

mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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 10, 1995.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In § 180.205, paragraph (a) is amended in the table therein by adding and alphabetically inserting entries for the raw agricultural commodities lentils, lentil forage, and lentil hay, to read as follows:

§ 180.205 Paraquat; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * *	*
Lentils	0.3
Lentil, forage	0.1
Lentil, hay	0.4
* * * *	*

* * * * *

[FR Doc. 95-12745 Filed 5-23-95; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[GEN Docket No. 90-314, FCC 95-167]

Unlicensed Personal Communications Services; Radio Frequency Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission affirms its designation of UTAM, Inc., to manage the transition of the 1910-1930 MHz band from the Private Operational Fixed Microwave Service to unlicensed Personal Communication Service (PCS) operations. Further, the Commission accepts UTAM's plan for the relocation of fixed microwave operations from this spectrum and the deployment of unlicensed PCS devices. The Commission is requiring UTAM to submit reports at six-month intervals on the progress of the plan's implementation. UTAM's management of the transition of the 1910-1930 MHz band will help to ensure that new and innovative unlicensed PCS devices, such as wireless PBX equipment, wireless messaging systems, wireless local area networks, and a broad range of data communication products, are made available as rapidly as possible without disrupting fixed microwave service.

EFFECTIVE DATE: June 23, 1995.

FOR FURTHER INFORMATION CONTACT: David L. Means, Office of Engineering and Technology, New Technology Development Division, (301) 725-1585, extension 206.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Memorandum Opinion and Order, FCC 95-167, adopted April 19, 1995, and released May 12, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. Copies may also be purchased from the Commission's duplicating contractor, International Transcription Services, at (202) 857-3800 or 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of the Memorandum Opinion and Order

1. This *Fourth Memorandum Opinion and Order* affirms its designation of UTAM, Inc., to manage the transition of the 1910-1930 MHz band from the Private Operational Fixed Microwave

Service to unlicensed Personal Communication Service (PCS) operations. Further, the Commission accepts UTAM's plan for the relocation of fixed microwave operations from this spectrum and the deployment of unlicensed PCS devices. The Commission is requiring UTAM to submit reports at six-month intervals on the progress of the plan's implementation.

2. The 1910-1930 MHz band is currently occupied by 383 fixed point-to-point microwave links. In the *Second Report and Order*, 58 FR 59174, November 8, 1993, the Commission designated UTAM as the coordinator for the transition of the unlicensed PCS band from the fixed microwave service to unlicensed PCS, conditioned on UTAM's submission and the Commissions acceptance of: (1) A funding plan that is equitable to all prospective manufacturers of unlicensed devices, and (2) a plan for "band clearing" that will permit the implementation of nomadic devices and, in particular, nomadic data PCS devices, as promptly as possible.

3. On August 1, 1994, UTAM, Inc., submitted its plan for managing the transition of the 1910-1930 MHz band to use by unlicensed PCS operations. The UTAM plan describes UTAM's organization and governance, financing plan, bank clearing plan, coordination procedures, protection of proprietary information, dispute resolution procedures and UTAM's plans for ending its coordination role and dissolving itself.

4. We find that UTAM's cost and revenue projections are reasonable. These projections appear to be based on conservative estimates and to allow for situations where a revenue source may develop somewhat slowly. While we recognize that there is always some uncertainty in making such projections, we are convinced that there will eventually be sufficient revenues to totally fund relocation of the microwave incumbents. It seems fair to assume the PCS licensees will bear approximately half the cost of relocating the incumbent microwave links in the 1910-1930 MHz band, since these links are paired with links in the licensed PCS spectrum. We agree with UTAM that its estimate of the cost for relocating each link is conservative, which should provide some margin if UTAM is faced with relocating more links than it anticipates. We do not agree with arguments that the relocation of links would be disrupted if there are funding shortfalls. We note, in particular, that UTAM will not initiate relocation negotiations until adequate funding is available. Further,

we believe that UTAM is taking adequate steps to control interference so as to avoid the need to relocate microwave links prematurely. We also see no need to require UTAM to establish a contingency fund for such situations. We are satisfied that the BIS study provides a reasonable estimate of unlicensed PCS device deployment and takes due account of demand that may be satisfied through other equipment or services. Even if demand for unlicensed PCS devices does not fall within the range predicted by the BIS study, or if licensed PCS penetration lags or negotiations with incumbents take longer than anticipated, the safeguards included in the plan ensure that the only consequence will be that band clearing will simply take longer. With regard to concerns about equity in the band clearing process, we agree with UTAM that the plan clearly indicates that donated funds may be designated for clearing any part of the spectrum that the donor chooses and will be credited as an advance against the donor's clearing fees. Thus, no company interested in clearing the asynchronous band segment for deployment of nomadic products will be forced to subsidize coordination activities.

