ethanol, in particular, into gasoline is expected to increase considerably, not decrease. Therefore, despite this action to remove the oxygenate mandate for RFG in California, when viewed in the context of companion energy legislation, overall use of oxygenates is expected to increase in the future. This rule also would allow gasoline retailers to commingle certain compliant gasolines which otherwise would be prohibited from being commingled. This also may have a positive effect on gasoline supplies.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed would not establish new technical standards within the meaning of the NTTAA. Therefore, EPA did not consider the use of any voluntary consensus standards.

VI. Statutory Provisions and Legal Authority

The statutory authority for the actions in today's direct final rule comes from sections 211(c), 211(k) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 14, 2006.

Stephen L. Johnson,

Administrator.

[FR Doc. 06–1614 Filed 2–21–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2005–0170; FRL–8034–9]

Regulation of Fuels and Fuel Additives: Removal of Reformulated Gasoline Oxygen Content Requirement and Revision of Commingling Prohibition To Address Non-Oxygenated Reformulated Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Energy Policy Act of 2005 (Energy Act), Congress removed the oxygen content requirement for reformulated gasoline (RFG) in section 211(k) of the Clean Air Act (CAA). To be consistent with the current CAA Section 211(k), this rule would amend the fuels regulations at 40 CFR Part 80 to remove the oxygen content requirement for RFG. This rule also would remove requirements which were included in the regulations to implement and ensure compliance with the oxygen content requirement. In addition, this rule would extend the current prohibition against combining VOC-controlled RFG blended with ethanol with VOC-controlled RFG blended with any other type of oxygenate from January 1 through September 15, to also prohibit combining VOC-controlled RFG blended with ethanol with non-oxygenated VOC-controlled RFG during that time period, except in limited circumstances authorized by the Act.

In the ''Rules and Regulations'' section of the **Federal Register**, we are issuing these amendments to the RFG regulations as a direct final rule without prior proposal because we view them as noncontroversial amendments and anticipate no adverse comment. We have explained our reasons for these amendments in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final fuel and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: *Comments:* Comments must be received on or before March 24, 2006. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by OMB on or before March 24, 2006.

Hearings: If EPA receives a request from a person wishing to speak at a public hearing by March 9, 2006, a public hearing will be held on March 24, 2006. If a public hearing is requested, it will be held at a time and location to be announced in a subsequent **Federal Register** notice. To request to speak at a public hearing, send a request to the contact in **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0170 by one of the following methods:

1. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. E-mail: Group *A-AND-R-DOCKET@epa.gov.* Attention Docket ID No. OAR–2005–0170.

4. Mail: Air and Radiation Docket, Environmental Protection Agency, Mailcode: 6406J, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

5. Hand Delivery: EPA Docket Center, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B102, Mail Code 6102T, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2005–0170. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically

captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center Home page at *http://www.epa.gov/epahome/dockets.htm.*

We are only taking comment on issues related to the removal of the oxygen requirement for RFG and associated compliance requirements, and the provisions regarding the combining of ethanol blended RFG with non-oxygenated RFG and provisions for retailers regarding the combining of ethanol blended RFG with non-ethanol blended RFG. Comments on any other issues or provisions in the RFG regulations are beyond the scope of this rulemaking.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Marilyn Bennett, Transportation and Regional Programs Division, Office of Transportation and Air Quality (6406J), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343–9624; fax number: (202) 343–2803; e-mail address: *mbennett@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

I. General Information

A. Does This Action Apply To Me?

Entities potentially affected by this action include those involved with the production and importation of conventional gasoline motor fuel. Regulated categories and entities affected by this action include:

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum Refiners, Importers.
Industry	422710	5171	Gasoline Marketers and Distributors.
	422720	5172	
Industry	484220	4212	Gasoline Carriers.
	484230	4213	

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria of part 80, subparts D, E and F of title 40 of the Code of Federal Regulations. If you have any question regarding applicability of this action to a particular entity, consult the person in the preceding **FOR FURTHER INFORMATION CONTACT** section above.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

3. *Docket Copying Costs.* You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

