U.S. Environmental Protection Agency, Region IX, (415) 947–4118, *petersen.alfred@epa.gov.*

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 21, 2004.

Wayne Nastri,

Regional Administrator, Region IX.

■ Accordingly, the amendment to 40 CFR 52.220, published in the **Federal Register** on June 7, 2004 (69 FR 31739), which was to become effective on August 6, 2004, is withdrawn.

[FR Doc. 04–15941 Filed 7–14–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[FRL–7788–1]

State of Alabama; Underground Injection Control Program Revision; Response to Court Remand

AGENCY: Environmental Protection Agency.

ACTION: Final determination on court remand on final rule.

SUMMARY: In this document, the Environmental Protection Agency (EPA) is providing its response to the Eleventh Circuit Court of Appeals' remand in *Legal Environmental Assistance Foundation, Inc.* v. *United States Environmental Protection Agency* (11th Cir. 2001) (hereinafter LEAF II), directing EPA to determine whether Alabama's revised underground injection control (UIC) program covering hydraulic fracturing of coal bed seams to recover methane gas complies with the requirements for Class II wells. In LEAF II, the Eleventh Circuit affirmed EPA's decision to review Alabama's hydraulic fracturing program pursuant to the approval criteria in section 1425 of the Safe Drinking Water Act (SDWA), instead of the approval criteria in section 1422 of the SDWA, and rejected LEAF's claim that EPA's approval of the program pursuant to section 1425 was arbitrary. However, the Court remanded the matter, in part, for EPA ''to determine whether Alabama's revised UIC program complies with the requirements for Class II wells.'' After issuing a proposed response in the April 8, 2004, **Federal Register** and receiving comments on that proposal, EPA has determined that the hydraulic fracturing portion of the State's UIC program relating to coal bed methane production, which was approved under section 1425 of the SDWA, complies with the requirements for Class II wells within the context of section 1425's approval criteria.

ADDRESSES: Documents relevant to this action are available for inspection at a docket, which is located at U.S. Environmental Protection Agency, Region 4, Water Management Division, Ground Water and Drinking Water Branch, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The docket may be accessed between 8 a.m. and 5 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: General questions, and questions on technical issues concerning today's document should be directed to Larry Cole at (404) 562–9474, or at the address listed in the **ADDRESSES** section. Questions on legal issues concerning today's document should be addressed to Zylpha Pryor, Office of Environmental Accountability, U.S. Environmental Protection Agency—Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303; telephone (404) 562–9535.

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I. Background Information

A. Court Decisions

On May 3, 1994, the Legal Environmental Assistance Foundation, Inc., (LEAF) submitted a petition to EPA to withdraw Alabama's UIC program, asserting that the State was not appropriately regulating injection activities associated with coal bed methane gas production wells. Following the Agency's May 5, 1995, denial of the petition, LEAF sought review of this decision by the United States Court of Appeals for the Eleventh Circuit. On August 7, 1997, in *LEAF* v. *EPA*, 118 F. 3d 1467 (11th Cir. 1997) (LEAF I), the Court held that hydraulic fracturing activities constitute underground injection under Part C of the SDWA and must be regulated by permit or rule. On February 18, 1999, the Eleventh Circuit directed EPA to implement the Court's August 1997 decision. The Court established a schedule for EPA to follow in determining whether, in light of the Court's ruling regarding hydraulic fracturing, EPA should withdraw approval of Alabama's UIC program. In a January 19, 2000, **Federal Register** final rule, EPA announced its determination that Alabama's UIC program regulating hydraulic fracturing associated with coal bed methane production was consistent with the requirements of the SDWA and the LEAF I Court mandate (65 FR 2889, January 19, 2000).