5. We believe that UTAM's band clearing plan is workable and appropriate. While we understand concerns for the need to make spectrum available for nomadic operations promptly, we also recognize the practical difficulties UTAM faces in clearing the 1910–1930 MHz band. We believe that UTAM has devised a workable strategy for expediting nomadic device deployment given the existing constraints, such as the need to fund and negotiate the relocation of the incumbent microwave links, and the fact that incumbent public safety licensees are not required to relocate for five years. While we are sympathetic to desires for a more rapid deployment scheme for nomadic data devices in this spectrum, none is apparent. We believe that the only way to make the band fully available to nomadic devices is to completely clear it. The most effective way to do so is to enable non-nomadic devices to be deployed so that fees from such deployment can be used to complete the band clearing process as rapidly as possible. While we share doubts regarding the potential of the "wedge" clearing approach to make significant amounts of spectrum available to nomadic devices prior to complete band clearing, this approach appears to be the soundest plan given the constraints. As an alternative for those developers of nomadic devices

whose needs could be accommodated by the UTAM plan, we note that we recently allocated additional spectrum at 2390–2400 MHz for unlicensed data PCS devices, and this spectrum will not require clearing. We believe that the immediate needs of unlicensed nomadic data PCS devices can be accommodated in this spectrum. Operation in the 2390–2400 MHz band will not require participation in UTAM and will not be governed by the UTAM plan.

6. With regard to concerns about deployment of nomadic devices prior to complete band clearing, we addressed this matter in the *Memorandum Opinion and Order* in this proceeding, 59 FR 32830, June 24, 1994. We stated therein that when we have determined that spectrum is available, or will soon be available, for deployment of nomadic devices, we will issue a Public Notice announcing the date upon which we will begin accepting and processing applications for certification of such devices. We believe that this plan will adequately ensure that nomadic operations do not cause interference to fixed microwave operations. We believe UTAM's commitment to voluntarily address the concerns of the incumbent microwave community regarding coordination with PCS licensees to negotiate microwave relocations on a system-wide basis where possible and appropriately will further the relocation process. Such system-wide coordination and negotiation activities will promote more rapid availability of spectrum and minimize the relocation burden for incumbent microwave licensees. We believe that is neither necessary nor practical for the Commission to require such system-wide negotiations. Similarly, we believe that UTAM has adequately responded to concerns about clearing priorities and updating of the zone status.

7. We believe that UTAM has adequately responded to the concerns that have been raised about its coordination procedures. Its explanation that appropriate adjustments have already been incorporated into the TIA Bulletin 10F criteria and stated intention to coordinate system deployed in Zone 1 areas at maximum system capacity appear to adequately address the concerns of the microwave community. We also note that UTAM is taking steps to respond to the concerns of HP and other manufacturers regarding the necessity for advance warning for "stop deployment" orders. We are similarly convinced that UTAM will be gathering sufficient information to monitor manufacturer compliance with its LVP and to expeditiously locate any source of interference, should it

occur. We disagree that we intended that UTAM develop and specify a standard procedure or specific technology to prevent unauthorized deployment of unlicensed PCS devices. In fact, we previously stated that we would allow UTAM broad flexibility in establishing the means it uses to fulfill its responsibility for ensuring that unlicensed devices do not interfere with existing microwave operations. We continue to believe that this is the appropriate approach. We believe that the standards for disablement mechanisms outlined in the plan, with the clarifications provided by UTAM in its response to the comments, will adequately protect incumbent microwave operations from potential interference caused by unauthorized relocation of unlicensed devices. We also agree with UTAM that further requirements would not prevent those who wish to intentionally violate the rules from doing so.

8. Regarding enforcement, we believe that the requirements of Section 15.307(b) of the Commission's rules are adequate to ensure manufacturers' compliance with the procedures established by UTAM, and that no additional rules are necessary or desirable. We fully intend to take appropriate enforcement action against parties that violate the rules and procedures we have established with regard to operation in the unlicensed spectrum at 1910–1930 MHz. We further believe that the clarifications UTAM provides regarding its dispute resolution procedures remove any confusion over UTAM's intent to work in good faith to resolve any disputes that may arise.

9. We find that UTAM has provided adequate and sufficient information to satisfy the conditions laid out in the *Second Report and Order*. As explained above, we believe that UTAM has adequately addressed all of the relevant issues. We find no merit in arguments that UTAM's authorization should be revoked or limited. While Apple challenges UTAM's governance, it offers no specifics as to how the governance procedures should be changed or otherwise improved. Further, we disagree that it is necessary or desirable to identify an alternative entity at this time to manage the band transition should UTAM cease operation. We note that no alternative to UTAM has been suggested or come forward. Therefore, we are reaffirming UTAM has the coordinator for the transition of the 1910–1930 MHz band from fixed microwave services to use by unlicensed PCS.

