

### *I. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 17, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 18, 2000.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### **PART 52—[AMENDED]**

1. The authority citation for Part 52 continues to read as follows:

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

### **Subpart F—California**

2. Section 52.220 is amended by adding paragraphs (c)(275) and (c)(276) to read as follows:

#### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(275) Reserved.

(276) New and amended regulations for the following APCDs were submitted on February 23, 2000, by the Governor's designee.

(i) Incorporation by reference.

(A) Monterey Bay Unified Air Pollution Control District.

(1) Rules 101 and 102, adopted on December 15, 1999.

\* \* \* \* \*

[FR Doc. 00-11998 Filed 5-15-00; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 261**

[SW-FRL-6606-5]

### **Hazardous Waste Management System; Identification and Listing of Hazardous Waste Final Exclusion**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA (also, "the Agency" or "we" in this preamble) is granting a petition submitted by General Motors Corporation, Lansing Car Assembly—Body Plant (GM) in Lansing, Michigan, to exclude (or "delist") certain solid wastes generated by its wastewater treatment plant (WWTP) from the lists of hazardous wastes contained in subpart D of part 261.

After careful analysis, the EPA has concluded that the petitioned waste is not hazardous waste when disposed of in a Subtitle D landfill. This exclusion applies to wastewater treatment sludge generated at GM's Lansing, Michigan facility. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a Subtitle D landfill but imposes testing conditions to ensure that future-generated wastes remain qualified for delisting.

**EFFECTIVE DATE:** This rule is effective on May 16, 2000.

**ADDRESSES:** The RCRA regulatory docket for this proposed rule is located at the U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call Peter Ramanauskas at (312) 886-7890 for appointments. The public may copy material from the regulatory docket at \$0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For technical information concerning this document, contact Peter Ramanauskas at the address above or at (312) 886-7890.

**SUPPLEMENTARY INFORMATION:** The information in this section is organized as follows:

#### **I. Background**

A. What Is a Delisting Petition?

B. What Regulations Allow a Waste To Be Delisted?

#### **II. GM's Petition to Delist Wastewater Treatment Sludge**

A. What Waste Did GM Petition EPA to Delist?

B. What Information Must the Generator Supply?

C. What Information Did GM Submit to Support This Petition?

#### **III. EPA's Evaluation and Final Rule**

A. What Decision Is EPA Finalizing and Why?

B. What Are the Terms of This Exclusion?

C. When Is the Delisting Effective?

D. How Does This Action Affect the States?

#### **IV. Public Comments Received on the Proposed Exclusion**

A. Who Submitted Comments on the Proposed Rule?

B. Comments and Responses From EPA

#### **V. Regulatory Impact**

#### **VI. Congressional Review Act**

#### **VII. Executive Order 12875**

### **I. Background**

#### **A. What Is a Delisting Petition?**

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in 40 Code of Federal Regulations (CFR) § 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste.

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has "delisted" the wastes.

#### **B. What Regulations Allow a Waste To Be Delisted?**

Under 40 CFR 260.20 and 260.22, facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268, and 273 of Title 40 of the Code of Federal Regulations. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator specific" basis from the hazardous waste lists.

## II. GM's Petition to Delist Wastewater Treatment Sludge

### A. What Waste Did GM Petition EPA to Delist?

In November 1998, GM petitioned EPA to exclude an annual volume of 1,250 cubic yards of F019 wastewater treatment sludges from the chemical conversion coating of aluminum generated at its Lansing Car Assembly—Body Plant located in Lansing, Michigan from the list of hazardous wastes contained in 40 CFR 261.31.

### B. What Information Must the Generator Supply?

Petitioners must provide sufficient information to allow the EPA to determine that the waste does not meet any of the criteria for which it was listed as a hazardous waste. In addition, where there is a reasonable basis to believe that factors other than those for which the waste was listed (including additional constituents) could cause the waste to be hazardous, the Administrator must determine that such factors do not warrant retaining the waste as hazardous.

### C. What Information Did GM Submit to Support This Petition?

To support its petition, GM submitted (1) Descriptions and schematic diagrams of its manufacturing and wastewater treatment processes; (2) results of analyses for the characteristics of ignitability, corrosivity, and reactivity; (3) total constituent analyses and Extraction Procedure for Oily Wastes (OWEP, SW-846 Method 1330A) analyses for the eight toxicity characteristic metals listed in 40 CFR 261.24, plus antimony, beryllium, cobalt, copper, hexavalent chromium, nickel, tin, thallium, vanadium, and zinc; (4) total constituent and Toxicity Characteristic Leaching Procedure (TCLP), SW-846 Method 1311 analyses for 56 volatile and 117 semi-volatile organic compounds and formaldehyde; (5) total constituent and TCLP analyses for sulfide, cyanide, and fluoride; (6) total constituent and TCLP analyses for organochlorine pesticides and chlorinated herbicides; and (7) analysis for oil and grease, and percent solids.