LEAF filed a petition for review of EPA's determination with the Eleventh Circuit Court, arguing that it should be set aside for three reasons. First, LEAF argued that the underground injection of hydraulic fracturing fluids to enhance the recovery of methane gas from coal beds is not underground injection for the secondary or tertiary recovery of natural gas under section 1425 of the SDWA. Second, LEAF contended that wells used for the injection of hydraulic fracturing fluids to enhance the recovery of methane gas from coal beds are Class II wells as defined in 40 CFR 144.6(b), and EPA's classification of hydraulic fracturing as a ''Class II-like underground injection activity'' was not in accordance with law. Third, LEAF argued that, even if Alabama's revised UIC program was covered by the alternative approval procedure of section 1425, EPA's approval of the revised program was arbitrary and capricious. The Eleventh Circuit generally ruled in favor of EPA, holding that: (1) EPA's decision to approve Alabama's hydraulic fracturing program pursuant to section 1425 of the SDWA was a permissible construction of the statute; and (2) EPA was not arbitrary in determining that Alabama's UIC program complies with the section 1425 statutory approval requirements. LEAF II, 276 F.3d at 1260–61, 1265. However, the Court remanded, in part, for EPA to determine whether Alabama's revised program covering the hydraulic fracturing of coal beds to produce methane complies with the requirements for Class II wells. *Id.* at 1264. The purpose of this document is to announce EPA's determination regarding the remanded issue.

B. Section 1425 of the SDWA

Any State that seeks to acquire primary enforcement responsibility for the regulation of Class II wells may, at its option, apply for primacy for its Class II UIC program under the approval criteria in either section 1422 or section 1425 of the SDWA. Approval under either section is aimed at achieving the same fundamental objective of

protecting underground sources of drinking water from endangerment by well injection. However, State program approvals under section 1422(b)(1) of the SDWA are required to meet a different legal standard than State program approvals under section 1425. Section 1425 was added as part of the 1980 amendments to the SDWA to offer States an approval alternative that was not necessarily tied to the detailed regulatory requirements for Class II wells found at 40 CFR parts 124, 144, 145, and 146.

Approval under section 1422(b)(1)(A) requires that the State UIC program meet the requirements of regulations in effect under section 1421. Those regulations, which are found at 40 CFR parts 124, 144, 145, and 146, are very detailed and specific. However, under the alternate section 1425 approval criteria, a State may instead demonstrate that the Class II portion of its UIC program meets the requirements of section 1421(b)(1)(A) through (D) and represents an ''effective'' program to prevent injection which endangers drinking water sources. A State has more flexibility in developing a section 1425-approvable Class II program than if it were developing the same program for approval under section 1422. Similarly, EPA has more discretion to approve a Class II program under the section 1425 criteria, because that program does not have to ''track'' or be ''as stringent as'' each of the Class II-related requirements of 40 CFR parts 124, 144, 145, and 146. *See* 40 CFR 145.11(b)(1). If a State makes a satisfactory demonstration pursuant to section 1425 that its Class II program warrants approval, it has done all that is required to demonstrate that its program complies with the requirements for Class II wells.

II. EPA's Response to Court Remand

During the hydraulic fracturing process, fracturing fluids are injected through methane production wells to create fractures in the formation through which methane flows to the well and up to the surface. In its January 19, 2000, **Federal Register** final rule approving Alabama's UIC program revisions, EPA characterized hydraulic fracturing for the production of coal bed methane as a ''Class II-like underground injection activity.'' In the final rule, EPA acknowledged that its classification scheme recognizes only five classes of wells. However, EPA stated that, since the injection of fracture fluids is often a one-time exercise of extremely limited duration and was ancillary to the well's principal function of producing methane, it did not seem entirely appropriate to ascribe full Class II status to that activity. EPA also based its Alabama well classification decision on the fact that the general UIC ''well classification systems found in 40 CFR 144.6 and 146.5 do not expressly include hydraulic fracturing'' and ''the various permitting, construction, and other requirements found in parts 144 and 146 do not specifically address hydraulic fracturing.'' 65 FR 2892. It is still the case today that EPA has not promulgated national regulations expressly and specifically designed to establish minimum requirements for State programs that regulate hydraulic fracturing of coal beds to enhance methane production.

