

### III. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

This final rule is a technical correction. It does not otherwise impose or amend any requirements. As such, this action is not a "significant regulatory action" under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), and is therefore not subject to review by OMB.

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This rule does not contain any new information collection requirements that require review or approval by OMB pursuant to PRA.

Since the Agency has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute (see Unit II.), this action is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Similarly, 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, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000).

This action does not involve any technical standards that require the Agency's 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 rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not a significant regulatory action under Executive Order 12866.

This action will not result in environmental justice related issues and does not therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

### IV. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

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

Dated: May 27, 2004.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR part 180 is corrected as follows:

#### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

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

■ 2. Section 180.564 is amended by revising paragraphs (a)(1) introductory text, (a)(2) introductory text, and (b) introductory text to read as follows:

#### § 180.564 Indoxacarb; tolerances for residues.

(a) \* \* \*

(1) Tolerances are established for the combined residues of the insecticide indoxacarb, (S)-methyl 7-chloro-2,5-dihydro-2-[[methoxycarbonyl][4-(trifluoromethoxy)phenyl]

amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, and its R-enantiomer, (R)-methyl 7-chloro-2,5-dihydro-2-[[methoxycarbonyl][4-(trifluoromethoxy)phenyl]amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, in or on the following raw agricultural commodities:

\* \* \* \* \*

(2) Time-limited tolerances are established for combined residues of indoxacarb, (S)-methyl 7-chloro-2,5-dihydro-2-[[methoxycarbonyl][4-(trifluoromethoxy)phenyl]amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, and its R-enantiomer, (R)-methyl 7-chloro-2,5-dihydro-2-[[methoxycarbonyl][4-(trifluoromethoxy)phenyl]amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, in connection with use of the pesticide under FIFRA section 5 experimental use permit granted by EPA. The tolerances are specified in the following table, and will expire and are revoked on the dates specified.

\* \* \* \* \*

(b) Time-limited tolerances are established for the residues of indoxacarb, (S)-methyl 7-chloro-2,5-dihydro-2-[[methoxycarbonyl][4-(trifluoromethoxy)phenyl]amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, and its R-enantiomer, (R)-methyl 7-chloro-2,5-dihydro-2-[[methoxycarbonyl][4-(trifluoromethoxy)phenyl]amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table, and will expire and are revoked on the dates specified.

\* \* \* \* \*

[FR Doc. 04-12912 Filed 6-8-04; 8:45 am]

BILLING CODE 6560-50-S

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[FCC 04-107; MM Docket No. 99-240; RM-9503]

#### Radio Broadcasting Services; Albemarle and Indian Trail, NC

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; application for review.

**SUMMARY:** This *Memorandum Opinion and Order* affirms action in a *Report and Order* 66 FR 39119 (July 27, 2001), that reallocated FM broadcast Channel 265A from Albemarle, North Carolina, to Indian Trail, North Carolina, thus providing Indian Trail with its first local aural transmission service. Susquehanna Radio Corp., the licensee of Station WABZ(FM), Channel 265A, Albemarle, North Carolina, had requested this reallocation. The *Report and Order* modified Station WABZ's license to specify operation on Channel 265A at Indian Trail. This document denies an application for review of that *Report and Order*, filed by Monroe Broadcasting Company, Inc., licensee of Station WIXE(AM), Monroe, North Carolina.

**DATES:** Effective June 9, 2004.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 99-240, adopted April 28, 2004 and released May 20, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). This document is not subject to the Congressional Review Act.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 04-13037 Filed 6-8-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[FCC 04-116; MM Docket No. 89-120]

#### Radio Broadcasting Services; Cuba, Eldon, Lake Ozark, Northwye, and Waynesville, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration, dismissed.

**SUMMARY:** The Commission dismissed a petition for reconsideration filed by Lake Broadcasting, the former licensee, *inter alia*, of Station KBMX(FM), Eldon, Missouri. The Commission held that the petition for reconsideration, seeking to upgrade the class of the Eldon station, was moot because the revocation of its license had become final and because a federal appellate court ruled that no new proceedings regarding the revocation were warranted. See 67 FR 21182 (April 30, 2002).

**DATES:** Effective June 9, 2004.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 89-120, adopted May 20, 2004, and released May 26, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). This document is not subject to the Congressional Review Act.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 04-13038 Filed 6-8-04; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031124287-4060-02; I.D. 060304C]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole in the Bering Sea and Aleutian Islands

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for yellowfin sole in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to

prevent exceeding the 2004 total allowable catch (TAC) of yellowfin sole in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), June 04, 2004, until 2400 hrs, A.l.t., December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2004 TAC specified for yellowfin sole in the BSAI is 73,164 metric tons (mt) as established by the 2004 harvest specifications for groundfish of the BSAI (69 FR 9242, February 27, 2004).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2004 TAC specified for yellowfin sole will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 72,164 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for yellowfin sole in the BSAI.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the yellowfin sole fishery in the BSAI.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of