

that its interim policy is inappropriate and should be abandoned.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding FDA's continuation of its longstanding policy. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public inspection in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dates: February 21, 1990.

Ronald G. Chesemore,

Associate Commission for Regulatory Affairs.

[FR Doc. 90-4720 Filed 3-1-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

RIN 1076-AC11

Preparation of Rolls of Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending the regulations contained in 25 CFR part 61 governing the preparation of rolls of Indians. The Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987 directs the Secretary of the Interior to prepare a tribal membership roll in accordance with the regulations contained in 25 CFR part 61. The regulations in part 61 provide general enrollment procedures that can be made applicable to the preparation of a specific roll of Indians by amending the regulations to include the qualifications for enrollment and the deadline for filing applications for the particular roll. The BIA is amending part 61 by adding a paragraph (e) to § 61.4 to include the qualifications for enrollment and the deadline for filing applications so that the procedures contained in part 61 will govern the preparation of the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians.

EFFECTIVE DATE: April 2, 1990.

FOR FURTHER INFORMATION CONTACT: Superintendent, Siletz Agency, Bureau of Indian Affairs, P.O. Box 539, Siletz, Oregon 97380, telephone number: (503) 444-2679 (FTS 423-4111).

SUPPLEMENTARY INFORMATION: The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and Pub. L. 100-139. This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM 8.

The Cow Creek Band of Umpqua Tribe of Indians was awarded judgment funds in docket numbered 53-81L by the United States Claims Court. Funds to satisfy the award were appropriated by Congress. The Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of October 26, 1987, Pub. L. 100-139 (Judgment Act), authorized the use and distribution of the judgment funds.

Section 5 of the Judgment Act, which amended the Cow Creek Band of Umpqua Tribe of Indians Recognition Act of December 29, 1982 (Recognition Act), directs the Secretary to prepare a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians in accordance with the regulations contained in 25 CFR part 61. The Act further directs that the tribal membership roll be published in the Federal Register.

A proposed rule to amend the regulations contained in part 61 to include the qualifications for enrollment and the deadline for filing applications for the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians was published for public comment in the Federal Register on Friday, June 3, 1988, 53 FR 20335. An editorial correction was published in the Federal Register on Wednesday, June 29, 1988, 53 FR 24551.

Subsequently, language was included in the Fiscal Year 1989 Interior Appropriations Act of September 27, 1988, Pub. L. 100-446, to amend the Cow Creek Band of Umpqua Tribe of Indians Recognition Act. The amendment to the Recognition Act affected the qualifications for enrollment on the tribal membership roll that were in the proposed rule published in the Federal Register on June 3, 1988. Because the effect of the amendment was significant, the BIA again published a proposed rule to amend the regulations contained in part 61 for public comment which reflected the new statutory language. The proposed rule was published in the Federal Register on Tuesday, October 31, 1989, 54 FR 20335.

To establish eligibility for enrollment the amendment to part 61 requires all persons to file or have filed on their behalf an application form with the Superintendent, Siletz Agency, Bureau

of Indian Affairs, by the deadline specified in § 61.4(e)(2). Applications received after that date will be rejected for failure to file on time regardless of whether the applicants otherwise meet the qualifications for enrollment. A 60-day filing period from the effective date of the rule has been provided as was published in the proposed rule. No comments were received concerning the length of the filing period. Consequently, no change has been made.

It should be noted the Judgment Act does provide that after completion and publication in the Federal Register, membership in the Cow Creek Band of Umpqua Tribe of Indians shall be limited to persons listed on the tribal membership roll being prepared and their descendants. However, the Judgment Act further provides that the Cow Creek Band of Umpqua Tribe of Indians, at its discretion, may subsequently grant tribal membership to any person of Cow Creek Band of Umpqua ancestry who under tribal procedures applies to the tribe for membership and is determined to meet the tribal requirements for membership.

In addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Superintendent, Siletz Agency, Bureau of Indian Affairs, shall send notices in accordance with § 61.5(c) to all persons whose names appear on the so-called Interrogatory No. 14 roll at their last available address. The notice shall advise individuals of the preparation of the roll and the relevant procedures to be followed, including the qualifications for enrollment and the deadline for filing application forms. It should be noted, however, that the ability of the Superintendent to send notices will be dependent upon the availability of addresses furnished either by the individuals or the tribe for the individuals listed on the so-called Interrogatory No. 14 roll. An application form will be mailed with each notice.

The regulations in part 61 provide general enrollment procedures and contain provisions which are not applicable in the preparation of all rolls. As a matter of clarification, because the BIA is preparing a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians under this amendment, review of the applications by tribal authorities under § 61.10 will be applicable to provide for maximum tribal participation in the enrollment process.