The LEAF II Court found EPA's classification of Alabama's hydraulically fractured coal bed methane wells as ''Class II-like'' to be inconsistent with the plain language of 40 CFR 144.6, which defines Class II injection wells. In its opinion, the Court held that, even though the injection of fracture fluids is often a one-time exercise of extremely limited duration, ''wells used for the injection of hydraulic fracturing fluids fit squarely within the definition of Class II wells.'' LEAF II, 276 F.3d at 1263; *see also* 40 CFR 144.6(b)(2). In view of its finding that the wells are Class II wells, the Court remanded, in part, for EPA to determine whether Alabama's revised UIC program complies with the requirements for Class II wells.

In applying for approval of that part of its Class II UIC program regulating hydraulic fracturing of coal beds, Alabama could have sought primacy either under section 1422 or section 1425 approval criteria of the SDWA. Since Alabama chose to make its demonstration pursuant to section 1425, EPA appropriately evaluated that part of Alabama's Class II program regulating hydraulic fracturing of coal beds using the section 1425 alternative approval requirements.

To receive approval for its Class II program, or some component thereof, under the optional demonstration, section 1425 requires a State to show that its program meets the following five criteria: (1) Section 1421(b)(1)(A) provides that the State program must prohibit any underground injection which is not authorized by permit or rule; (2) section 1421(b)(1)(B) provides that the State program must require that the applicant for a permit satisfy the State that the underground injection will not endanger drinking water sources and prohibits the State from promulgating any rule that authorizes underground injection which endangers drinking water sources; (3) section 1421(b)(1)(C) requires that the State program include inspection, monitoring, recordkeeping, and reporting requirements; (4) section 1421(b)(1)(D) provides that the State program must apply to underground injections by Federal agencies, as well as underground injections by any other person, whether or not occurring on property owned or leased by the United States; and (5) the State program must represent ''an effective program'' to prevent underground injection which endangers drinking water sources, in accordance with section 1425(a). If a State can successfully demonstrate that its Class II program satisfies all of these requirements, the program has met all the statutory requirements for approval. As previously discussed, under section 1425, that program, or a component thereof, does not have to demonstrate that it contains requirements as stringent as, or identical to, each of the specific Class II requirements found in 40 CFR parts 144 and 146 of EPA's regulations. Instead, a finding that such a program, or component thereof, meets the Class II approval requirements of section 1425 means that such a program, by virtue of that finding, necessarily complies with all applicable statutory and regulatory requirements for Class II wells.

EPA's determination that Alabama's hydraulic fracturing program related to coal bed methane production complied with the section 1425 requirements for Class II program approval was explained in great detail in the January 19, 2000, **Federal Register** final rule. The LEAF II Court held that EPA's determination that Alabama's UIC program complies with the SDWA's statutory requirements was not arbitrary. *LEAF* v. *EPA*, 276 F.3d at 1265. EPA did not reopen that earlier approval decision or solicit additional comment on it. EPA only sought comment on its proposed response to the LEAF II Court's question on remand.

In reviewing and approving Alabama's coal bed methane-related hydraulic fracturing program, EPA was cognizant of the various regulatory provisions in 40 CFR parts 144 and 146, which are designed to prevent Class II injection wells from causing the movement of fluid containing any contaminant into a USDW. EPA generally expects traditional State Class II programs, *i.e.*, those regulating the injection of fluids brought to the surface either in connection with conventional oil and gas production or for enhanced recovery or storage of oil and gas, to demonstrate their ''effectiveness'' to prevent underground injection which endangers USDWs, pursuant to Section 1425, by inclusion of statutory or

