

2.5.6.1 Cut two entry ports in the test section. The axes through the entry ports shall be perpendicular to each other and intersect in the centroid of the test section. The ports should be elongated slots parallel to the axis of the test section and of sufficient length to allow measurement of pitch angles while maintaining the pitot head position at the test-section centroid. To facilitate alignment of the directional probe during calibration, the test section should be constructed of plexiglass or some other transparent material. All calibration measurements should be made at the same point in the test section, preferably at the centroid of the test-section.

2.5.6.2 To ensure that the gas flow is parallel to the central axis of the test section, follow the procedure in Section 2.4 for cyclonic flow determination to measure the gas flow angles at the centroid of the test section from two test ports located 90° apart. The gas flow angle measured in each port must be $\pm 2^\circ$ of 0°. Straightening vanes should be installed, if necessary, to meet this criterion.

2.5.6.3 Pitch Angle Calibration. Perform a calibration traverse according to the manufacturer's recommended protocol in 5° increments for angles from -60° to $+60^\circ$ at one velocity in each of the two ranges specified above. Average the pressure ratio values obtained for each angle in the two flow ranges, and plot a calibration curve with the average values of the pressure ratio (or other suitable measurement factor as recommended by the manufacturer) versus the pitch angle. Draw a smooth line through the data points. Plot also the data values for each traverse point. Determine the differences between the measured data values and the angle from the calibration curve at the same pressure ratio. The difference at each comparison must be within 2° for angles between 0° and 40° and within 3° for angles between 40° and 60° .

2.5.6.4 Yaw Angle Calibration. Mark the three-dimensional probe to allow the determination of the yaw position of the probe. This is usually a line extending the length of the probe and aligned with the impact opening. To determine the accuracy of measurements of the yaw angle, only the zero or null position need be calibrated as follows. Place the directional probe in the test section, and rotate the probe until the zero position is found. With a protractor or other angle measuring device, measure the angle indicated by the yaw angle indicator on the three-dimensional probe. This should be within 2° of 0° . Repeat this measurement for any other points along the length of the pitot where yaw angle measurements could be read in order to account for variations in the pitot markings used to indicate pitot head positions.

5. By adding Citations 13, 14, and 15 to Section 3, as follows:

3. Bibliography.

13. Smith, W.S. and D.J. Grove. A Proposed Extension of EPA Method 1 Criteria. "Pollution Engineering." XV(8):36-37. August 1983.

14. Gerhart, P.M. and M.J. Dorsey. Investigation of Field Test Procedures for

Large Fans. University of Akron. Akron, Ohio. (EPRI Contract CS-1651). Final Report (RP-1649-5) December 1980.

15. Smith, W.S. and D.J. Grove. A New Look at Isokinetic Sampling—Theory and Applications. "Source Evaluation Society Newsletter." VIII(3):19-24. August 1983.

[FR Doc. 86-12539 Filed 6-3-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 86-263]

Amendment of Part 0 to Delegate Authority to EICs To Grant Emergency Exemptions to Vessels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules to delegate authority to the Engineers-in-Charge of the Commission's field offices to grant emergency exemptions from certain vessel equipment requirements of the Communications Act, the Great Lakes Agreement and the Safety Convention. The Commission initiated this action to improve the convenience and efficiency of emergency exemption procedures.

EFFECTIVE DATE: June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Order

Adopted: May 20, 1986.

Released: May 22, 1986.

In the Matter of Amendment of Part 0 of the rules to delegate authority to EICs to grant emergency exemptions to vessels.

By the Commission.

1. We have determined to delegate authority to grant emergency exemptions from certain vessel equipment requirements contained in the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq.* (Act), the Great Lakes Radio Agreement, T.I.A.S. 7837, amended T.I.A.S. 9352 (GLA) or the International Convention for the Safety of Life at Sea, T.I.A.S. 9700 (Safety Convention) to the Engineers-in-Charge (EICs) of Commission field offices. This authority will be in addition to that already delegated to the Chief, Private Radio Bureau (Bureau). See § 0.331 of the rules, 47 CFR 0.331.

2. The emergency exemption process begins when the ship station licensee

contacts the Bureau for an exemption from a particular statutory or treaty requirement. Typically, a station has failed the mandatory annual or periodic inspection because equipment required by the Act, the GLA or the Safety Convention is not functioning properly. The vessel cannot sail unless the licensee receives an emergency exemption from the statutory or treaty requirement in lieu of the required safety certificate. Unlike a standard exemption, which is usually granted for one year, an emergency exemption is temporary and expedient in nature. Typically an emergency exemption is granted for a single voyage to permit the ship to sail to another port for repair. In accordance with the Act, the GLA or the Safety Convention, emergency exemptions are granted only after it has been determined that the route and conditions of the proposed voyage, including other available communications equipment, render the failed equipment unnecessary for safety purposes during the exempted voyage.