## III. EPA's Evaluation and Final Rule

### A. What Decision Is EPA Finalizing and Why?

Today the EPA is finalizing an exclusion to GM for its wastewater treatment plant sludge generated at the GM facility in Lansing, Michigan. GM petitioned EPA to exclude, or delist, the wastewater treatment sludge because GM believes that the petitioned waste

does not meet the RCRA criteria for which it was listed and that there are no additional constituents or factors which could cause the waste to be hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See § 222 of HSWA, 42 United States Code (U.S.C.) 6921(f), and 40 CFR 260.22 (d)(2)–(4). On October 13, 1999, EPA proposed to exclude or delist GM's wastewater treatment sludge from the list of hazardous wastes in 40 CFR 261.31 and accepted public comment on the proposed rule (64 FR 55443). EPA considered all comments received, and for reasons stated in both the proposal and this document, we believe that GM's waste should be excluded from hazardous waste control.

### C. What Are the Terms of This Exclusion?

GM must dispose of the waste in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste. GM must verify on an annual basis that the concentrations of the constituents of concern do not exceed the allowable levels set forth in this exclusion. This exclusion applies to a maximum annual volume of 1,250 cubic yards of waste water treatment sludge and is effective only if all conditions contained in today's rule are satisfied.

### D. When Is the Delisting Effective?

This rule is effective May 16, 2000. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This rule reduces rather than increases the existing requirements and, therefore, is effective immediately upon publication under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

### E. How Does This Action Affect the States?

Because EPA is issuing today's exclusion under the federal RCRA delisting program, only states subject to federal RCRA delisting provisions would be affected. This exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements, or in states which have received our authorization to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that

are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law.

EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states. If GM transports the petitioned waste to or manages the waste in any state with delisting authorization, GM must obtain a delisting from that state before it can manage the waste as nonhazardous in the state.

## IV. Public Comments Received on the Proposed Exclusion

### A. Who Submitted Comments on the Proposed Rule?

The EPA received public comments on the proposed notice published on October 13, 1999 from General Motors Corporation, Ford Motor Company, DaimlerChrysler Corporation, The American Zinc Association, Mr. John S. Olczak, Michigan Department of Environmental Quality, Alcoa Inc., Michigan Manufacturers Association, Reynolds Metals Company, Alcan Aluminum Corporation, The Aluminum Association, and Heritage Environmental Services, LLC.

### B. Comments and Responses From EPA

*Comment:* Land Disposal Restrictions (LDRs) are not applicable to waste which is not hazardous.

*Response:* LDRs will not apply to GM's petitioned waste because the waste meets the delisting levels at the point of generation. However, the Agency believes that in some circumstances wastes which meet exemption levels may also have to meet LDR requirements. The Proposed Hazardous Waste Identification Rule (HWIR) in the November 19, 1999 **Federal Register** states that "Wastes that have met the HWIR exemption levels after the point of generation, however, would still be subject to LDRs even after they become exempt from the definition of hazardous, because LDRs apply to wastes that are hazardous or have ever been hazardous."

*Comment:* LDRs for nickel and lead should not apply to the petitioned waste

because LDRs do not apply to these constituents in F019 waste.

*Response:* In the proposed rule, the agency interpreted the requirement to consider all factors which could cause the waste to be hazardous to include consideration of LDRs for all hazardous constituents. However, since the universal treatment standards for nickel and lead are based on technology rather than on risk, there is no risk basis for applying them to this waste. These LDRs will not apply to GM's petitioned waste.

*Comment:* The frequency of verification testing is unnecessarily burdensome.

*Response:* The levels set forth in condition 1 of this rule must be verified on an annual basis. The monthly verification of the treatment standards in the proposed rule has been eliminated in today's final rule. The agency believes that verification on an annual basis is appropriate.

*Comment:* Verification testing for the pesticides Beta-BHC and DDT is inappropriate. These constituents were reported in only the extract from one sample and the data were rejected due to laboratory contamination. These chemicals are not used at this facility and were not detected in any total analysis.

