that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401 et seq.

Dated: July 24, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–19323 Filed 8–1–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 153 and 180

[OPP–301026; FRL–6598–4]

RIN 2070–AB18

Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance; Rhodamine B; Revocation of Unlimited Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to create a new subpart E in 40 CFR part 180. This subpart will be titled Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance. It will contain a list of the pesticide chemicals (including, as appropriate, their limitations and use patterns) for which the Agency has determined that neither a tolerance nor an exemption from the requirement of a tolerance is needed under the Federal Food Drug and Cosmetic Act (FFDCA). This document also proposes to revoke two unlimited tolerance exemptions for the inert ingredient Rhodamine B. These tolerance exemptions were established under Section 408 of the FFDCA, 21 U.S.C. 346a. EPA is proposing to revoke these tolerances because all food-use products containing Rhodamine B have been voluntarily cancelled. Concurrent with the revocation of the two unlimited tolerances for Rhodamine B, the Agency is also proposing to designate the use of the inert (other) ingredient Rhodamine B as a dye for seed treatment only, a use for which neither a tolerance nor an exemption from the requirement of a tolerance is needed. This determination is based on the Agency's review and evaluation of submitted data, which indicated that there was no uptake of Rhodamine B when used as a dye for seed treatment. The Agency is acting on its own initiative. These regulatory actions are part of the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. The regulatory actions proposed in this document, the proposed revocation of two tolerance exemptions, would be counted toward the August 2002 deadline.

DATES: Comments, identified by docket control number OPP–301026, must be received on or before October 1, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301026 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–305–6304; fax number: 703–305–0599; e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR parts 153 and 180 are available at: http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr153_00.html and http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, respectively, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301026. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in

those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301026 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–301026. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

1. The Agency is creating in 40 CFR part 180 a new subpart E to be entitled Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance

Under the Federal Food, Drug, and Cosmetic Act (FFDCA), the Agency regulates pesticide chemicals in food by establishing tolerances or exemptions from the requirement of a tolerance. A pesticide chemical needs a tolerance or an exemption from the requirement of a tolerance if the pesticide is used in a manner which has a reasonable likelihood of producing residues in food. In practice, EPA presumes that a pesticide used on, in, or near growing crops, livestock or food has a reasonable likelihood of resulting in residues in or on food. However, there are instances when a pesticide chemical requires neither a tolerance nor an exemption from the requirement of a tolerance. These chemicals and uses have not been listed in 40 CFR part 180. However, to insure consistent treatment of such chemicals, EPA has decided to create this new subpart to contain these chemicals.

One of the uses of this new subpart will be to list pesticide chemicals that qualify under EPA's ''Threshold of Regulation Policy - Deciding Whether a Pesticide with a Food-Use Pattern Needs a Tolerance'' as announced in the **Federal Register** of October 27, 1999, (64 FR 57881) (FRL–6388–2). Under this policy, a tolerance or tolerance exemption is generally not needed if: (a) using a reliable and appropriately sensitive analytical method to measure residues in the commodity, no residues are detected in the commodity under expected conditions of use; and (b) using reasonably protective criteria, the estimated potential risk of any theoretically possible residues in food is not of concern.

Another of the uses of this subpart will be to list pesticide chemicals that are actually used in or on food crops, but that have been determined to not have a reasonable likelihood of producing residues in food (generally referred to as a ''non-food use''). An example of such a use would be inert ingredients such as dyes that are used in seed treatments. The determination that a seed treatment use is non-food is generally made after reviewing the results of a radio-labeled magnitude of the residue (uptake) study that can confirm that residues of the pesticide chemical will not be present at levels greater than 5 parts per billion (ppb).

Since seed treatment dyes can be included in this new subpart, minor revisions to 40 CFR 153.155(c) are also proposed. This section currently specifies that dyes used in seed treatment are contained in 40 CFR 180.1001 (c) and (d), and thus requires modifications to include the seed treatment uses that could be included in the proposed subpart E.

2. With the establishment of the new subpart E, EPA is proposing two amendments to its tolerance regulations. First, on its own initiative, the Agency is proposing that 40 CFR 180.1001 be amended by deleting in paragraphs (c) and (e) the current exemption from the requirement of a tolerance without limitation for residues of Rhodamine B (CAS No. 81–88–9). Second, again on its own initiative, EPA is proposing to

establish in the newly created subpart E the use of Rhodamine B as a dye for seed treatment only.

B. What is the Agency's Authority for Taking this Action?

This proposed rule is issued pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170). Section 408(e) of FFDCA authorizes EPA to establish, modify, or revoke tolerances, and exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342(a).