3. The present procedure may consume several hours from the time the licensee contacts the Bureau to the time the exemption is sent. This is so because frequently the exemption requires coordination between the Bureau, the licensee and the FCC field office which conducted the inspection. This coordination is frequently complicated by differing time zones and sailing schedules.

4. It would be more convenient for the public and the Commission to also provide authority to grant such emergency exemptions to the EICs at field offices. EICs are near the vessel's location and are familiar with the functions of each piece of equipment. They are qualified to determine whether the lack of such equipment for the term of the exemption would pose a danger to life or property on a particular voyage. Furthermore, they are capable of recommending alternative measures within established parameters which might satisfactorily function in lieu of the missing equipment.

5. Authority and parameters for exemptions are set forth in Title III, Parts II and III of the Act, Chapters I and IV of the Safety Convention, and Article IX of the GLA. The Commission's rules currently delegate exemption authority to the Chief, Private Radio Bureau. In cases of emergency, § 83.60(a) permits the owner, operator or master of a vessel to file an informal request for exemption for Title III, Part II or III of the Act, or from the Safety Convention or from the GLA. Joint authority to act on these requests in both the Private

Radio Bureau and the Field Operations Bureau will provide greater flexibility and expedition in processing them. This will be accomplished by amending § 0.314 of the rules to delegate this authority to the EICs. In order to ensure consistent policies, we are also amending § 0.332 of the rules to provide for coordination between the affected Bureau Chief regarding these emergency exemption actions.

6. For the reasons described above, we are amending the rules to delegate authority to grant emergency exemptions to EICs in addition to the authority already delegated to the Chief, Private Radio Bureau. Authority for this action is contained in sections 4(1) and 303 (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(1) and 303(r). Because these rule amendments involve Commission organization, the public notice, comment and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, and of § 1.412 of the Commission's rules do not apply. See § 1.412(b)(5) of the rules, 47 CFR 1.412(b)(5).

7. Accordingly, It Is Ordered, That Part 0 of the Commission's rules is amended as set forth below effective June 30, 1986.

8. For further information regarding matters covered in this document, contact Robert DeYoung at (202) 632-7175.

List of Subjects in 47 CFR Part 0

Authority delegations.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 0 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, unless otherwise noted.

2. Section 0.314 is amended by removing and reserving paragraph (o) and adding a new paragraph (e)(3) to read as follows:

§ 0.314 Additional authority delegated.

* * *

(e) * * *

(3) Grant emergency exemption requests, extensions or waivers of inspection to ships in accordance with applicable provisions of the Communications Act, the Safety

Convention, the Great Lakes Agreement or the Commission's rules.

* * *

3. Section 0.332 is amended by adding a new paragraph (i) to read as follows:

§ 0.332 Actions taken under delegated authority.

* * *

(1) Requests for emergency ship exemptions—Chief, Field Operations Bureau.

[FR Doc. 86-12325 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 1

[MM Docket No. 85-313; RM-5037; FCC 86-181]

Modification of FM Broadcast Licenses to Higher Class Co-channel or Adjacent Channels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's Rules to provide for modification of FM licenses (and permits) to higher class channels on existing or adjacent frequencies in the course of rule making proceedings amending the FM Table of Allotments. This action is taken in response to a petition filed by Fuller-Jeffrey Group.

EFFECTIVE DATE: July 7, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-313, adopted April 15, 1986, and released April 29, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 1440, Washington, DC. 20037.

Summary of Report and Order

1. The Commission amended § 1.420(g) of its Rules to provide a new procedure whereby the Commission may modify the licenses or permits of FM stations in the course of rule making proceedings amending the FM Table of Allotments, § 73.202(b) of the Rules,

where the modifications would occur on mutually exclusive higher class adjacent or co-channels. Such modifications would be made regardless of the availability of additional equivalent higher class channels. In those circumstances, the Commission would not entertain the filing of expressions of interest by other parties.

2. This proceeding was commenced in response to a petition filed by Fuller-Jeffrey Group whose request was premised on recent Commission action in MM Docket No. 83-1148, *Amendment of the Commission's Rules Regarding Modification of FM and Television Station Licenses*, 98 F.C.C. 2d 916 (1984), recon. denied, FCC 86-32, Mimeo No. 36378, released January 17, 1986. In that proceeding the Commission added a new § 1.420(g) to its Rules, whereby the authorizations of FM stations seeking to upgrade to newly allotted superior class channels (e.g., from Class A to Class C) could be modified in rule making proceedings, provided at least one additional equivalent channel is available to accommodate others expressing interest in proposed channels. Fuller-Jeffrey proposed that the authorizations be modified in certain circumstances where equivalent channels are not available. Such circumstances would exist where a licensee seeks higher class use of its existing channel or of a mutually exclusive adjacent channel (e.g., a Class A licensee seeks to operate a Class C station, moving from Channel 241A to Channel 241C or to Channel 243C).