*Response:* The constituents in question are pesticides which are not likely to be in the facility's waste. The Agency accepts the facility's statement that these substances are not used at the facility and the single TCLP analysis which indicates their presence should be rejected on the basis of laboratory contamination.

*Comment:* Verification testing should be limited to Appendix IX metals & other constituents that were present in the TCLP extract at greater than  $\frac{1}{100}$  of the delisting level. Testing for constituents which do not exceed  $\frac{1}{1000}$  of the delisting level is unnecessary and overly burdensome.

*Response:* The Agency believes that continued testing for all constituents in condition 1 is appropriate.

*Comment:* The test for reactivity (if one becomes available) should be required only when there is a process change that could cause the waste to be reactive.

*Response:* Delisting policy requires demonstration that the wastes are not characteristic. The analysis for total cyanide in Table 1 of the proposed rule demonstrates that the waste will not be reactive for hydrogen cyanide. However, the concentration of sulfide in this waste is substantially greater and could cause the waste to be reactive.

Condition 1(c) has been modified to specify reactivity for sulfide.

*Comment:* Zinc is not included in the list of hazardous constituents in Appendix VIII to 40 CFR Part 261 and is not included in the definition of "underlying hazardous constituent" in § 268.2(i). Commenter requested that zinc be eliminated as a hazardous constituent in GM's waste.

*Response:* Zinc is not referred to as a hazardous constituent in this rule, but it is a constituent of concern and it can reasonably be expected to be present at the point of generation. Table 3 of the proposed rule, which includes zinc, sets forth allowable concentration levels for constituents of concern.

*Comment:* Chromium VI is one of the constituents that caused the F019 waste to be listed and it is not clear that chromium VI concerns have been addressed.

*Response:* The allowable level for chromium is presented as total chromium but the allowable level for total chromium was calculated based on the conservative assumption that all chromium in the waste is chromium VI.

*Comment:* In Condition 5(a) and (c), 10 days is not sufficient time to review the data and prepare an adequate response.

*Response:* The Agency agrees that more time may be necessary to initially validate the data, but believes the allotted time in Condition 5(c) for a preliminary response is adequate. In the final rule, the last two lines in Condition 5(a) have been changed to read " \* \* \* then GM must notify the Regional Administrator in writing within 10 days and must report the data within 45 days of first possessing or being made aware of that data." Condition 5(c) is unchanged.

*Comment:* GM will be using high performance liquid chromatography (HPLC) method for future analysis of formaldehyde.

*Response:* We agree that HPLC is an appropriate method for this constituent.

*Comment:* The conditions would set a new and unjustified precedent for all generators considering delisting.

*Response:* The conditions in this delisting are limited to a specific waste at a specific facility. This rule does not set standards for other generators.

*Comment:* Application of different testing protocols or inconsistency by the USEPA between petitioners introduces uncertainty to the exclusion process and may pose a barrier to interstate commerce.

*Response:* The conditions in this delisting are limited to a specific waste at a specific facility. The delisting process excludes waste on a "generator

specific" basis. Due to the variety of waste types that may be the subject of a delisting petition, there will always be the potential that different testing protocols will be utilized to adequately characterize the petitioned waste.

*Comment:* Commenter supports EPA's consistent application of the published TCLP procedure to guide waste management decisions along with the published guidance used to exclude petitioned hazardous waste from regulation.

*Response:* As wastes and disposal environments may vary, the factors influencing the leachability of wastes will also vary. For a more complete assessment of leachability, it may be necessary to supplement the TCLP with a modified TCLP as discussed in the most recent version of the *Region 6 Guidance Manual for the Petitioner*. The Region 6 guidance manual is endorsed and recommended by Region 5.

*Comment:* The requirement to compile an annual report and submit the data to the EPA is an additional burden on the regulated community as the facility is already required to maintain the data for a period of five years.

*Response:* Condition 4 of the proposed rule requires that the data be compiled, summarized and maintained on site. Only a summary of the data is to be submitted to the EPA. Today's rule does not require the preparation of an annual report to the EPA.

## V. Regulatory Impact

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a rule of general applicability and therefore is not a "regulatory action" subject to review by the Office of Management and Budget. Because this action is a rule of particular applicability relating to a facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Because the rule will affect only one facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA, or communities of tribal governments, as specified in Executive Order 13084 (63 FR 27655, May 10, 1998). For the same reason, this rule will 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 (64 FR 43255, August 10, 1999). This rule

also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards; thus, the requirements of section 12(c) 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 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 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.*).