C. Outline of This Preamble

II. Removal of the RFG Oxygen Content Requirement

Section 211(k) of the 1990 Amendments to the Clean Air Act (CAA) required reformulated gasoline (RFG) to contain oxygen in an amount that equals or exceeds 2.0 weight percent. CAA Section 211(k)(2)(B). Accordingly, EPA's current regulations require RFG refiners, importers and oxygenate blenders to meet a 2.0 or greater weight percent oxygen content standard. 40 CFR 80.41. Recently, Congress passed legislation which amends Section 211(k) of the CAA to remove the RFG oxygen requirement.[1] To be consistent with the current CAA Section 211(k), today's proposed rule would modify the RFG regulations to remove the oxygen standard in § 80.41.[2]

Today's proposed rule would also modify several other sections of the RFG regulations which contain provisions designed to implement and ensure compliance with the oxygen standard. The proposed modifications to the affected sections are listed in the following table:

§ 80.2(ii)	Would remove oxygen in the definition of ''reformulated gasoline credit.'' With the removal of the oxygen standard, there would be no basis for the generation oxygen credits.
§§ 80.41(e) and (f)[3]	Would remove the per-gallon and averaged oxygen standard for Phase II Complex Model RFG
§ 80.41(o)	Would remove the provisions relating to oxygen survey failures. With the removal of the oxygen standard, oxygen surveys would not longer be needed.
§ 80.41(q)	Would remove reference to § 180.41(o). Also would remove reference to oxygenate blenders since oxygenate blenders were subject only to adjusted standards in the case of an oxygen survey failure and not any other survey failure.
§ 80.65 heading	Would remove oxygenate blenders from the heading since oxygenate blenders were only responsible for demonstrating compliance with the oxygen standard which would be removed.
§ 80.65(c)	Would remove requirements relating to compliance with the oxygen standard which would be removed.
§ 80.65(d)	Would remove the designation requirement relating to oxygen content, remove the RBOB designation categories of ''any oxygenate'' and ''ether only,'and add a requirement for RBOB to be designated regarding the type and amount of oxygenate required to be added.
§ 80.65(e)	Would remove the requirement for oxygen test results to be received prior to the gasoline leaving the refinery or importer facility since there would no longer be an oxygen per-gallon minimum standard.
§ 80.65(h)	Would remove the requirement for oxygenate blenders to comply with the audit requirements under subpart F since they would no longer be a requirement to demonstrate compliance with the oxygen standard.
§ 80.67(a)	Would remove the option to comply with the oxygen standard on average for oxygenate blenders since there no longer would be an oxygen standard. Also would remove provisions for refiners and importers to use gasoline that exceeds the average standard for oxygen to offset gasoline which does not achieve the average standard for oxygen.
§ 80.67(b)	Would remove requirements relating to oxygenate blenders who meet the oxygen standard on average since there no longer would be an oxygen standard.
§ 80.67(f)	Would remove requirements relating to compliance with the oxygen standard on average since there no longer would be an oxygen standard.
§ 80.67(g)	Would remove requirements relating to compliance calculations for meeting the oxygen standard on average, since there no longer would be an oxygen standard. Also would remove requirements relating to the generation and use of oxygen credits.
§ 80.67(h)	Would remove requirements relating to the transfer of oxygen credits.
§ 80.68(a) and (b)	Would remove references to oxygenate blenders since, with the removal of the requirement for oxygen survey, they would no longer be subject to survey requirements. Also would remove reference to oxygen regarding consequences of a failure to conduct a required survey.
§ 80.68(c)	Would remove general survey requirements relating to oxygen surveys.
§ 80.73	Would clarify the applicability of this section to oxygenate blenders.
§ 80.74(c)	Would remove recordkeeping requirements for oxygenate blenders who comply with the oxygen standard on average, since they would no longer be required to demonstrate compliance with an oxygen standard. Also would remove reference to ''types'' of credits, since there would now only be one type of credit (*i.e.,* benzene.)
§ 80.74(d)	Would revise this paragraph to clarify recordkeeping requirements for oxygenate blenders.
§ 80.75 heading and paragraph (a).	Would remove reporting requirements for oxygenate blenders since they would no longer be required to demonstrate compliance with an oxygen standard.
§ 80.75(f)	Would remove requirement for submitting oxygen averaging reports since there would no longer be a requirement to comply with the oxygen standard.
§ 80.75(h)	Would remove credit transfer report requirements for oxygen credits, since oxygen credits would no longer be generated.
§ 80.75(i)	Would remove requirement for oxygenate blenders to submit a report identifying each covered area that was supplied with averaged RFG, since they would no longer be required to demonstrate compliance with an oxygen standard.
§ 80.75(l)	Would remove reporting requirement for oxygenate blenders who comply with the oxygen standard on a per-gallon basis, since they would no longer be required to demonstrate compliance with an oxygen standard.
§ 80.75(m)	Would remove requirement for oxygenate blenders to submit a report of the audit required under § 80.65(h), since oxygenate blenders would no longer be required to comply with the audit requirement.
§ 80.75(n)	Would remove requirement for oxygenate blenders to have reports signed and certified, since they would no longer be required to submit reports under this section.
§ 80.76(a)	Would clarify registration requirements for oxygenate blenders.