For a pesticide to be sold and distributed, the pesticide must not only have the appropriate tolerances or tolerance exemptions under FFDCA, but also must be registered with EPA under section 3 or section 24 or approved by EPA under section 5 or section 18 (for a specific use pattern) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by FQPA (7 U.S.C. 136 et. seq.) Registration is a licensing process in which EPA evaluates each proposed product, its uses, and its labeling to determine whether it meets the standard for registration in FIFRA. That standard states that, for a registration to be approved, EPA must determine that the pesticide product, when used in accordance with its intended uses and with widespread and commonly recognized practice, will not cause unreasonable adverse effects on the environment.

C. When do These Actions Become Effective?

EPA proposes that these actions become effective immediately following publication of the final rule in the **Federal Register**. The information available to the Agency indicates that all non-seed treatment food-use products containing Rhodamine B have been voluntarily canceled or reformulated using inert ingredients other than Rhodamine B. EPA believes that at the time of publication of the final rule in the **Federal Register** all existing stocks of non-seed treatment Rhodamine B products will have been exhausted for some time. Therefore, EPA believes the effective date proposed in this document should be reasonable. However, if EPA is presented with information that existing stocks would still be available for use after the expiration date and that information is verified, EPA will consider extending the expiration date of the tolerance exemption. If you have comments regarding existing stocks and whether the effective date accounts for these stocks, please submit comments as described under **SUPPLEMENTARY INFORMATION.**

D. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. This proposed rule proposes to revoke two tolerance exemptions. Therefore, upon publication of the final rule, two tolerance reassessments will be counted toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Background of Use of Rhodamine B as a Dye for Seed-Treatment

Rhodamine B (xanthylium, 9-(2-carboxyphenyl)-3,6-bis(diethylamino)-,chloride, or Violet 10, or D&C Red No. 19) is a List 1 inert ingredient. The criteria used to place chemicals on List 1 were carcinogenicity; adverse reproductive effects, neurotoxicity or other chronic effects, or developmental toxicity. These effects should have been demonstrated in laboratory or human studies and the data subject to peer review. Rhodamine B is a carcinogen, and therefore met one of the criteria for classification as a List 1 inert ingredient.

A Data Call-In (DCI) Notice was issued in February 1993 requiring that registrants whose products contained Rhodamine B generate additional data to support continued registration of their products. In response to the 1993 DCI the Rhodamine B Seed Treatment Coalition was formed by member companies Gustafson LLC; Pioneer Hi-Bred International; Platte Chemical Co. Inc.; Trace Chemical Co. Inc.; Uniroyal Chemical Co., Inc; and Wilbur-Ellis Co. The Coalition's objective was to support the use of Rhodamine B for use as a dye for seed treatment only. Seed treatment dyes are used to distinguish pesticide-treated seeds that are sold/distributed in commerce from seeds used as food for humans or feed for animals. Generally the Agency assumes that a seed treatment use is a food-use, that is, the use is likely to result in residues in or on food.

The members of the Rhodamine B Seed Treatment Coalition submitted to the Agency a radiolabeled magnitude of the residue study in which Rhodamine B was used to dye seeds that were then planted and grown to harvest. The radiolabeled Rhodamine B was applied to the treated seed at both the proposed use rate and twice the proposed use rate. The Agency's review and evaluation of the study indicated that any residues of Rhodamine B present in the harvested edible portions of the food/feed would be at levels less than 1 ppb. This is less than the 5 ppb level that is generally used to define ''no uptake of residues''or a non-food use. Since there was no uptake of Rhodamine B in a radiolabeled residue study, there is no reasonable expectation of finite residues of Rhodamine B in food or feed crops resulting from the use of Rhodamine B as a dye in seed treatment. The Agency concludes that Rhodamine B when used as a dye in seed treatment is a non-food use, that is, the use is not likely to result in residues in food or feed. Therefore, neither a tolerance nor a tolerance exemption is needed.

Previously all dyes used in seed treatments were listed in 40 CFR 180.1001(c) and (d), which are listings of food-use inert ingredients that are exempted from the requirement of a tolerance. However, the determination that Rhodamine B when used as a seed treatment is unlikely to result in residues in food/feed, means that neither a tolerance nor a tolerance exemption is required. Previously, these chemicals and uses would not have been listed in 40 CFR part 180. However, to insure consistent treatment of such chemicals, EPA has decided to create subpart E to contain these chemicals and immediately populate the subpart with Rhodamine B with a limitation for use as a dye for seed treatment only.

IV. Regulatory Assessment Requirements

The Office of Management and Budget (OMB) has exempted these types of actions from review Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB).

This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require

any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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).

This proposed rule establishes a new subpart in the Code of Federal Regulations. Under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency hereby certifies that the proposed action to reorganize 40 CFR part 180 will not have significant negative economic impact on a substantial number of small entities. Creating a new subpart does not have a substantive effect and hence causes no impact.

