

**§ 180.337 Oxytetracycline; tolerances for residues.**

Tolerances are established for residues of the pesticide oxytetracycline in or on the following raw agricultural commodities:

Commodity	Parts per million
Peaches	0.35
Pears	0.35

4. Section 180.1068 is revised to read as follows:

**§ 180.1068 C<sub>12</sub>-C<sub>18</sub> fatty acid potassium salts; exemption from the requirement of a tolerance.**

C<sub>12</sub>-C<sub>18</sub> fatty acids [saturated and unsaturated] potassium salts are exempted from the requirement of a tolerance for residues in or on all raw agricultural commodities when used in accordance with good agricultural practice.

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**DEPARTMENT OF TRANSPORTATION****Maritime Administration****46 CFR Part 382**

[Docket No. R-158]

RIN AB19

**Determination of Fair and Reasonable Rates for the Carriage of Bulk and Packaged Preference Cargoes on U.S.-flag Commercial Vessels**

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Advance Notice of proposed rulemaking.

**SUMMARY:** The Maritime Administration is soliciting comments from interested persons concerning the need for and content of a revised methodology for the determination of fair and reasonable rates. Fair and reasonable rate determinations are provided to U.S. government shippers of preference cargo, thereby creating ceiling rates which limit government costs and the revenue U.S.-flag operators receive for ocean cargo transportation.

**DATES:** Comments must be received before June 19, 1995.

**ADDRESSES:** Comments should be sent to the Secretary, Maritime Administration, room 7210, 400 7th St. SW., Washington DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Michael P. Ferris, Director Office of

Costs and Rates, Maritime Administration, Washington, DC 20590, Telephone (202) 366-2324.

**SUPPLEMENTARY INFORMATION:** Section 901(b) of the Merchant Marine Act, 1936, as amended, 46 App. U.S.C. § 1241(b), cited as the Cargo Preference Act of 1954, requires that, with respect to certain cargoes which are described as "government-impelled," such as food donation programs administered by the State Department or the Department of Agriculture, the cognizant government agency or agencies must take appropriate steps to assure that at least 50 percent of the gross tonnage of such cargoes transported on ocean vessels will be "transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at *fair and reasonable rates* for United States-flag vessels" (emphasis added). Section 901b of the Food Security Act of 1985 increased the 50 percent carriage requirement to 75 percent for agricultural commodities or products shipped under certain food donation programs. In 1989, MARAD issued regulations (46 CFR Part 382, hereafter the Rule) that initially became effective on January 1, 1990. The Rule contains regulations that govern the calculation of *fair and reasonable rates* (also referred to as guideline rates) for the carriage of bulk and packaged preference cargoes on U.S.-flag commercial vessels.

In an effort to encourage the development of a modern and efficient U.S.-flag bulk fleet and to help lower government-wide cargo preference program costs, the Maritime Administration is considering changes in its methodology for the determination of fair and reasonable rates. The Rule prescribes a methodology for determining fair and reasonable rates based on individual vessel costs. As a result, during periods of strong demand for bulk shipping, certain high cost vessels have been able to fix cargoes at rates that significantly exceed those of more efficient vessels. This poses a question of equity between the operators of these two groups of vessels and raises the possibility that under an alternative methodology government program costs could be reduced. Additionally, a possible result of the existing Rule is that modern, efficient low cost vessels are discouraged from entering the trade. The lower ceiling rates imposed on the most cost efficient vessels by the current methodology may not allow sufficient profit opportunities to justify the risk of a high capital cost investment.

MARAD is considering whether to conduct a rulemaking with respect to

the present methodology for determining fair and reasonable rates and is seeking information from the public as to an appropriate methodology to encourage efficient vessels to enter the trade resulting in lower program costs. MARAD has identified three alternative methodologies which it might consider as part of a rulemaking. In addition, the option exists of keeping the present methodology. The methodologies are:

**Individual Cost (Existing)**

The existing Rule is based on a methodology which utilizes an owner's actual costs for owning and operating the specific vessel used in the transportation of the preference cargo. Those costs are prorated over the cargo preference voyage and added to the voyage and cargo related costs. An allowance for overhead and profit is also included in the guideline rate.

**Foreign Market Differential**

Under this methodology, MARAD would calculate the added costs associated with owning and operating a vessel under the U.S.-flag resulting from U.S. laws and regulations and the U.S. standard of living. This procedure would identify a modern and efficient target vessel or vessels available worldwide and estimate its cost under foreign ownership and under U.S. ownership, if operated in the most efficient manner practical. The resulting cost differential would be prorated over specific voyages, as cargoes are tendered, and added to the foreign bids for such voyages to determine the fair and reasonable rate for U.S.-flag operators.