[1] Energy Policy Act of 2005, Pub. L. 109–58 (HR6), section 1504(a), 119 STAT 594, 1076–1077 (2005).

[2] The RFG regulations were promulgated under authority of CAA Section 211(c) as well as CAA Section 211(k). The regulations were adopted under Section 211(c) primarily for the purpose of applying the preemption provisions in section 211(c)(4). See 59 FR 7809 (February 16, 1994.)

[3] The regulations also include oxygen minimum standards for simple model RFG and Phase I complex Model RFG, and an oxygen maximum standard for simple model RFG. See §§ 80.41(a) through (d), and (g). These standards are no longer in effect and today's rule would not modify the regulations to remove these standards or compliance requirements relating to these standards, except where such requirements are included in provisions requiring other changes in today's rule.

§ 80.77(g)	Would remove product transfer documentation requirement for oxygen content.
§ 80.77(i)	Would remove requirement for RBOB to be identified on product transfer documents as suitable for blending with ''any-oxygenate,'' ''ether-only,'' since these categories would be removed.
§ 80.78(a)	Would remove the prohibition against producing and marketing RFG that does not meet the oxygen minimum standard since the oxygen standard would be removed. Also would remove requirements to meet the oxygen minimum standard during transition from RBOB to RFG in a storage tank. (Today's rule would also remove the provision in § 80.78(a)(1) regarding compliance with the maximum oxygen standard in § 80.41 for simple model RFG. See footnote 3.)
§ 80.79	Would remove quality assurance requirement to test for compliance with the oxygen standard.
§ 80.81(b)	Would remove exemptions for California gasoline survey and independent analysis requirements for oxygenate blenders since they would no longer be subject to these requirements.
§ 80.125(a), (c) and (d)	Would remove attest engagement auditor requirements for oxygenate blenders, since they would no longer be required to conduct attest engagement audits.
§ 80.126(b)	Would revise attest engagement definition of credit trading records to remove reference to oxygen credits.
§ 80.128(e)	Would remove reference to RBOB designations of ''any-oxygenate'' and ''ether-only'' with regard to refiner and importer contracts with downstream oxygenate blenders, since these designations would be removed from the regulations.
§ 80.129	Would remove and reserve this section which provided for alternative attest engagement procedures for oxygenate blenders, since they would no longer be required to conduct attest audits.
§ 80.130(a)	Would remove requirement for a certified public accountant or an internal auditor certified by the Institute of Internal Auditors, Inc. to issue an attest engagement report to blenders, since they would no longer be required to conduct attest audits. Would remove requirement for blenders to provide a copy of the auditor's report to EPA.
§ 80.133(h)	Would remove references to ''any-oxygenate'' and ''ether-only'' RBOB under § 80.69(a)(8) since this section would be removed.
§ 80.134	Would remove this section which provides attest procedures for oxygenate blenders since they would no longer be required to conduct attest audits.

Today's proposed rule would also modify the provisions for downstream oxygenate blending in § 80.69. Under the current regulations, some refiners and importers produce or import a product called ''reformulated gasoline blendstock for oxygenate blending,'' or RBOB, which is gasoline that becomes RFG upon the addition of an oxygenate. The refiner or importer of the RBOB determines the type(s) and amount (or range of amounts) of oxygenate that must be added to the RBOB. The RBOB is then transported to an oxygenate blender downstream from the refiner or importer who adds the type and amount of oxygenate designated for the RBOB by the refiner or importer. The RBOB refiner or importer includes the designated amount of oxygenate in its emissions performance compliance calculations for the RBOB, however, it is the oxygenate blender who actually adds the oxygenate to the RBOB to comply with the 2.0 weight percent oxygen standard for the RFG that is produced by blending oxygenate into the RBOB. The regulations require oxygenate blenders to conduct testing for oxygen content to ensure that each batch of RFG complies with the oxygen standard. With the removal of the oxygen standard, the current requirement for oxygenate blenders to conduct testing to ensure compliance with the oxygen standard would no longer be necessary. Accordingly, today's rule would modify § 80.69 to remove the requirement for oxygenate blenders to test RFG for compliance with the oxygen standard.