#### VI. 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 Congress and to the Comptroller General

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

#### VII. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing

significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

#### List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

**Authority:** Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: May 3, 2000.

**Robert Springer,**  
*Director, Waste, Pesticides and Toxics Division.*

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

#### PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of Appendix IX of Part 261 add the following waste stream in alphabetical order by facility to read as follows:

**Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22.**

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * * * *		
General Motors Corporation. Lansing Car Assembly— Body Plant.	Lansing, Michigan .....	<p>Wastewater treatment plant (WWTP) sludge from the chemical conversion coating (phosphate coating) of aluminum (EPA Hazardous Waste No. F019) generated at a maximum annual rate of 1,250 cubic yards per year and disposed of in a Subtitle D landfill, after May 16, 2000.</p> <p>1. Delisting Levels:</p> <p>(A) The constituent concentrations measured in the TCLP extract may not exceed the following levels (mg/L): Antimony—0.576; Arsenic—4.8; Barium—100; Beryllium—0.384; Cadmium—0.48; Chromium (total)—5; Cobalt—201.6; Copper—124.8; Lead—1.44; Mercury—0.192; Nickel—67.2; Selenium—1; Silver—5; Thallium—0.192; Tin—2016; Vanadium—28.8; Zinc—960; Cyanide—19.2; Fluoride—384; Acetone—336; m,p—Cresol—19.2; 1,1—Dichloroethane—0.0864; Ethylbenzene—67.2; Formaldehyde—672; Phenol—1920; Toluene—96; 1,1,1—Trichloroethane—19.2; Xylene—960.</p> <p>(B) The total concentration of formaldehyde in the waste may not exceed 2100 mg/kg.</p> <p>(C) Analysis for determining reactivity from sulfide must be added to verification testing when an EPA-approved method becomes available.</p> <p>2. Verification Testing: GM must implement an annual testing program to demonstrate that the constituent concentrations measured in the TCLP extract (or OWE, where appropriate) of the waste do not exceed the delisting levels established in Condition (1).</p>

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		<p>3. Changes in Operating Conditions: If GM significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, GM must notify the EPA of the changes in writing. GM must handle wastes generated after the process change as hazardous until GM has demonstrated that the wastes meet the delisting levels set forth in Condition (1), that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced, and GM has received written approval from EPA.</p> <p>4. Data Submittals: GM must submit the data obtained through annual verification testing or as required by other conditions of this rule to U.S. EPA Region 5, 77 W. Jackson Blvd. (DW-8J), Chicago, IL 60604, within 60 days of sampling. GM must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. GM must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).</p> <p>5. Reopener Language—(a) If, anytime after disposal of the delisted waste, GM possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in Condition (1) is at a level in the leachate higher than the delisting level established in Condition (1), or is at a level in the ground water or soil higher than the level predicted by the CML model, then GM must notify the Regional Administrator in writing within 10 days and must report the data within 45 days of first possessing or being made aware of that data.</p> <p>(b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.</p> <p>(c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify GM in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing GM with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. GM shall have 10 days from the date of the Regional Administrator's notice to present the information.</p> <p>(d) If after 10 days GM presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.</p>
*	*	*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 00-865; MM Docket No. 97-106, RM-9044, RM-9741]

### Radio Broadcasting Services; Cheyenne, Wyoming and Gering, Nebraska.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Allocations Branch at the request of petitioner, TSB II, Inc. allots Channel 280C2 at Cheyenne as that community's 12th local aural service, substitutes Channel 239C3 for Channel

280C1 at Gering, Nebraska and modifies Station's KOLT-FM license accordingly. See, 62 FR 15870 (April 3, 1997) The Branch determined that a new allotment at Cheyenne was preferable to a counterproposal of two station upgrade and one downgrade. Each channel can be allotted to its respective community in compliance with the Commission's minimum distance separation requirements. The reference coordinates for a Channel 280C2 allotment at Cheyenne, Wyoming, are 41-08-17 North Latitude and 104-48-22 West Longitude. The reference coordinates for Channel 239C3 at Gering, Nebraska are 41-51-50 North Latitude and 103-42-20 West Longitude.

**DATES:** Effective May 30, 2000.

**FOR FURTHER INFORMATION CONTACT:** Arthur D. Scrutchins, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 97-106, adopted March 31, 2000, and released April 15, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 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.

### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows: