production area during the month of September, 1995.

(D) Total quantity of Scotch spearmint oil needed to reach targeted percentage—1,001,891 pounds. This number is the product of the estimated 1996–97 North American production and the targeted percentage.

(E) Minimum amount desired to have on hand throughout the season—191,667 pounds. This number is an average of those amounts recommended by producers at the six regional producer meetings, and reflects the Committee's commitment in regaining market share by maintaining a minimum quantity on hand.

(F) Total supply required—1,193,558 pounds. This number is derived by adding the minimum desired on hand amount to the total quantity required to meet the targeted percentage.

(G) Additional quantity required—997,174 pounds. This represents the actual amount of additional or new oil needed to meet the Committee's projections, and is computed by subtracting the estimated carry-in of 196,384 pounds from the total supply required of 1,193,558 pounds.

(H) Total allotment base for the 1996–97 marketing year—1,798,732 pounds.

(I) Computed allotment percentage—55 percent. This percentage is computed by dividing the required salable quantity by the total allotment base.

(J) Recommended allotment percentage—55 percent.

(K) The Committee's recommended salable quantity—989,303 pounds.

(2) Class 3 (Native) Spearmint Oil

(A) Estimated carry-in on June 1, 1996—44,959 pounds. This number is derived by subtracting the estimated 1995–96 marketing year trade demand of 1,084,436 pounds from the revised 1995–96 marketing year total available supply of 1,129,395 pounds.

(B) Estimated trade demand (domestic and export) for the 1996–97 marketing year—1,084,436 pounds. This number is an estimate based on the average of total annual sales made between 1988 and 1994, handler estimates, and Committee information provided by producers and buyers.

(C) Salable quantity required from 1996 production—1,039,477 pounds. This number is the difference between the estimated 1996–97 marketing year trade demand and the estimated carry-in on June 1, 1996.

(D) Total allotment base for the 1996–97 marketing year—1,990,559 pounds.

(E) Computed allotment percentage—52.2 percent. This percentage is computed by dividing the required salable quantity by the total allotment base.

(F) Recommended allotment percentage—54 percent. The Committee recommended a percentage slightly higher than that computed so as to maintain an ample supply of Native spearmint oil available for the market.

(G) The Committee's recommended salable quantity—1,074,902 pounds.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The Committee's recommended salable quantities of 989,303 pounds and 1,074,902 pounds, and allotment percentages of 55 percent and 54 percent for Scotch and Native spearmint oils, respectively, are based on anticipated 1996–97 marketing year supply and trade demand. The relatively higher recommended salable quantities and allotment percentages for both Scotch and Native spearmint oils for the 1996–97 marketing year, when compared to those initially recommended for the 1995–96 marketing year, are demonstrative of the Committee's concern with the increasing production of spearmint oil, both inside and outside the marketing order production area, and the industry's desire to maintain a significant share of the North American market while maintaining the overall stability of the market.

The proposed salable quantities are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market demand for spearmint oil which may develop during the marketing year can be satisfied by an increase in the salable quantitities. Both Scotch and Native spearmint oil producers who produce more than their annual allotments during the 1996–97 season may transfer such excess spearmint oil to a producer with spearmint oil production less than his or her annual allotment or put it into the reserve pool.

This proposed regulation, if adopted, would be similar to those which have been issued in prior seasons. Costs to producers and handlers resulting from this proposed action are expected to be offset by the benefits derived from improved returns.

The establishment of these salable quantities and allotment percentages would allow for anticipated market needs based on historical sales, changes and trends in production and demand, and information available to the Committee. Adoption of this proposed rule would also provide spearmint oil producers with information on the amount of oil which should be produced for next season.

Based on available information, the Administrator of the AMS has determined that the issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is proposed to be amended as follows:

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 985.215 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 985.215 Salable quantities and allotment percentages—1996–97 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1996, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 989,303 pounds and an allotment percentage of 55 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,074,902 pounds and an allotment percentage of 54 percent.

Dated: January 17, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–927 Filed 1–23–96; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 150

[Docket No. PRM–150–3]

Measurex Corp.; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking submitted by the Measurex Corporation. The petition was docketed by the Commission, and was assigned Docket No. PRM–150–3. The petitioner requested that the NRC amend its regulations concerning Agreement State regulation of byproduct material to require Agreement States to notify the NRC of proposed and completed regulatory actions and to require that the NRC publish notices of Agreement States' proposed and completed rulemakings. The NRC is denying the petition because there would be no safety benefit by NRC actions to consolidate and further disseminate this information; the process of collecting and disseminating this information would place a significant administrative and economic burden on the NRC and the Agreement States; and the information sought by the petitioner on proposed and completed Agreement State rulemakings is already available from a number of sources.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, the petitioner's response to these comments, the NRC's letter of denial to the petitioner, and the Congressional letters are available for public inspection or copying in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tony DiPalo, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, T9F31, Washington, DC 20555–0001. Telephone: 301–415–6191.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission (NRC) received a petition for rulemaking dated April 7, 1994, submitted by Ms. Elsa Nimmo for the Measurex Corporation, a manufacturer, distributor, and supplier of services for process control sensors used by NRC and Agreement State licensees throughout the United States. The petition was docketed as PRM–150–3 on April 12, 1994.

The NRC published a notice that announced the receipt of the petition and requested public comment on the suggested amendments in the Federal Register of October 5, 1994 (59 FR 50706). The petitioner requested that the NRC amend its regulations in 10 CFR part 150 that concern Agreement State regulation of byproduct material. Specifically, the petitioner sought an amendment to 10 CFR 150.31 that would have required each Agreement State to notify the NRC of proposed and completed changes to that State's regulations.

The petitioner also sought an amendment to 10 CFR part 2 that would have required the NRC to publish notices of these regulatory changes in the Federal Register. The petitioner noted that current NRC requirements contained in §§ 2.804 through 2.807 of Title 10 of the Code of Federal Regulations establish a procedure for the publication of proposed changes, participation by interested persons, and notification of changes; however, the petitioner believes that a less detailed set of rulemaking and notification procedures is specified in 10 CFR 150.31. The petitioner also states that, in their experience, the 10 CFR 150.31 rulemaking and notification procedure fails to provide a mechanism for persons located outside any particular Agreement State to learn about proposed changes in that State's regulations. In the absence of such a mechanism, the petitioner believes that they and others are excluded from the opportunity clearly intended by 10 CFR 150.31 to participate in discussion of the proposed rules.

The petitioner indicated that although it makes a substantial effort to learn about proposed regulatory changes and to maintain current copies of NRC and Agreement State regulations, it is not always notified of actual changes that may directly affect it and its customers in the Agreement States. For example, the Petitioner noted that under both its specific license for device distribution issued by the Agreement State of California, and the general license issued by other Agreement States, it is required to provide generally licensed device recipients with a copy of the applicable Agreement State regulations. The petitioner believed that the proposed amendments to 10 CFR parts 2 and 150 would alert the NRC and Agreement State licensees of all relevant Agreement State requirements and permit them to more fully participate in the rulemaking process.

Discussion of the Petition

The petitioner's primary concern is that it and other NRC licensees are not always notified of proposed and completed changes in Agreement State regulations that may affect licensees and their customers in those Agreement States. The petitioner is also concerned that because it is often not aware of Agreement State regulatory actions, it does not have the opportunity to fully participate in the rulemaking process as is intended by NRC regulations. As part of the petition for rulemaking, the petitioner included copies of correspondence with Agreement State radiation control boards and the NRC, and cited specific cases with the Agreement States of Oregon and Texas that it believed illustrated why the current rules are deficient and in need of revision.

In Oregon, for example, regulatory changes were proposed that would have eliminated the general license authorizing the petitioner to install, transfer, demonstrate, or provide service and would require the petitioner to obtain a specific license from Oregon in order to conduct business. These regulatory changes were never approved. Nevertheless, the petitioner states that had Oregon's proposed regulations been adopted, it would be able to ship sensors to a customer in Oregon only after confirming that the customer has an appropriate specific license. The petitioner was concerned that interested parties were not provided ample opportunity to comment on Oregon's proposed rules or to participate in their rulemaking process. The petitioner felt that although it attempted to learn about any proposed or adopted regulatory changes by writing to the Oregon Radiation Control Section on several occasions (between June 1991 and January 1994), it did not receive a response. Lack of response led the petitioner to believe that Oregon had not modified its 1987 radiological control regulations even though the current version of the Oregon Administrative Rules for the Control of Radiation was adopted in 1991. The petitioner indicated that it only became aware of the proposed changes to Oregon's regulations in February 1994 when informally contacted by an out-of-state health physics colleague.

In the case of Texas, the petitioner indicated that they did not learn about certain regulatory modifications adopted in 1993 by the Agreement State of Texas until after these rules became effective. At that time, the petitioner believed that the involved agency, in this case the Texas Department of Health, Division of licensing, Registration and Standards, Bureau of Radiation Control, knew these changes would affect out-of-State firms since the petitioner was notified in writing by this agency in September 1993 about some of the changes after they had been adopted. However, the petitioner felt they had no opportunity to participate in the rulemaking process and also

believed these regulatory modifications would directly affect its business in Texas.