Although there would no longer be an oxygen content requirement, we believe that many refiners and importers would want to continue to include oxygenate blended downstream in their emissions performance compliance calculations. As a result, the category of RBOB would be retained and RBOB refiners and importers would be required to comply with the contract and quality assurance (QA) oversight requirements in § 80.69 for any RBOB produced or imported.[4]

Under the current regulations, RBOB refiners and importers are required to have a contract with the downstream oxygenate blender and conduct QA oversight testing of the oxygenate blending operation to ensure that the proper type and amount of oxygenate is added downstream. Section 80.69(a)(6) and (7). The regulations also provide that, in lieu of complying with these requirements, a refiner or importer may designate one of two generic categories of oxygenates to be added to the RBOB, and assume for purposes of its emissions compliance calculations that the minimum amount of oxygenate needed to result in RFG containing 2.0 weight percent oxygen will be added downstream. Section 80.69(a)(8). RBOB refiner or importer compliance with the contract and oversight requirements is not required in this situation because, as discussed above, the oxygenate blender has been required to meet the 2.0 weight percent oxygen standard and conduct testing designed to ensure that each batch of RFG complies with the oxygen standard.[5] Where an RBOB refiner or importer wishes to include a larger amount of oxygenate in its compliance calculations (*i.e*, an amount that would result in RFG containing more than 2.0 weight percent oxygen), the refiner or importer must comply with the contract and oversight requirements in § 80.69(a)(6) and (7) to ensure that the proper type and amount of oxygenate is added.

Because oxygenate blenders would no longer be conducting testing to ensure compliance with the oxygen standard, we believe that RBOB refiner or importer compliance with the contract and QA oversight requirements would be necessary for RBOB designated to be blended with any amount of oxygenate, including an amount of oxygenate which would result in RFG containing 2.0 weight percent (or less) oxygen. As a result, today's rule would require RBOB refiners and importers to comply with the contract and QA oversight requirements in § 80.69 for any RBOB produced or imported. This approach is consistent with the oversight

[4] EPA is developing a rule which would allow RBOB refiners and importers to use an alternative method of quality assurance (QA) oversight of downstream oxygenate blenders in lieu of the contract and QA requirements in §§ 80.78(a)(6) and (a)(7). This alternative method consists of a QA sampling and testing survey program carried out by an independent surveyor pursuant to a survey plan approved by EPA. This alternative QA method is available to RBOB refiners and importers under enforcement discretion until the rule is promulgated, or December 31, 2007, whichever is earlier. *See* Letter to Edward H. Murphy, American Petroleum Institute, dated December 22, 2005, from Grant Y. Nakayama, Assistant Administrator, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency.

[5] For a discussion of the downstream oxygenate blending requirements, see the preamble to the RFG final rule at 59 FR 7770 (February 16, 1994).

requirements in § 80.101(d)(4) for refiners and importers of conventional gasoline who wish to include oxygen added downstream from the refinery or importer in anti-dumping emissions compliance calculations.

Although oxygenate blenders would no longer be subject to the oxygen standard and associated testing requirements, we believe that the current requirements for oxygenate blenders to be registered with EPA, to add the specific type(s) and amount (or range of amounts) of oxygenate designated for the RBOB, and to maintain records of their blending operation continue to be necessary in order to ensure compliance with, and facilitate enforcement of, the emissions performance standards for RFG produced by blending oxygenate with RBOB downstream. As a result, these oxygenate blender requirements would be retained.

We anticipate that the effective date for the removal of the oxygen requirement would occur during 2006. As a result, refiners, importers and oxygenate blenders would be subject to the oxygen standard for the months in 2006 prior to the effective date of this rule. The current regulations allow parties to demonstrate compliance either on a per-gallon basis or on an annual average basis. Parties wishing to base their compliance on the per-gallon requirements, would be able to formulate and sell RFG without oxygen after the effective date of the rule. EPA would interpret its regulations regarding annual averaging as follows. Parties would be able to demonstrate compliance based on the average oxygen content of RFG during the months prior to the effective date for the removal of the oxygen content requirement. In addition, any refiner, importer or oxygenate blender who is unable to meet the annual average oxygen standard in 2006 based on the months prior to the effective date for the removal of the oxygen content requirement would be able to include all of the oxygenated RFG it produces or imports during 2006 in its annual average compliance calculations.