The primary author of this document is Kathleen L. Slover, Tribal Enrollment

Specialist, Division of Tribal Government Services, Mail Stop 4627 MIB, Bureau of Indian Affairs, 18th and C Streets, NW., Washington, DC 20240.

Comments and Changes

The period for commenting on the proposed amendment to 25 CFR part 61 to add paragraph (e) to § 61.4 to include the qualifications for enrollment and a deadline for filing applications for the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians closed on November 30, 1989. Comments were received from 19 individuals within the public comment period. An additional 12 individuals submitted comments which were received after the November 30, 1989, deadline. Although the comments received after the deadline cannot be considered, it is significant to note that none of the comments received after the deadline suggested any additional changes not addressed in the comments that were received within the period for public comment.

The majority of the commenters expressed opposition to not requiring all individuals to establish Cow Creek Indian ancestry to establish eligibility for enrollment on the membership roll of the Cow Creek Band of Umpqua Tribe of Indians. Section 5 of the Judgment Act states that the Secretary is to prepare a tribal membership roll comprised of "Indian individuals" who were not members of any other federally recognized Indian tribe on July 30, 1987, and (1) who are named on the tribal roll dated September 13, 1980 (the so-called Interrogatory No. 14 roll); (2) who were born on or prior to October 26, 1987, and descendants of persons named on the so-called Interrogatory No. 14 roll; or (3) who are descendants of persons considered to be members of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 19, 1853.

The Department had concluded that the enrollment requirements stated in the Judgment Act were ambiguous. In particular it was not clear what was meant by "Indian individuals" in the context of the Judgment and Recognition Acts. Consequently, the proposed rule published on June 3, 1988, to govern the preparation of the tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians required all persons, including those whose names appeared on the so-called Interrogatory No. 14 roll and their descendants, to establish that they were of Cow Creek Indian ancestry to qualify for enrollment.

During Congressional consideration of the Fiscal Year 1989 Interior Appropriations Act, disapproval of the

BIA's interpretation was expressed and the Secretary was directed to revise the proposed rule to include all members on the so-called Interrogatory No. 14 roll who satisfy basic Indian ancestry requirements. Accordingly, the Fiscal Year 1989 Interior Appropriations Act amended the Recognition by striking out "Indian individuals" and inserting "Cow Creek descendants or other Indian individuals."

As was discussed in the preamble to the proposed rule published on October 31, 1989, as a result of the amendment to the Recognition Act, the BIA determined that when Congress recognized the Cow Creek Band of Umpqua Tribe of Indians, it was recognizing the tribe and its members, irrespective of their tribal affiliation, rather than a tribe comprised exclusively of Cow Creek descendants. Further, when Congress restored the Cow Creek Band of Umpqua Tribe of Indians, it was restoring not only the tribe, but individual members, i.e., those persons named on the so-called Interrogatory No. 14 roll and their descendants. Consequently, "other Indian individuals" named on the so-called Interrogatory No. 14 roll and their descendants, irrespective of their tribal affiliation, have been effectively restored and may "satisfy basic Indian ancestry requirements."

Given the actions by Congress in this matter, it would be inappropriate and contrary to congressional intent for the BIA to require all persons, including those named on the so-called Interrogatory No. 14 roll and their descendants, to establish Cow Creek Indian ancestry to qualify for enrollment on the membership roll of the Cow Creek Band of Umpqua Tribe of Indians. Therefore, no changes have been made to the rule from what was proposed on October 31, 1989.

Some of the commenters stated that all persons should be required to submit applications to the Superintendent, Siletz Agency, BIA, to establish eligibility for enrollment and that the Superintendent should handle the applications. As the proposed rule was published on October 31, 1989, all persons are required to file applications with the Superintendent, Siletz Agency, BIA, by the deadline specified in § 61.4(e)(2) to establish eligibility. Because this is a membership roll the applications will be submitted to the tribe for review and recommendations. Although the regulations provide for the BIA official to accept the recommendations of the tribal officials, unless clearly erroneous, it will ultimately be the Superintendent, Siletz Agency, who will make the initial determinations of eligibility on all

applications for enrollment. We believe the procedures as proposed provide adequate safeguards to insure individuals are treated fairly and equitably. Consequently, no changes have been made to the rule from what was proposed on October 31, 1989.

One of the commenters suggested that the Indian census roll of 1937 and the Indian census roll of 1940 be referenced in the final rule. It is not clear what the commenter intended by this suggestion. Both the 1937 and the 1940 census rolls referred to are official BIA records. Under § 61.9, Burden of Proof, the regulations contained in part 61 provide that "[r]ecords of the Bureau of Indian Affairs may be used to establish eligibility." Other records of the BIA can also be used to establish eligibility. Consequently, we find no need to make reference to the 1937 and 1940 census rolls for the records to be acceptable and no reason to attach any special significance by making reference to them. Therefore, no changes have been made to the rule from what was proposed on October 31, 1989.