3. Commenters expressed nearly unanimous support for the proposal. They noted Commission policy favoring upgrades and public interest benefits from improving the ability of stations to increase service areas without fear of costly and time-consuming comparative license proceedings. They indicated that both Commission and licensee resources are wasted when requested upgrades are withdrawn in the face of other interests. Some contended that additional equivalent channels are not always available and that problems can arise where such channels are said to be not equivalent due to factors such as site restrictions. Other commenters claimed that the proposal is analogous to Commission preferences to daytime-only AM stations seeking full-time FM facilities or that precluding lower class FM stations from competing in nearby larger communities is not conducive to promoting a competitive marketplace environment.

4. The Commission concluded that existing procedures discourage expansion of FM service and thereby

deprive the public of significant benefits. Despite Commission action encouraging FM stations to upgrade their facilities, where no additional equivalent superior channels are available to accommodate other interests, licensees seeking to enhance service on co- or adjacent channels generally withdraw their requests rather than risk loss of existing authorizations and the expenses and delays associated with comparative license proceedings. When allotment proceedings are thereby terminated, Commission, licensee, and public resources are wasted, and spectrum is underutilized due to the incompatibility between petitioners' existing channels and the proposed channels. In light of this, the Commission believes that it makes no policy sense to provide for competing applications.

5. The Commission has legal authority to adopt and to implement the new procedure. Section 316 of the Communications Act of 1934, as amended, authorizes it to modify station licenses in order to promote the public interest, convenience, and necessity. The Commission believes that modifications to superior adjacent or co-channels make possible the expeditious provision of expanded radio service which would otherwise remain unrealized. The Commission does not believe that the Supreme Court's ruling in *Ashbacker Radio Corp. v. U.S.*, 326 U.S. 327 (1945), is controlling where such upgrades are sought. This is so, because the proposed channels, being precluded by existing operations, are, in effect, unavailable for application by others. Further, the Commission may promulgate rules limiting eligibility to apply for newly allotted channels where it determines that such a limitation promotes the public interest. See: *U.S. v. Storer*, 351 U.S. 192 (1956).

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

7. The Rule contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

Accordingly, it is ordered, that, under the authority contained in sections 1, 2, 4 (i) and (j), 303(r), 316, and 403 of the Communications Act of 1934, as

amended, Part 1 of the Commission's Rules and Regulations is amended, effective July 7, 1986, as shown at the end of this document.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—ADMINISTRATIVE PRACTICE AND PROCEDURE

8. The authority citation for Part 1 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303.

Section 1.420 is amended by revising paragraph (g) as follows:

§ 1.420 Additional Procedures in Proceedings for Amendment of the FM, Television or Air-Ground Table of Assignments.

* * * * *

(g) The Commission may modify the license or permit of an FM station to another class of channel or of a UHF TV station to a VHF channel in the same community in the course of the rule making proceeding to amend § 73.202(b), § 73.504(a) or § 73.606(b) if any of the following conditions are met:

(1) There is no other timely filed expression of interest, or

(2) If another interest in the proposed channel is timely filed an additional equivalent class of channel is also allotted, assigned or available for application, or

(3) With respect to FM, the modification of license or permit would occur on a mutually exclusive higher class adjacent or co-channel.

William J. Tricarico,
Secretary.

[FR Doc. 86-12483 Filed 6-3-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-219; RM-3099; RM-3273]

Deregulation of Radio; Program Record Keeping Obligation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action was taken in response to the decisions of the United States Court of Appeals vacating the Commission's *Second Report and Order* in this proceeding and remanding the case for further proceedings. A new

program record keeping obligation for commercial radio licensees was developed to accommodate the court's concern for the proper functioning of the petition to deny process and the FCC's own information needs. Such licensees will be obliged, each quarter, to list those programs aired during the preceding quarter which, in the licensee's judgment, provided the station's most significant treatment of issues of concern to the broadcaster's community.

EFFECTIVE DATE: June 27, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, BC Docket 79-219, FCC 86-222, adopted May 1, 1986 and released May 27, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 "M" Street, Northwest, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 "M" Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. On December 20, 1985, the Court of Appeals for the District of Columbia Circuit vacated the Commission's *Second Report and Order* in this proceeding and remanded the case to the Commission for further proceedings. The court found that the record keeping requirements adopted in the *Second Report and Order*—an illustrative issues/programs list documenting at least 5 to 10 issues addressed each quarter—did not further the FCC's stated regulatory goal of relying on effective public participation in the license renewal process. The court further concluded that an adequate explanation had not been given by the Commission for its rejection of an alternative record keeping requirement suggested by a commenter during an earlier stage of the proceeding. Under this alternative approach, commercial radio licensees would record all programming that afforded "significant treatment" to issues facing their communities.

2. By this *Memorandum Opinion and Order*, the FCC adopted a modified form of the "significant treatment"