III. Combining Ethanol Blended RFG With Non-Ethanol Blended RFG

As discussed above, Section 211(k) required RFG to contain a minimum of 2.0 weight percent oxygen, and the current fuels regulations reflect this requirement. Refiners, importers and oxygenate blenders have used different oxygenates to meet this requirement. RFG that contains ethanol must be specially blended to account for the RVP ''boost'' that ethanol provides, and the consequent possibility of increased VOC emissions. EPA's existing regulations prohibit the commingling of ethanol-blended RFG with RFG containing other oxygenates because the non-ethanol RFG is typically not able to be mixed with ethanol and still comply with the VOC performance standards. Since all RFG is currently required to contain oxygen, the regulations do not now contain a prohibition against combining ethanol-blended RFG with non-oxygenated RFG. With the removal of the oxygen content requirement for RFG, EPA expects that refiners and importers will be producing some RFG without oxygen and some with ethanol or other oxygenates. Mixing ethanol-blended RFG with non-oxygenated RFG has the same potential to create an RVP ''boost'' for the non-oxygenated gasoline as mixing ethanol-blended RFG with RFG blended with other oxygenates. This is of particular concern regarding RFG because most refiners and importers comply with the RFG VOC emissions performance standard on an annual average basis calculated at the point of production or importation. All downstream parties are prohibited from marketing RFG which does not comply with a less stringent downstream VOC standard. However, even though the combined gasoline may meet the downstream VOC standard, combining ethanol-blended RFG with non-oxygenated RFG may cause some gasoline to have VOC emissions which are higher on average than the gasoline as produced or imported. Thus, today's rule would extend the commingling prohibition currently in the fuels regulations to include a prohibition against combining VOC-controlled ethanol-blended RFG with VOC-controlled non-oxygenated RFG during the period January 1 through September 15, with one exception, described below.

The Energy Act contains a provision which specifically addresses the combining of ethanol-blended RFG with non-ethanol-blended RFG.[6] This new provision allows retail outlets to sell non-ethanol-blended RFG which has been combined with ethanol-blended RFG under certain conditions. First, each batch of gasoline to be blended must have been ''individually certified as in compliance with subsections (h) and (k) prior to being blended.'' Second, the retailer must notify EPA prior to combining the gasolines and identify the exact location of the retail outlet and specific tank in which the gasoline is to be combined. Third, the retailer must retain, and, upon request by EPA, make available for inspection certifications accounting for all gasoline at the retail outlet. Fourth, retailers are prohibited from combining VOC-controlled gasoline with non-VOC-controlled gasoline between June 1 and September 15. Retailers are also limited with regard to the frequency in which batches of non-ethanol-blended RFG may be combined with ethanol-blended RFG. Retailers may combine such batches of RFG a maximum of two periods between May 1 and September 15. Each period may be no more than 10 consecutive calendar days. Today's rule would implement this provision of the Energy Act.

This provision will typically be used by retail stations to change from the use of RFG containing ethanol to RFG not containing ethanol or vice versa. (Such a change is usually referred to as a ''tank turnover.'') Such blending can result in additional VOC emissions, perhaps resulting in gasoline that does not comply with downstream VOC standards. The Energy Act is unclear as to when the gasoline in the tank where blending occurs must be in compliance with the downstream VOC standard.

EPA has already promulgated regulations setting out a methodology for making tank turnovers. 40 CFR 80.78(a)(10). EPA believes retailers and wholesale purchaser-consumers should have additional flexibility during the time that they are converting their tanks from one type of RFG to another, while minimizing the time period during which non-compliant gasoline is present in their tanks and being sold. Today's changes would provide additional flexibility to the regulated parties by interpreting the Energy Act to provide retailers and wholesale purchaser-consumers with relief from compliance with the downstream VOC standard during the ten-day blending period, but requiring that the gasoline in the tank thereafter be in compliance or be deemed in compliance with the downstream VOC standard.