Finally, one of the commenters pointed out that the date of the treaty as shown in § 61.4(e)(1)(iii) of the proposed rule was in error. The date of the treaty entered between the Cow Creek Band and the United States was September 19, 1853, and not September 18 as erroneously published. Accordingly, the date has been corrected in the final rule. No other changes have been made to the rule from what was proposed on October 31, 1989.

Paperwork Reduction Act

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in this part 61 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Executive Order 12291

The Department of the Interior has determined that this is not a major rule under E.O. 12291 because only a limited number of individuals will be affected and those individuals who are determined eligible to be enrolled on the tribal membership roll will be participating in the programs of one tribal entity funded by a relatively small judgment award granted the Cow Creek Band by the United States Claims Court.

Compliance With Other Laws

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities

within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because of the limited applicability as stated above.

The Department of the Interior has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and that neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 25 CFR Part 61

Indians—claims, Indians—enrollment.

Accordingly, part 61 of subchapter F of chapter I of title 25 of the Code of Federal Regulations is amended as shown.

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9; 25 U.S.C. 1401 *et seq.*, as amended; Pub. L. 100-139; Pub. L. 100-580.

2. Section 61.4 is amended by adding a new paragraph (e) to read as follows:

§ 61.4 Qualifications for enrollment and the deadline for filing application forms.

(e) *Cow Creek Band of Umpqua Tribe of Indians.* (1) Pursuant to section 5 of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of October 26, 1987, Pub. L. 100-139, a tribal membership roll is to be prepared comprised of all persons who are able to establish that they are of Cow Creek or other Indian ancestry indigenous to the United States based on any rolls or records acceptable to the Secretary and were not members of any other Federally recognized Indian tribe on July 30, 1987; and:

(i) Who are named on the tribal roll dated September 13, 1980, the so-called Interrogatory No. 14 roll;

(ii) Who are descendants of individuals named on the tribal roll dated September 13, 1980, the so-called Interrogatory No. 14 roll, and were born on or prior to October 26, 1987; or

(iii) Who are descendants of individuals who were considered to be members of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 19, 1853.

(2) Application forms for enrollment must be filed with the Superintendent, Siletz Agency, Bureau of Indian Affairs, P.O. Box 539, Siletz, Oregon 97380 by June 1, 1990. Application forms filed after that date will be rejected for inclusion on the tribal membership roll for failure to file on time regardless of

whether the applicant otherwise meets the qualifications for enrollment.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

[FR Doc. 90-4774 Filed 3-1-90; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 215

Withholding of District of Columbia, State, City and County Income or Employment Taxes by Federal Agencies

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: The Department of the Treasury is correcting an error in the statutory citation which appeared in the Federal Register on February 2, 1990 (55 FR 3590).

FOR FURTHER INFORMATION CONTACT:

Charles Singleton, Financial Management Service, Room 330B, 401 14th Street, SW., Washington, DC 20227 (202) 287-0335, (FTS) 287-0336.

The following correction is made in the statutory citation which appeared in the Federal Register on February 2, 1990 (55 FR 3590).

§ 215.2 [Corrected]

1. Section 215.2(h)(1)(ii), line 3 is corrected by changing the statutory reference to: "32 U.S.C. 502".

2. Section 215.2(i) lines 8 and 9 are corrected by changing the statutory reference to: "32 U.S.C. 502".

W.E. Douglas,
Commissioner.

[FR Doc. 90-4706 Filed 3-1-90; 8:45 am]

BILLING CODE 4810-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen Docket No. 87-389 FCC 90-72]

Operation of Radio Frequency Devices Without an Individual License

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This action responds to a petition for reconsideration of the Order Denying Petitions for Stay in Gen

Docket No. 87-389, adopted June 16, 1989, FCC 89-210, by the Linear Corporation (Linear). Linear objects to the Commission's decision in that earlier order to not grant a stay of the provisions of section 15.33 of its rules. Linear presents no new information or analysis that warrants the Commission altering its earlier decision. Thus, the Commission is denying the petition from Linear.

EFFECTIVE DATE: March 2, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 653-7313.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in Gen Docket No. 87-389, FCC 90-72, adopted February 12, 1990 and released February 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of the Order

1. In the First Report and Order in this proceeding, 54 FR 17710, April 25, 1989, the Commission adopted a comprehensive revision of part 15 of its rules governing the operation of radio frequency devices without an individual license. In addition to various other changes to the rules, the Commission changed the frequency range over which radiated emissions from a device must be measured, as shown § 15.33. For many types of equipment, the frequency range over which radiated emissions must be measured was increased. This increase provides additional interference protection to authorized radio services operating at higher frequencies.