10. We do not believe it is necessary to require UTAM to submit a revised

plan that includes the additional information presented in its reply comments. We recognize that, to some extent, the plan and details of its implementation are a work in progress. Accordingly, we believe the appropriate course of action is to monitor UTAM's implementation of the plan. We are requiring UTAM to furnish biannual reports on its progress in implementing the plan. The first report will be due July 1, 1995, and every six months thereafter. The reports should provide an update on the status of the financial and band clearing plans, the extent of incumbent microwave relocation, and the extent of unlicensed PCS device deployment. Additionally, the reports should provide updated projections of future band clearing and unlicensed PCS implementation based on the best and most current data available at the time the report is prepared. We also are requiring that the report provide information on any problems or difficulties encountered in implementing the plan and how they are being resolved.

Ordering Clauses

11. Accordingly, It Is Ordered, pursuant to sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, U.S.C. Sections 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r), that UTAM, Inc. is designated to coordinate and manage the transition of the 1910–1930 MHz band from the Private Operational Fixed Microwave Service to unlicensed PCS operations. It Is Further Ordered, that UTAM, Inc., shall submit to the Commission reports on its progress in implementing its plan beginning on July 1, 1995, and every six months thereafter. It Is Further Ordered, that Part 15 is amended as shown to remove the conditions attached to UTAM's designation as the coordinator for unlicensed PCS operations in the 1910–1930 MHz band.

List of Subjects in 47 CFR Part 15

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Part 15 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: Secs. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as

amended, 47 U.S.C. Sections 154, 302, 303, 304, and 307.

2. Section 15.307(a) is revised to read as follows:

§ 15.307 Coordination with fixed microwave service.

(a) UTAM, Inc., is designated to coordinate and manage the transition of the 1910–1930 MHz band from Private Operational-Fixed Microwave Service (OFS) operating under part 94 of this chapter to unlicensed PCS operations.

* * * * *

[FR Doc. 95–12704 Filed 5–23–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 900833–1095; I.D. 0515951]

Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Bycatch Rate Standards for the Second Half of 1995

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

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the second half of 1995. Publication of these bycatch rate standards is required under regulations implementing the vessel incentive program. This action is necessary to implement the bycatch rate standards for vessel operators who participate in the Alaska groundfish trawl fisheries under the incentive program. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 12:01 a.m., Alaska local time (A.l.t.), July 1, 1995, through 12 midnight, A.l.t., December 31, 1995. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., June 30, 1995.

ADDRESSES: Comments should be mailed to Ronald J. Berg, Chief, Fisheries Management Division, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel; or be delivered to 709 West 9th Street, Federal Building, Room 401, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Susan J. Salvesson, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) are managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council under the authority of the Magnuson Fishery Conservation and Management Act. The FMPs are implemented by regulations for the U.S. fisheries at 50 CFR parts 672, 675, and 676. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620. Regulations that establish observer coverage requirements are set out at 50 CFR part 677.

Regulations at §§ 672.26 and 675.26 implement a vessel incentive program to reduce halibut and red king crab bycatch rates in the groundfish trawl fisheries. Under the incentive program, operators of trawl vessels may not exceed Pacific halibut bycatch rate standards specified for the BSAI and GOA midwater pollock and “other trawl” fisheries, and the BSAI yellowfin sole and “bottom pollock” fisheries. Vessel operators also may not exceed red king crab bycatch standards specified for the BSAI yellowfin sole and “other trawl” fisheries in Bycatch Limitation Zone 1 (defined in § 675.2). The fisheries included under the incentive program are defined in regulations at §§ 672.26(b) and 675.26(b).

Regulations at §§ 672.26(c) and 675.26(c) require that halibut and red crab bycatch rate standards for each fishery included under the incentive program be published in the **Federal Register**. The standards are in effect for specified seasons within the 6-month periods of January 1 through June 30, and July 1 through December 31. For purposes of calculating vessel bycatch rates under the incentive program, 1995 fishing months were specified in the **Federal Register** on January 12, 1995 (60 FR 2905).

Halibut and red king crab bycatch rate standards for the first half of 1995 also were published in the **Federal Register** on January 12, 1995. As required by §§ 672.26(c) and 675.26(c), the Director, Alaska Region, NMFS (Regional Director), has established the bycatch rate standards for the second half of 1995 (July 1 through December 31).