To provide assurance that gasoline is in compliance with the downstream VOC standard after the ten-day period, we propose that there be two options available for retailers and wholesale purchaser-consumers. Under the first option, the retailer may add both ethanol-blended RFG and non-ethanol-blended RFG to the same tank an unlimited number of times during the ten-day period, but must test the gasoline in the tank at the end of the ten-day period to make sure that the RFG is in compliance with the VOC standard. Under the second option, the

[6] Energy Policy Act of 2005, Pub. L. 109–58 (HR6), section 1513, 119 STAT 594, 1088–1090 (2005).

retailer must draw the tank down as much as practicable at the start of the ten-day period, before RFG of another type is added to the tank, and add only RFG of one type to the tank during the ten-day period. That is, the retailer may not add both ethanol-blended RFG and non-ethanol-blended RFG to the tank during the ten-day period, but may add only one of these types of RFG. EPA believes that when retailers and wholesale purchaser-consumers use this second option it is likely that their gasoline will comply with the downstream VOC standard at the end of the ten-day period, so that testing will not be necessary. We also believe that this approach is compatible with current practices of most retailers and wholesale purchaser-consumers, and expect that most will find it preferable to testing at the end of the ten-day period.

The commingling provisions apply at a retail level such that each retailer may take advantage of a maximum of two ten-day blending periods between May 1 and September 15 of each calendar year. Thus, the options described above would be available to each retail outlet for each of two ten-day periods during the VOC control period. During each ten-day period the options would be available for all tanks at that retail outlet.

Regarding the requirement that each batch of gasoline to be blended must have been individually certified as in compliance with subsections (h) and (k), EPA notes that all gasoline in compliance with RFG requirements is deemed certified under Section 211(k) pursuant to § 80.40(a). Section 211(h) addresses RVP requirements for gasoline, but EPA does not have a program to certify gasoline as in compliance with this provision. For purposes of the commingling exception for retail outlets which would be incorporated in the regulations at § 80.78(a)(8), EPA would deem gasoline that is in compliance with the regulatory requirements implementing Section 211(h) to be certified under that section. Regarding the requirement that retailers retain and make available to EPA upon request ''certifications'' accounting for all gasoline at the retail outlet, EPA would deem this requirement fulfilled where the retailer retains and makes available to EPA, upon request, the product transfer documentation required under § 80.77 for all gasoline at the retail outlet.

Under today's proposed rule, the provisions blended RFG would also apply to wholesale purchaser-consumers. Like retailers, wholesale purchaser-consumers are parties who dispense gasoline into vehicles, and EPA interprets the Energy Act reference to retailers as applying equally to them. As a result, wholesale purchaser-consumers would be treated in the same manner as retailers under this rule. This is consistent with the manner in which wholesale purchaser-consumers have been treated in the past under the fuels regulations.

Most of the provisions of this proposed rule are necessary to implement amendments to the Clean Air Act included in the Energy Act that eliminate the RFG oxygen content requirement and allow limited commingling of ethanol-blended and non-ethanol-blended RFG. The extension of the general commingling prohibition in the fuels regulations to cover non-oxygenated RFG, and the provisions requiring refiners and importers to conduct oversight of downstream blenders adding oxygen to RBOB, are necessary because of the Energy Act amendments, but would be issued pursuant to authority of CAA Section 211(k). Both provisions would extend current programs to reflect the presence of non-oxygenated RFG, and are designed to enhance environmental benefits of the RFG program at reasonable cost to regulated parties.

IV. Environmental Effects of This Action

We anticipate that little or no environmental impact would occur as a result of today's action to remove the oxygenate requirement for RFG. The RFG standards consist of content and emission performance standards. Refiners and importers would have to continue to meet all the emission performance standards for RFG whether or not the RFG contains any oxygenate. This includes both the VOC and NO_X emission performance standards, as well as the air toxics emission performance standards which were tightened in the mobile source air toxics (MSAT) rule in 2001.[7] New MSAT standards currently under development are anticipated to achieve even greater air toxics emission reductions.

We have analyzed the potential impacts on emissions that could result from removal of the oxygenate requirement in the context of requests for waivers of the Federal oxygen requirement.[8] We found that changes in ethanol use could lead to small increases in some emissions and small decreases in others while still meeting the RFG performance standards. These potential impacts are associated with the degree to which ethanol would continue to be blended into RFG after removal of the oxygen requirement. Past analyses have projected significant use of ethanol in RFG in California despite removal of the oxygenate requirement.[9] Given current gasoline prices and the tightness in the gasoline market, the favorable economics of ethanol blending, a continuing concern over MTBE use by refiners, the emission performance standards still in place for RFG, and the upcoming renewable fuels mandate,[10] we believe that ethanol will continue to be used in RFG after the oxygen requirement is removed, and that as MTBE is phased out, it is likely to be replaced with ethanol to a large degree despite the removal of the oxygenate requirement. As a result, we believe that the removal of the oxygenate mandate would have little or no environmental impact in the near future. We will be looking at the long term effect of oxygenate use in the context of the rulemaking to implement the renewable fuels mandate.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

[7] 66 FR 17230 (March 29, 2001).

[8] *See e.g.,* California Oxygen Waiver Decision, EPA420–S–05–005 (June 2005); Analysis of and Action on New York Department of Conservation's Request for a Waiver of the Oxygen Content Requirement in Federal Reformulated Gasoline, EPA420–D–05–06 (June 2005).

[9] Technical Support Document: Analysis of California's Request for Waiver of the Reformulated Gasoline Oxygen Content Requirement for California Covered Areas, EPA420–R–01–016 (June 2001).

[10] Energy Policy Act of 2005, Pub. L. 109–58 (HR6), section 1501, 119 STAT 594, 1067–1076, (2005).

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this proposed rule does not satisfy the criteria stated above. As a result, this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. Today's proposed rule would remove certain requirements for all refiners, importers and oxygenate blenders of RFG. Although small additional costs may be incurred by some refiners and importers as a result of this rule, on balance, this rule is expected to greatly reduce overall compliance costs for all refiners, importers and oxygenate blenders. This rule would also provide options for retailers to commingle certain compliant gasoline which otherwise would be prohibited from being commingled. Although there may be small compliance costs associated with one of these options, we believe that the additional flexibility provided by this option would reduce overall compliance costs for these parties.

B. Paperwork Reduction Act

The modifications to the RFG information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The modifications to the RFG information collection requirements are not enforceable until OMB approves them.

This rule would have the effect of reducing the burdens on certain regulated parties under the reformulated gasoline regulations. All parties currently subject to the requirement to submit and annual oxygen averaging report would no longer be required to submit such report, resulting in an estimated total burden reduction of 100 hours and $6,500 (100 parties × 1 report/yr × 1 hr/report × $65/hr). Oxygenate blenders currently subject to the following requirements would no longer be subject to these requirements and associated burdens:

RFG batch reports: Total 2500 hours, $162,500(25 blenders × 100 reports/yr × 1 hr/report × $65/hr) plus $600,000 in purchased services;

RFG annual report: Total 25 hours, $1,625(25 blenders × 1 report/yr × 1 hr/report × $65/hr);

RFG survey reports: Total 500 hours, $32,500(25 blenders × 1 report/yr × 20 hrs/report × $65/hr) plus $1,200,000 for purchased services:

RFG attest engagement reports: Total 3000 hours, $195,000(25 blenders × 1 report/yr × 120 hrs/report × $65/hr) plus $250,000 for purchased services.

The estimated total reduction in burdens for this rule is 6,125 hours and $398,125, plus $2,050,000 in purchased services.

Small testing costs may be associated with one of the options for gasoline retailers to commingle compliance gasolines. However, these testing costs are expected to be minimal and would be greatly outweighed by the flexibility provided by the option to commingle compliant gasolines.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this proposed rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, EPA certifies that this action would not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This proposed rule would remove certain requirements for all refiners, importers and oxygenate blenders of RFG, including small business refiners, importers and oxygenate blenders. Specifically, this rule would remove the burden on refiners, importers and oxygenate blenders to comply with the RFG oxygen requirement and associated compliance requirements. Although in certain situations some refiners and importers, including some small refiners and importers, may be required to conduct additional oversight of oxygenate blenders, we believe that the relief from the burden of complying with the oxygen requirement would more than outweigh the burden of having to conduct any additional oversight. This rule also would provide options for gasoline retailers, including small gasoline retailers, to commingle certain compliant gasoline which otherwise would be prohibited from being commingled. Although there may be small compliance costs associated with one of these options, we believe that the additional flexibility provided by this option would reduce overall compliance costs for these parties. We have therefore concluded that today's proposed rule would relieve regulatory burden for all small entities subject to the RFG regulations. We continue to be interested in the potential impacts of the

proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector that would result in expenditures of $100 million or more. This proposed rule would affect gasoline refiners, importers and oxygenate blenders by removing the oxygen content requirement for RFG and associated compliance requirements. This rule also would allow gasoline retailers an option to commingle certain compliant gasoline which otherwise would be prohibited from being commingled. As a result, this rule would have the overall effect of reducing the burden of the RFG regulations on these regulated parties. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This proposed rule does not have federalism implications. It would 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. This rule would remove the oxygen standard for RFG and provide gasoline retailers the option to commingle certain compliance gasolines that otherwise would be prohibited from being commingled. The requirements of the rule would be enforced by the federal government at the national level. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It would 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. This rule would apply to gasoline refiners and importers who supply RFG, and to other parties downstream in the gasoline distribution system. Today's action contains certain modifications to the federal requirements for RFG, and would not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is not economically significant and does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Acts That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule would not be an economically ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it would not have a significant adverse effect on the supply, distribution, or use of energy. This rule would eliminate the oxygen content requirement for RFG and associated compliance requirements. This change would have the effect of reducing burdens on suppliers of RFG, which, in turn, may have a positive effect on gasoline supplies. RFG refiners and blenders may continue to use oxygenates at their discretion where and

when it is most economical to do so. With the implementation of the renewable fuels standard also contained in the Energy Act, the blending of ethanol, in particular, into gasoline is expected to increase considerably, not decrease. Therefore, despite this action to remove the oxygenate mandate in RFG, when viewed in the context of companion energy legislation, overall use of oxygenates is expected to increase in the future. This rule also would allow gasoline retailers to commingle certain compliant gasolines which otherwise would be prohibited from being commingled. This also may have a positive effect on gasoline supplies.

I. National Technology Transfer and Advancement Act

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) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not establish new technical standards within the meaning of the NTTAA. Therefore, EPA did not consider the use of any voluntary consensus standards.

VI. Statutory Provisions and Legal Authority

The statutory authority for the actions in today's proposed rule comes from sections 211(c), 211(k) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 14, 2006.

Stephen L. Johnson,

Administrator.

[FR Doc. 06–1611 Filed 2–21–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–271; MB Docket No. 04–410, RM–11109]

Radio Broadcasting Services; Woodson, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: The Audio Division dismisses a Petition for Rule Making filed by Charles Crawford, requesting the allotment of Channel 298A at Woodson, Texas, as the community's first local aural transmission service. Charles Crawford withdrew his petition for rulemaking. Katherine Pyeatt filed a timely counterproposal to this petition, proposing to allot Channel 248A at three communities, Woodson, Chillicothe and Henrietta, Texas, with a channel substitution at Archer City, Texas. Subsequently, Katherine Pyeatt also withdrew her counterproposal. *See* 69 FR 67882, November 11, 2004. No other party filed comments supporting the allotment of Channel 298A at Woodson, Texas. It is the Commission's policy to refrain from making a new allotment or reservation to a community absent an expression of interest.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 04–410, adopted February 2, 2006, and released February 6, 2006. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, and Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–1518 Filed 2–21–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–272; MB Docket No. 06–19; RM–11288

Radio Broadcasting Services; Hattiesburg and Sumrall, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Unity Broadcasting requesting to upgrade Channel 226A, FM Station WGDQ, to Channel 226C3 and to reallot Channel 226C3 to Sumrall, Mississippi, as that community's second local aural transmission service. To accommodate this allotment, Petitioner requested the reclassification of FM Station WUSW, Channel 279C, Hattiesburg, Mississippi, to specify operation on Channel 279C0 pursuant to the reclassification procedures adopted by the Commission. *See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, 65 FR 79773 (December 20, 2000). The licensee of Station WUSW did not respond to an Order to Show Cause why Station WUSW should not be downgraded from Channel 279C to Channel 279C0. Therefore, the Commission has reclassified Station WUSW to Channel 279C0. Channel 226C3 can be allotted with a site restriction of 19.5 kilometers (12.1 miles) northeast of Sumrall, at reference coordinates of 31–33–15 NL and 89–24–50 WL.

DATES: Comments must be filed on or before March 30, 2006, and reply comments on or before April 14, 2006. Any counterproposal filed in this proceeding need only protect FM Station WUSW, Hattiesburg, Mississippi, Channel 279C, as a Class C0 allotment.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Jerrold Miller, Esq, Miller and Neely, P.C.; 6900 Wisconsin Ave., Suite 704; Bethesda, Maryland 20815.