**Cost Averaging**

A methodology utilizing vessel cost averaging would be constructed in much the same manner as the current Rule, except that some level of average vessel costs would replace individual vessel costs in the calculation of the fair and reasonable rate. There are three basic cost areas which would be the most likely candidates for averaging: vessel operating costs, vessel capital costs, and fuel. Any one or a combination of any of the three cost areas could be included in a cost averaging methodology.

**Market Based**

Under a market based methodology, an operator's bid would be considered fair and reasonable if it were submitted in a competitive environment. A competitive environment would be established by a required number of qualified bids made by independent and

nonaffiliated U.S.-flag vessel operators. A market based methodology would actually be a combination of methodologies because a cost based determination would be made in instances where an insufficient number of independent bids were received. The cost based rate could be determined as prescribed in the existing Rule or by use of some other methodology like those described above. A review of the legislative history of the Cargo Preference Act of 1954, § 901(b) of the Act, would indicate that a market based methodology may require legislation to be implemented. Commenters may wish to address the legislative aspect of the market based methodology.

In order to administer cargo preference programs in a cost efficient manner, while developing a modern and efficient fleet, it may be necessary to change the existing methodology for determining fair and reasonable rates for U.S.-flag commercial vessels. Therefore, any comments on proposals to change the methodology in the regulations at 46 CFR Part 382 should specifically address any existing problems with the present methodology, specific suggestions for alternative methodologies, and a rationale for acceptance of any proposed methodologies. Comments will aid MARAD's evaluation of the Rule and the development of appropriate alternatives. MARAD is requesting that any person, corporation, or other entity having any interest in, or desiring to offer views and comments on, MARAD's fair and reasonable rate methodology, submit them in writing. After reviewing the comments, MARAD will decide whether to propose a change in the methodology employed for the determination of fair and reasonable rates, as well as what revisions to propose.

The public is advised that the purpose of this ANPRM is to solicit information and views from commenters that MARAD can use in evaluating its methodology of determining fair and reasonable rates for the carriage of bulk and packaged preference cargoes on U.S.-flag bulk vessels and in deciding whether to proceed with a rulemaking to amend 46 CFR Part 382. MARAD has separate regulations at 46 CFR Part 383 (the liner Rule) dealing with the carriage of less-than-shipload lots of bulk preference cargoes on vessels in a liner service. Common carrier liner services are substantially different from bulk services in their cost structure and service requirements. However, the information, ideas or views provided by commenters may have some impact on

any liner rulemaking and the public is invited to comment on such impact.

### Rulemaking Analysis and Notices

#### *Executive Order 12866 (Regulatory Planning and Review)*

This advance notice of proposed rulemaking has been reviewed under Executive Order 12866 and Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If a rule is actually promulgated, it would not be considered an economically significant regulatory action under Section 3(f) of E.O. 12866, since it has been determined that it would not result in an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

While any rule that might be promulgated would not involve any change in important Departmental policies, it would be considered significant because it addresses a matter of considerable importance to the maritime industry and would be expected to generate significant public interest. A preliminary regulatory evaluation will be prepared based on the comments to this advance notice of proposed rulemaking.

#### *Federalism*

The Maritime Administration has analyzed this advance notice of proposed rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that any rule that might be subsequently promulgated would not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

#### *Regulatory Flexibility Act*

The Maritime Administration certifies that any rule that might be promulgated subsequent to this advance notice of proposed rulemaking would not have a significant economic impact on a substantial number of small entities.

#### *Environmental Assessment*

Any rule that might be subsequently promulgated would not significantly affect the environment. Accordingly, an Environmental Impact Statement would not be required under the National Environmental Policy Act of 1969.

#### *Paperwork Reduction Act*

Any rule that might be promulgated would not significantly change the current requirement for the collection of information. The Office of Management

and Budget (OMB) has reviewed the current Rule under the Paperwork Reduction Act (44 U.S.C. S3501 *et seq.*), and has approved it under OMB Approval Number 2133-0514.

By order of the Maritime Administrator.

Dated: April 13, 1995.

**Joel C. Richard,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 95-43, RM-8580]

### Radio Broadcasting Services; Grand Junction, CO

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of Grand Valley Public Radio Company, Inc. (petitioner), permittee of Station KAFM(FM), Channel 201A, Grand Junction, Colorado, seeking the allotment of Channel 264C1 to Grand Junction, Colorado, as that community's fifth local FM transmission service. Coordinates used for this proposal are 39-04-06 and 108-33-00.

**DATES:** Comments must be filed on or before June 5, 1995, and reply comments on or before June 20, 1995.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Harry F. Cole, Esq., Bechtel & Cole, Chartered, 1901 L St., NW, Washington, D.C. 20036.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-43, adopted April 3, 1995, and released April 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-