regulatory provisions preventing fluid movement. EPA was concerned that according ''full'' Class II status to Alabama's hydraulically-fractured methane production wells could have been misconstrued as requiring a strict application of those ''no fluid movement'' provisions and could have unnecessarily impeded methane gas production in Alabama within the meaning of SDWA section 1441(b)(2) because Alabama's revised program allowed injection of fracturing fluids into USDWs, provided they did not cause a violation of any MCL or otherwise adversely affect the health of persons. *LEAF* v. *EPA*, F.3d at 1264 n.12; EPA brief at 30–31. EPA thus decided to characterize wells used to inject hydraulic fracturing fluids into Alabama's coal bed formations as ''Class II-like,'' rather than Class II. However, this characterization of Alabama's hydraulically-fractured methane production wells, while designed to further ensure that regulation of those wells did not unnecessarily interfere with or impede methane gas production, was unnecessary for purposes of EPA's approval. EPA's decision to approve Alabama's regulation of these wells pursuant to section 1425 is due in part to the unique attributes of hydraulic fracturing in Alabama, as well as to EPA's substantive finding, which was upheld by the LEAF II Court, that Alabama's program does not endanger USDWs because, among other requirements, the injection must not cause a violation of any MCL or otherwise adversely affect the health of persons. EPA thus appropriately exercised the discretion and flexibility inherent in SDWA section 1425 to approve Alabama's coal bed methane-related hydraulic fracturing program despite the fact that it does not prohibit fluid movement into USDWs because: (1) EPA's Class II regulations were not designed to, and do not specifically address the unique technical and temporal attributes of hydraulic fracturing, and (2) more importantly, EPA determined pursuant to section 1425 that Alabama's program is effective at preventing endangerment of USDWs.

In sum, the SDWA gives Alabama more flexibility in developing a section 1425-approvable Class II program for the hydraulic fracturing of coal beds to produce methane than if it were developing the same program for approval under the criteria in section 1422. Similarly, EPA has more discretion to approve Alabama's revised Class II program relating to coal bed methane production under the criteria in section 1425, because that program does not have to ''track'' or be ''as stringent as'' each of the Class II-related requirements of 40 CFR parts 124, 144, 145, and 146. See 40 CFR 145.11(b)(1). Because Alabama made a satisfactory demonstration pursuant to section 1425 that its coal bed methane-related hydraulic fracturing program warranted approval, it did all that was required to demonstrate that its program complies with the requirements for Class II wells.

III. EPA's Response to Public Comments

Summary of Comments

All of the commenters except one supported EPA's determination. One pointed out that the States, which have decades of regulatory experience in protecting ground water from drilling activities, have supervised the fracturing of nearly a million wells without a single occurrence of harm to ground water. This and other statistics were cited by several commenters as evidence of the strength of the State regulatory programs and, conversely, of the lack of need for additional Federal regulation. One commenter noted that any additional regulation would impede production. Another commenter mentioned that because of the unique aspects of hydraulic fracturing as compared to traditional Class II activities, additional Federal regulations, or the application of Class II requirements at the national level on hydraulic fracturing, is unnecessary and would only result in increased costs to the Federal and State governments, as well as to oil and gas operators, with no additional environmental benefit. One commenter found the distinction between classification of hydraulic fracturing wells as Class II or Class II-like to be of no importance given approval under 1425, while another took issue with the holding in LEAF I, which defined hydraulic fracturing as underground injection under Part C of the SDWA. Overall, the supportive submittals were perhaps best summarized by the commenter who stated that EPA's response demonstrates a ''* * * convergence of sound legal reasoning with clear environmental and economic benefits.''

EPA appreciates the comments supportive of its determination and does not believe that they need a response. Those comments regarding decisions already made by the Eleventh Circuit Court are beyond the scope of the remanded issue and therefore do not require a response.

One commenter did not support EPA's determination on the remand. The commenter stated that Alabama's revised underground injection control program for hydraulic fracturing of coalbeds to produce methane gas failed to demonstrate (1) that permit applicants are required to ''satisfy the State that underground injection will not endanger drinking water sources'' and (2) ''that the program represents an effective program to prevent underground injection which endangers drinking water sources.'' Additionally, it said that Alabama's revised program ''does not comply with the requirements for Class II wells.''