The petitioner noted that some State's radiation control agencies are conscientious in notifying out-of-state distributors or service groups about proposed and completed regulatory changes, but many do not make such an effort. For these reasons, the petitioner indicated that it and other similar service groups have no way of knowing when copies of a State's regulations are no longer valid and, consequently, have no opportunity to participate in the rulemaking process. The petitioner also felt that its effort to gain information regarding Agreement State regulatory changes was costly, time-consuming, and often ineffective.

To alleviate this situation, the petitioner proposed that 10 CFR 150.31 be amended to require Agreement States to notify the NRC of both proposed and completed regulatory actions to adopt, amend, or repeal regulations and that 10 CFR Part 2 be amended to require the NRC to publish Agreement State notices of proposed and completed rulemakings in the Federal Register. However, with regard to 10 CFR 150.31 the staff noted that this requirement applies only to AEA 11 (e) 2 byproduct material (Uranium Mill Tailings) rather than regular ''Byproduct Materials.''

Summary of Public Comments

The October 5, 1994, Notice of receipt invited interested parties to submit written comments concerning the petition. The NRC received 17 comment letters. Ten comment letters were received from States represented by their Departments of Health, Natural Resources, Environmental Quality, and Nuclear Safety; 4 came from industry representing distributors and suppliers of services for individual process measurement systems; 1 from a private consultant, 1 from a citizens group, and 1 joint comment representing two professional groups.

The petition proposed two amendments. The first was to amend 10 CFR 150.31 to (in most cases) require Agreement States to notify the NRC of both proposed and completed action to adopt, amend, or repeal regulations. The second was to amend 10 CFR Part 2 to require the NRC to publish in the Federal Register the Agreement State Notices of proposed and completed rulemakings.

Of the 17 comments received, 11 opposed the petition, 5 favored granting the petition through rulemaking, and 1 supported the petition's request but, preferred a simpler approach as an alternative to rulemaking. The commenters opposed to the petition did so on the following basis:

(i) A State respondent indicated that its State properly and routinely notifies the NRC of proposed and completed regulatory actions at both the headquarters and regional level. The respondent also indicated that its State routinely seeks comments from the NRC before promulgation of a State regulation to ensure the NRC is aware of these revisions.

(ii) A State respondent cited an example given by the petitioner of a misunderstanding about notification of a proposed rule the State was developing that was successfully resolved. The respondent indicated that the State not only gave the party involved (in this case the Measurex Corporation) the information requested, but the comment period was extended to allow the petitioner time to formulate comments for submittal to the Oregon State Public Hearing Officer. The petitioner's comments were reflected in the final rule. Oregon, has modified its computerized mailing lists and, in the future, the petitioner will receive routine mailings of all regulatory notices.

(iii) A State respondent indicated that it can be safely assumed that all Agreement States have some minimum notice requirement for the purpose of due process, and that seeking local relief is far preferable to a national rule. Therefore, if the petitioner has a problem with the due process requirements of a particular State, relief lies with that State's officials and the State's legislative/political process. Along this line, several State respondents indicated that they have their own laws and administrative procedures which they follow for rulemaking. Under these requirements, Agreement States maintain registers in which proposed and completed regulations are published and to which interested parties can subscribe. One State commenter noted that under its public records law it is required to make copies available on request of its proposed and completed regulations. Another State respondent indicated that the name, address, and telephone number of Agreement State officials can be found in the Conference of Radiation Control Program Directors' Directory of Personnel Responsible for Radiological Health Programs.

(iv) One State respondent indicated that under its Administrative Procedure Act it is required to notify interested parties of rule changes and to hold public hearings to receive comments which can also be delivered in writing.

(v) A joint response from two professional groups indicated they were concerned with the rising cost of doing business with both the NRC and the Agreement States and therefore, were opposed to any effort that would effect further increases. They believed the information requests of the petition reflect the cost of doing business with the various Agreement States and that the petitioner should utilize its own resources in gathering the information necessary to become aware of a State's relevant requirements. One State respondent indicated that the petition would increase costs to State and Federal Governments and to those they regulate because Agreement States and the NRC obtain revenues from fees and/or general fund monies. Thus, the cost of promulgating proposed State regulations in the Federal Register will ultimately be born by all radioactive material licensees and the general public. Because this expenditure will only benefit a small number of service groups that distribute generally licensed devices, it would be more economical if these groups requested copies of the desired information from the States within which they plan to do business. A State respondent indicated that the cost to the petitioner for producing a periodic form letter and postage would be small compared to the added bureaucracy if the NRC was required to develop a program to gather the desired information from the Agreement States and publish it in the Federal Register.

(vi) Several State respondents expressed concern over the additional administrative and economic burden that would be imposed on the Agreement States because of proposed new procedural requirements in the petition. Furthermore, these proposed requirements may create conflict with existing State statutes concerning rulemaking time frames, or may further delay an already lengthy rulemaking process. One State respondent indicated that it was doubtful that their State General Assembly would consider an amendment to a State statute that only accommodates one agency.

The commenters favoring the petition did so on the following basis:

(i) One industry respondent indicated that some Agreement States maintain an effective communication program of notifying interested parties of proposed and completed regulatory actions in their States, but others may not. Thus, companies like the petitioner's must make a substantial effort to acquire the desired information. Another industry respondent indicated it had difficulty obtaining copies of current regulations and any information on proposed

regulatory changes from some Agreement States.

(ii) An industry respondent indicated that early notification of potential revisions in Agreement State regulations would alert the NRC to possible rule inconsistencies and non-compatibility problems before changes become final, which would facilitate a greater awareness and understanding of the changes.

(iii) A public interest group expressed concern that the difficulties encountered by the petitioner may stem from State government favoritism toward in-State businesses to the detriment of out-of-State entities who are affected by the State's actions.

(iv) One respondent, a private consultant, indicated that without a mechanism for learning about proposed and completed regulatory actions in Agreement States, it was too time consuming and expensive for individuals to obtain this information.

(v) One industry respondent indicated that although there were a number of ways interested parties could obtain the desired regulatory information requested by the petition, they did not assume that these parties would be informed. In addition, it is believed there is a lack of uniformity and consistency among the Agreement States in how interested parties are notified of proposed and completed regulations. This respondent, while supporting the petition, indicated he preferred a simpler solution (unspecified) for providing uniform and timely information to parties interested in Agreement State regulations. He also believed the Organization of Agreement States was in the best position to develop such a solution.

Reasons for Denial

The NRC reviewed the amendments proposed in the petition, considered the comments received, and concluded that the arguments made by the petitioner are not sufficient to warrant amending 10 CFR parts 2 and 150. The reasons for denial are as follows:

1. The petition does not discuss any situation in which the public health and safety is an issue or any apparent safety benefit that will be derived by collecting and disseminating the information requested by the petition. Thus, the NRC foresees no basis for the additional administrative burden or increased costs to collect and disseminate this information in the manner suggested by the petition.

2. The process of collecting and disseminating the information pursuant to the petition would place an administrative and economic burden on both the NRC and Agreement States. The petitioner did not address the costs for developing the information system that would be necessary to implement the proposed amendments in the petition or consider the reporting burdens that would be imposed on both the Agreement States and the NRC to support the operation of such a system. The petitioner did not consider the costs associated with system operational problems, the need for additional staff resources at both the NRC and Agreement States, the need for administrative procedures for tracking information and documentation system instructions, and the costs for periodically publishing notices of the information under NRC auspices in the Federal Register.

3. The information sought by the petitioner is already available through other mechanisms. Based on a review of the public comments, several means presently exist by which interested parties who are not licensed in a particular Agreement State can access information on proposed or completed regulation changes in a particular Agreement State. As previously mentioned, several Agreement State respondents indicated that, as required by State statute, they maintain state registers in which proposed and completed regulatory actions of that State are published. The information on the State Registers is available to interested parties on a subscription basis, by mail, or by telephone.

The Conference of Radiation Control Program Directors, Inc., also maintains a directory that includes the name, address, and telephone number of Agreement State public officials responsible for radiological health programs. By making a telephone call to the appropriate Agreement State public official, a requester can obtain information about the latest proposed and completed regulatory actions in that State. In addition, the NRC maintains a list of Agreement State contacts that includes telephone and facsimile numbers and addresses. Interested parties can call or write to the NRC to obtain this information. The NRC also sponsors open meetings twice a year to discuss Agreement State and NRC regulatory matters.

Because of the potential administrative burden and added costs associated with the development and operation of an information system to support the requests in the petition without an accompanying health and safety benefit, and because alternative means are currently available to the petitioner and interested parties to acquire the desired information about Agreement State regulatory activities, the petition for rulemaking filed by the Measurex Corporation (PRM–150–3) is denied.

Dated at Rockville, MD, this 26th day of December 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Acting Executive Director for Operations.

[FR Doc. 96–965 Filed 1–23–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ASW–15]

Proposed Revision of Class E Airspace; Gainesville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to revise the Class E airspace extending upward from 700 feet above ground level (AGL) at Gainesville, TX. A new Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 17 at Gainesville Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS SIAP to RWY 17 at Gainesville Municipal Airport, Gainesville, TX.

DATES: Comments must be received on or before February 29, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 95–ASW–15, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, System Management Branch, Federal Aviation Administration, Southwest Region, Fort