2. Linear, a manufacturer of control and security alarm devices, objected to the increase in the required range of measurement, filing a Motion for Stay. That motion was denied by the Commission on June 16, 1989, in an Order Denying Petitions for Stay, Gen Docket No. 87-389, FCC 89-210. Subsequent to that latter order, Linear filed a Petition for Partial Reconsideration, again seeking a stay of the increased range of measurements in § 15.33.

3. Linear asserts that the Commission failed to address all of the relevant portions of its earlier Motion for Stay. Specifically, Linear states that equipment operated under part 90 of the rules is subject to a less stringent limit on emissions above 2 GHz, thereby placing part 15 devices at a disadvantageous position. Further, the Commission's adoption of new standards prior to the implementation of its planned new test procedure places part 15 manufacturers at risk that equipment designed under the current test procedures will not be acceptable under the new procedures. Linear also continues to take exception to the use of the current test procedures and the method for calibrating test sites, when applied to making measurements above 2 GHz. Thus, Linear requests that the requirement to measure emissions above 2 GHz be stayed until six months following the effective date of the planned new test procedures.

4. The Commission finds no merit in Linear's argument that the new rules place the manufacturers of part 15 equipment at a competitive disadvantage relative to the manufacturers of part 90 equipment. Part 90 equipment is operated under a Commission-issued license using spectrum allocated for that purpose and with protection from interference. In contrast, part 15 devices operate under the conditions that no harmful interference is caused to the authorized radio services, any interference that is received must be accepted, and operators have no vested or recognizable rights to the continued use of any frequency. Further, there are no licensing or eligibility requirements for the use of part 15 devices. Thus, the part 15 and the part 90 rules are not intended to authorize similar types of equipment.

5. Linear's other arguments are essentially the same as those raised in its earlier Motion for Stay which was rejected by the Commission in its Order Denying Petitions for Stay. The Commission continues to believe that the current procedures used for testing equipment and for calibrating a test site are suitable over the frequency range specified in § 15.33. In addition, the proposed new test procedures were developed to provide additional clarity as to how the Commission measures radiated emissions and not because of any changes made to the standards. Further, as shown in § 15.29(d) of the rules, a subsequent change to the test procedures would not impact existing equipment.

6. In conclusion, we find that Linear has not produced any additional

information showing that it will suffer irreparable harm, nor has Linear demonstrated that it is likely to prevail on the merits of its outstanding Petition for Reconsideration. We continue to believe that a stay of § 15.33 would delay unnecessarily our efforts to lower spectrum noise levels and would be to the detriment of the authorized radio services. Consequently, the public interest would not be served by granting Linear's request.

7. Based on the above and pursuant to the authority contained in sections 4(i), 302 and 303 of the Communications Act of 1934, as amended, *It is Ordered* that the Petition for Partial Reconsideration filed by Linear is denied.

List of Subjects in 47 CFR Part 15

Communications equipment, measurement standards, radio.

Federal Communications Commission.
Donna R. Searcy,
Secretary.

[FR Doc. 90-4784 Filed 3-1-90; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-403; RM-5776, RM-6189, RM-6190]

Radio Broadcasting Services; Douglas, GA, et al.

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document substitutes Channel 222C2 for Channel 221A at Hinesville, Georgia, and modifies the license of Station WXLQ, Hinesville, Georgia, to specify operation on Channel 222C2. This document also allots Channel 223A to Douglas, Georgia. The reference coordinates for Channel 222C2 at Hinesville, Georgia are 31-42-01 and 81-23-26; and the reference coordinates for Channel 223A at Douglas, Georgia are 31-30-36 and 82-50-54. With this action, this proceeding is terminated.

DATES: Effective April 9, 1990; The window period for filing applications for Channel 223A at Douglas, Georgia will open on April 10, 1990, and close on May 10, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Report and Order, MM Docket No. 89-403, adopted January 26, 1990, and released February 23, 1990. The full text of this Commission decision is available

for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Georgia, by removing Channel 221A and adding Channel 222C2 at Hinesville.

3. Section 73.202(b), the Table of FM Allotments, is amended under Georgia, by adding Channel 223A at Douglas.

Federal Communications Commission.

Douglas W. Webbink,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-4792 Filed 3-1-90; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-315; RM-6662]

Radio Broadcasting Services; Spirit Lake, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Campus Radio Company, Inc., substitutes Channel 280C2 for Channel 280A at Spirit Lake, Iowa, and modifies its license for Station KUOO(FM) to specify the higher powered channel. Channel 280C2 can be allotted to Spirit Lake in compliance with the Commission's minimum distance separation requirements and can be used at the station's present transmitter site. The coordinates for this allotment are North Latitude 43-23-42 and West Longitude 95-06-59. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 12, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report