This proposed rule also revokes two tolerance exemptions, and establishes the use of Rhodamine B as a dye for seed treatment only. The revoked tolerance exemptions apply to pesticide products that have been voluntarily canceled or reformulated using inert ingredients other than Rhodamine B. EPA expects that any existing stocks of these products have been exhausted for some time. Pursuant to the Regulatory Flexibility Act, the Agency previously assessed whether revocations of tolerances or tolerance exemptions might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide chemical (inert ingredient) listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present revocation that would change EPA's previous analysis. Generally, when considering an active ingredient, as per the 1997 notice, EPA would review its available data on imports and foreign pesticide usage. These data bases (which focus on active ingredients) would then be used, as appropriate, to conclude that there is a reasonable international supply of food not treated with the canceled pesticide. Because these data are less readily available for inert ingredients, the finding for Rhodamine B is based primarily on the fact that the chemical has been replaced in U.S. registered pesticide products that previously contained Rhodamine B (except for seed treatments). Most likely, Rhodamine B has also been replaced in pesticides sold and used in foreign countries exporting food products to the United States. Given that Rhodamine B is a dye, and that substitution of one dye for another in pesticide products does not usually require a significant amount of reformulation effort, it remains appropriate to conclude that there is a reasonable international supply of food not treated with Rhodamine B.

In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This proposed rule does not affect States directly. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

List of Subjects in 40 CFR Parts 153 and 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 19, 2001.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 153—[AMENDED]

1. The authority citation for part 153 would continue to read as follows:

Authority: 7 U.S.C. 136 et. seq.

2. Section 153.155(c) is revised to read as follows.

§ 153.155 Seed treatment products.

* * * * *

(c) EPA-approved dyes for seed treatment are listed in:

(1) Section 180.1001(c) and (d) if an exemption from the requirement of a tolerance has been established.

(2) Section 180.2010 if EPA has determined that residues of the dye will be present, if at all, at levels that are below the threshold of regulation.

(3) Section 180.2020 if EPA has determined that no tolerance or exemption from the requirement of a tolerance is needed as a result of a determination by EPA that the use is unlikely to result in residues in food/feed.

PART 180—[AMENDED]

1. The authority citation for part 180 would continue to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.1001 [Amended]

2. In §180.1001 the tables in paragraphs (c) and (e) are amended by removing the entry for ''Rhodamine B''.

3. Part 180 is amended by adding new subpart E, entitled '' Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance'' to read as follows:

Subpart E—Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance

Sec.
180.2000 Scope.
180.2003 Definitions.
180.2010 Threshold of regulation determinations. [Reserved]
180.2020 Non-food determinations.

§ 180.2000 Scope.

This subpart sets forth the pesticide chemicals for use in agricultural or other food-related settings for which neither a tolerance nor an exemption is deemed to be needed by EPA.

§ 180.2003 Definitions.

(a) ''Food uses'' are the uses of a pesticide chemical that are likely to yield residues in food or feed crops, meat, milk, poultry or eggs.

(b) ''Non-food uses'' are those uses that are not likely to yield residues in food or feed crops, meat, milk, poultry or eggs.

§ 180.2010 Threshold of regulation determinations. [Reserved]

§ 180.2020 Non-food determinations.

The following pesticide chemical uses do not need a tolerance or exemption from the requirement of a tolerance based on EPA's determination that they do not result in residues in or on food.

Pesticide Chemical	CAS Reg. No.	Limits	Uses
Rhodamine B	81–88–9	Not to exceed 2% by weight of the formulated product and 60 ppm on the treated seed..	dye for seed treatment

[FR Doc. 01–19327 Filed 8–1–01; 8:45 a.m.]
BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1770, MM Docket No. 01–160, RM–10159]

Digital Television Broadcast Service; Albuquerque, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by ACME Television Licenses of New Mexico, LLC, licensee of station KASY–TV, NTSC channel 50, Albuquerque, New Mexico, requesting the substitution of DTV channel 45 for station KASY–TV's assigned DTV channel 51c. DTV Channel 45 can be allotted to Albuquerque, New Mexico, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (35–12–48 N. and 106–27–00 W.). As requested, we propose to allot DTV Channel 45 to Albuquerque with a power of 245 and a height above average terrain (HAAT) of 1287 meters.

DATES: Comments must be filed on or before September 17, 2001, and reply comments on or before October 2, 2001.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., 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: Harold K. McCombs, Dickstein, Shapiro, Morin & Oshinsky, LLP, 2101 L Street NW., Washington, DC 20037 (Counsel for ACME Television Licenses of New Mexico, LLC).

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. 01–160, adopted July 24, 2001, and released July 27, 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, SW., 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 New Mexico is amended by removing DTV Channel 51c and adding DTV Channel 45 at Albuquerque.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–19243 Filed 8–1–01; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173, 174, 175, 176, 177, and 178

[Docket No. RSPA–98–4952 (HM–223)]

RIN 2137–AC68

Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage; Extension of Comment Period and Announcement of Public Meetings

AGENCY: Research and Special Programs Administration (RSPA), DOT.