The commenter stated that, despite the general requirement in EPA's UIC rules that all new Class II wells shall be sited in such a fashion that they inject into a formation which is separated from any underground source of drinking water by a confining zone that is free of known open faults or fractures within the area of review (40 CFR 146.22(a)), the Alabama program allows hydraulic fracturing fluids to be injected directly into underground sources of drinking water. The commenter also cited a number of other provisions of EPA's UIC rules that the commenter said would ''impose technical requirements for 'good engineering' practices designed to prevent movement of fluids into underground sources of drinking water,'' *e.g.*, 40 CFR 146.23(a), 144.28(f)(6)(ii), 144.52(a)(3), 144.52(a)(9). The commenter noted that ''EPA previously found these technical requirements necessary to effectuate the preventive and public health protective purposes of the Act. 45 FR 42472, 42478 (1980).'' The commenter continued to say that Alabama's requirement that well operators certify that the hydraulic fracturing fluid injectate does not exceed MCLs for drinking water is not sufficient to satisfy the State that the injection will not endanger drinking water sources and does not represent an ''effective method'' to prevent endangerment. A list of constituent hydraulic fracturing fluids that have been used in Alabama was submitted by the commenter, which pointed out that MCLs have been established for only four of the 50 hydraulic fracturing fluid constituents it identified. Moreover, the commenter indicated that an operator's MCL certification did not address whether contaminants in the hydraulic fracturing fluid ''may adversely affect the health of persons.'' It said the Alabama program does not require that the operator or the State Oil and Gas Board of Alabama ensure that injection will not adversely affect the health of persons.

Absent implementation criteria and assignment of implementation responsibility, the commenter stated, the statutory proscription against

contamination which ''may adversely affect the health of persons'' is likely to be ignored by the operator and the State Oil and Gas Board of Alabama until after complaints are received that drinking water supplies have been contaminated. Then, the commenter continued, the proscription will be invoked only to justify the imposition of additional requirements for corrective action as are necessary to prevent a further threat to the health of persons. The commenter believes that this outcome ''is even more likely'' given ''Alabama's and EPA's reluctance to regulate hydraulic fracturing.''

At the outset, EPA must point out that to the extent these comments assert that Alabama's revised underground injection control program for hydraulic fracturing of coalbeds failed to demonstrate that such underground injection ''will not endanger drinking water sources'' and that Alabama's revised program does not represent an ''effective program to prevent underground injection which endangers drinking water sources,'' they merely repeat claims made by LEAF during its challenge in the Eleventh Circuit Court of Appeals to EPA's January 2000 approval of Alabama's program. In its December 21, 2001, opinion generally upholding that approval, the Eleventh Circuit observed that LEAF had made a number of arguments in support of its contention that EPA had arbitrarily approved Alabama's program, including that ''Alabama's revised UIC program fails to require that a permit applicant satisfy the state that underground injection will not endanger underground sources of drinking water'' and that ''Alabama's revised UIC control program does not represent an effective program to prevent underground injection which endangers drinking water sources.'' *LEAF* v. *EPA*, 276 F.3d 1253, 1265 n.13 (11th Cir. 2001). The court said it ''carefully considered'' each of LEAF's arguments and concluded that ''none of these arguments would support setting aside the agency's determination in this case.'' EPA believes that these reasserted, generalized critiques of Alabama's approved program are beyond the limited scope of the Court's remand and does not believe that further response to such critiques is necessary.

More relevant to the issue on remand is the commenter's claim that Alabama's revised UIC program ''does not comply with the requirements for Class II wells.'' In support of that claim, a number of provisions are cited in CFR parts 144 and 146 that apply to Class II wells: 40 CFR 146.22(a), 146.23(a), 144.28(f)(6)(ii), 144.52(a)(3), and 144.52(a)(9). The commenter says that each of these regulatory provisions is designed to prevent movement of fluids containing contaminants into underground sources of drinking water and criticizes Alabama's program for allowing hydraulic fracturing fluids to be injected into underground sources of drinking water.

It is true that Alabama's revised UIC program regulating hydraulic fracturing of coalbed formations (1) allows, under certain limited circumstances, the injection of hydraulic fracturing fluids into underground sources of drinking water and (2) does not contain State regulatory provisions analogous to the CFR part 144 and part 146 provisions cited by LEAF. This does not mean, however, that Alabama's program does not comply with the requirements for Class II wells. As EPA explained at length in its April 2004 proposed determination on remand and again in this document, a State UIC program seeking approval under the alternate SDWA section 1425 approval criteria ''does not have to 'track' or be 'as stringent as' each of the Class-II-related requirements of 40 CFR parts 124, 144, 145, and 146.'' 69 FR 18478, 18479 (April 8, 2004). The commenter does not dispute this in its assertions. Accordingly, the fact that certain provisions of 40 CFR parts 144 and 146 have been identified that are not found in Alabama's revised program does not render that program out of compliance with the requirements for Class II wells.

