on all aspects of the proposed regulation are solicited. Criticisms as to the adequacy of the data relied upon by the Agency should be accompanied by new or additional data which the commenter thinks should have been used by the EPA in the development of this regulation. In the event comments address the approach taken by the Agency in establishing a standard of performance, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of section 306 of the Act.

A copy of all public comments will be available for inspection and copying at EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, SW., Washington, D.C. A copy of the Development Document and errata and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before December 14, 1976, will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated: October 12, 1976.

JOHN QUARLES,
Acting Administrator.

Subpart C—Materials Storage Piles Runoff Subcategory

Subpart C is proposed to be amended by revising § 411.35 to read as follows:

§ 411.35 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations
TSS	Not to exceed 50 mg/l.
pH	Within the range 6.0 to 9.0.

(b) Any overflow from facilities designed, constructed and operated to treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24 hour precipitation event shall not be subject to the limitations of this section.

[FR Doc.76-30318 Filed 10-14-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 21, 81]

[Docket No. 19943; RM-1894; FCC 76-894]

DOMESTIC PUBLIC LAND MOBILE RADIO AND MARITIME SERVICES

Fixed Relay and Control Operations in Hawaii

Adopted: September 28, 1976.
Released: October 7, 1976.

In the matter of amendment of Parts 2, 21, and 81 of the Commission's Rules to permit fixed relay and control operations in the state of Hawaii on certain frequencies in the 76-108 MHz band in the Domestic Public Land Mobile Radio and Maritime Services.

1. On February 21, 1974, the Commission adopted a Notice of Proposed Rule Making (NPRM), in response to a petition (RM-1894) from Radiocall, Inc. (Radiocall), to amend the Commission's Rules as stated in the above caption. The NPRM was published in the FEDERAL REGISTER on March 7, 1974 (39 FR 8932). Comments and/or reply comments were received from the Hawaiian Telephone Company, Radiocall, and Heftel Broadcasting Honolulu, Inc.

2. In the Notice the Commission proposed to make available five channels (totaling 100 kHz) in the 107-108 MHz band for fixed relay and control operations in Hawaii. Radiocall had requested access to all of the unused portions (those frequencies not assigned to the Hawaiian Telephone Company) in the 76-108 MHz band. After studying the request in detail the Commission determined that five channels could be made available and it appeared that this would satisfy the immediate needs of the petitioner. However, in its comments Radiocall indicated that the proposed allocation would not provide sufficient spectrum to adequately satisfy its total long term control and fixed relay circuit requirements and that at least 2.5 MHz of spectrum would be necessary. Since it did not appear that this requirement could be met within the 76-108 MHz band, Radiocall concurrently filed a separate petition (RM-2364) requesting that TV Broadcast Channel 17 be reallocated for this purpose in Hawaii.

3. On December 2, 1974, the Commission received from Radiocall late comments suggesting that Radiocall be allowed to use the five frequencies proposed in the NPRM for control of its one-way paging operations on the island of Oahu. While the staff was reviewing this new requirement to determine the availability of the five frequencies for controlling one-way paging operations, Radiocall, through its attorneys, filed a letter dated May 14, 1976 requesting withdrawal of its petition. Although Radiocall's letter did not indicate any specific reason for withdrawing their petition, the staff has informally been advised that Radiocall hopes to fulfill its wideband control requirements (both one-way paging and two-way voice) through a petition (RM-2261) filed by the National Association of Radiotelephone System (NARS). The NARS petition, if granted, would allow access to the 952-960 MHz band by the Domestic Public Land Mobile Radio Service for control and repeater operations. Since none of the parties commenting in the subject rule making (RM-1894) supported the NPRM, the staff can see no justification for adopting the rule amendments proposed in the NPRM.

4. Radiocall's new petition (RM-2364) is currently under study, and in disposing of that petition, all relevant comments filed in Docket 19943 will be taken into consideration.

5. Accordingly, *It Is Ordered*, That proceedings in Docket 19943 are hereby

Terminated. *It Is Further Ordered*, That petition RM-1894 is hereby Denied.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-30275 Filed 10-14-76;8:45 am]

[47 CFR Parts 81 and 83]

[Docket No. 20937; FCC 76-900]

VESSEL TRAFFIC SERVICES SYSTEMS

Proposed Addition of San Francisco and Seattle Ports to Designated Radio Protection Areas

Adopted: September 28, 1976.

Released: October 7, 1976.

In the matter of amendment of Parts 81 and 83 of the rules to add the ports of San Francisco and Seattle to the designated radio protection areas for Vessel Traffic Services purposes.

1. Notice of proposed rulemaking in this matter is hereby given.

2. In recent rule making proceedings in Dockets 20444 and 20717, we have provided, pursuant to U.S. Coast Guard requests, VHF frequencies in the Maritime Mobile Service for use in Coast Guard designated Vessel Traffic Services (VTS) areas in the ports of New York, New Orleans and Houston. The Coast Guard has now similarly requested that effective January 1, 1977, the frequency 156.6 MHz (channel 12) be designated for exclusive use in the San Francisco radio protection area and effective July 1, 1977, the frequency 156.7 MHz (channel 14) be designated for exclusive use in the Seattle radio protection area, for VTS purposes.

3. The rule changes proposed in the attached Appendix comply with this latest request of the Coast Guard.

4. The proposed amendments to the Commission's rules, as set forth in the attached Appendix, are issued pursuant to the authority contained in Sections 4(i) and 303(c), (h) and (r) of the Communications Act of 1934, as amended.

5. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 11, 1976, and reply comments on or before November 22, 1976. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

6. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 11 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this notice of proposed rulemaking, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.