Nor is it problematic that Alabama requires a certification in writing that ''the mixture of fluids to be used to hydraulically fracture the coal beds does not exceed the maximum contaminant levels contained in 40 CFR part 141, subparts B and G. Alabama Rule 400–3–8–.03(2)(b)(3). It is true that Alabama's certification requirement addresses MCL exceedences, and not whether the operator believes hydraulic fracturing fluid injection will ''adversely affect the health of persons.'' However, this does not mean that the certification requirement is insufficient or ineffective. Alabama's certification requirement must be viewed in the larger context of the program's requirements as a whole. Significantly, the Alabama program expressly requires that each coal bed be hydraulically fractured ''so as not to endanger any underground source of drinking water (USDW).'' Alabama Rule 400–3–8–.03(1). If endangerment occurs despite this prohibition, the well must be plugged and abandoned and remediation of the USDW may be required. Alabama Rule 400–3–8–.03(1). Moreover, the Alabama program expressly provides that coal beds shall not be hydraulically fractured in a manner that allows the movement of fluid containing any contaminant into a USDW, if the presence of that contaminant may cause an exceedence of an MCL or ''otherwise adversely affect the health of persons.'' Alabama Rule 400–3–8–.03(2). So, while the certification requirement does not specifically address whether injected contaminants may ''adversely affect the health of persons,'' the program's fundamental regulatory requirements, as expressly stated in Alabama Rule 400–3–8–.03(1) and (2), prohibit any hydraulic fracturing (within or outside a USDW) that may ''adversely affect the health of persons.'' This prohibition embodies the SDWA's endangerment test in 42 U.S.C. 300h(d). Under Alabama law an operator cannot simply inject ''any quantity'' of a hydraulic fracturing fluid's constituent chemicals into a USDW without regard to whether such injection would violate Alabama Rule 400–3–8–.03(1) and (2) and ''adversely affect the health of persons.'' Contrary to the commenter's view, the Alabama program does require that the operator and the State Oil and Gas Board of Alabama ensure that injection will not ''adversely affect the health of persons.'' It does that by requiring written permission to inject and expressly prohibiting any injections that might ''adversely affect the health of persons.'' And the Eleventh Circuit has found that Alabama's program was ''effective'' for purposes of 42 U.S.C. 300h–4(a).

The commenter asserts that Alabama's approved program lacks sufficient implementation criteria and assignment of implementation responsibility. EPA disagrees. The program's fundamental criteria are clear: no hydraulic fracturing that endangers USDWs, exceeds MCLs, or may ''otherwise adversely affect the health of persons.'' EPA strongly disagrees with the claim that these prohibitions are likely to be ignored by the operator and State Oil and Gas Board of Alabama. Nothing in the record supports that assertion. The placement of implementation responsibility upon the State Oil and Gas Board of Alabama is also clear.

EPA believes the State of Alabama's hydraulic fracturing regulatory program, with its regulatory criteria, technical review process, and written approval procedures, continues to be effective in preventing endangerment to underground sources of drinking water.

Conclusion: EPA has determined that the hydraulic fracturing portion of the State's UIC program relating to coal bed methane production, which was

approved under section 1425 of the SDWA, complies with the requirements for Class II wells within the context of section 1425's approval criteria.

Dated: July 9, 2004.

Benjamin H. Grumbles,

Acting Assistant Administrator for Water.

[FR Doc. 04–16075 Filed 7–14–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–1650; MM Docket No. 02–290; RM–10527, RM–10772, RM–10773]

Radio Broadcasting Services; Franklin, ID and Richfield, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register**, of June 25, 2004, a document which granted multiple channels substitutions and changes of community of license in Utah, Colorado, Idaho and Wyoming. The amendatory language requested removal of channels not currently listed in Section 73.202(b), FM Table of Allotments for Franklin, Idaho and Richfield, Utah. This document corrects the amendatory language under Idaho by removing Channel 249A at Franklin in lieu of Channel 248C1. Additionally, the published document substituted Channel 249C for Channel 248C at Richfield, Utah, reallotted Channel 249C to Elsinore, Utah, and modified the license of Station KLGL to specify operation on Channel 249C at Elsinore. In this case, the FM Table of Allotments lists Channel 248 for Richfield, Utah not Channel 248C, therefore this document corrects the amendatory language under Utah by removing Channel 248 at Richfield instead of Channel 248C.

DATES: Effective July 26, 2004.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of June 25, 2004, (69 FR 35531) granting multiple channels substitutions and changes of community of license in Utah, Colorado, Idaho and Wyoming. In FR Doc. 04–14483, published in the **Federal Register** of June 25, 2004, (69 FR 35531), the amendatory language inadvertently listed the removal of channels not currently reflected in the FM Table of Allotments for Franklin, Idaho and Richfield, Utah. This document corrects the amendatory language to reflect the removal of channels currently listed in the FM Table of Allotments for Franklin, Idaho and Richfield, Utah.

■ In rule FR Doc. 04–14483 published on June 25, 2004, (69 FR 35531) make the following corrections:

§ 73.202 [Amended]

■ 1. On page 35532, in the first column, paragraph number 3, § 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 249A at Franklin.

■ 2. On page 35532, in the first column, paragraph number 4, § 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 248 at Richfield.

Dated: July 8, 2004.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–15987 Filed 7–14–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040624193–4193–01; I.D. 060304A]

RIN 0648–AS43

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is re-arranging the Pacific Coast Groundfish regulations so that they read in a more logical order. This final rule does not make substantive changes to the existing regulations; rather, it reorganizes regulatory measures into a more logical and cohesive order. This final rule also amends references to Paperwork Reduction Act (PRA) information-collection requirements to reflect this reorganization of regulatory language. The purpose of this final rule is to make the regulations more concise, better organized, and thereby easier for the public to use.

DATES: Effective July 15, 2004.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (Northwest Region, NMFS), phone: 206–526–6129; fax: 206–526–6736; and e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule also is accessible via the Internet at the Office of the **Federal Register**'s website at *www.gpoaccess.gpo.gov/su_docs/aces/aces140.html* and at the NMFS Northwest Region website at *www.nwr.noaa.gov/1sustfsh/gfsh/gdfsh/gdfsh01.html*.

Background

On September 4, 2003, NMFS approved Amendment 17 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Through Amendment 17, the FMP will now set groundfish harvest specifications and management measures via a biennial process. The first two-year management period will occur from January 1, 2005, through December 31, 2006. The Pacific Fishery Management Council (Council) made its final recommendation on 2005–2006 groundfish specifications and management measures at its June 2004 meeting in Foster City, CA. After receiving the Council's recommendations, NMFS will develop a proposed rule to implement the 2005–2006 specifications and management measures through a public notice-and-comment rulemaking process. The proposed rule, which is to be published in the **Federal Register**, will announce a public comment period and may be followed by a final rule, also published in the **Federal Register**.

NMFS expects that the rulemaking for the 2005–2006 Pacific Coast groundfish harvest specifications and management measures will result in revisions to the Pacific Coast groundfish regulations at 50 CFR part 660, subpart G. NMFS has reviewed its Federal groundfish regulations in anticipation of the need to incorporate the 2005–2006 specifications and management measures rulemaking into the overall Federal groundfish regulations at 50 CFR part 660, subpart G. As a result of this review, NMFS has determined that Federal groundfish regulations should be reorganized so that they are more logically arranged and better able to incorporate the broad array of regulatory measures included in a specifications and management measures package.

This final rule reorganizes Federal groundfish regulations at 50 CFR part 660, subpart G, so that: broadly applicable regulations, including definitions and prohibitions, are found in §§ 660.301–660.306; prohibitions in