List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under California by removing Channel 224A and adding Channel 278B1 at Paradise.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8067 Filed 4-12-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-230; RM-5707]

Radio Broadcasting Services; Georgetown, DE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 228B1 for Channel 228A at Georgetown, Delaware, and modifies the Class A license for Station WSEA(FM) to specify Channel 228B1, at the request of the licensee, Pottstown Broadcasting Company. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 16, 1988.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-230, adopted March 4, 1988, and released April 4, 1988. 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 contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended for Georgetown, Delaware by adding Channel 228B1 and removing Channel 228A.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8070 Filed 4-12-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-374; RM-5726]

Radio Broadcasting Services; Stuart, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 224C2 for Channel 224A at Stuart, Florida, and modifies the Class A license for Station WZZR(FM) to specify the Class C2 channel, at the request of the licensee, CRB of Florida, Inc. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 16, 1988.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-374, adopted March 2, 1988, and released April 4, 1988. 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 contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended for Florida by adding Channel 224C2 at Stuart and removing Channel 224A.

Federal Communication Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8071 Filed 4-12-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-454; RM-5499 and RM-5830]

Radio Broadcasting Services; Frostburg and Grantsville, MD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots commercial FM Channel *246A to Frostburg, Maryland and reserves it for noncommercial educational FM use. It was determined that none of the 20 FM channels reserved for noncommercial educational use would be available due to the proximity of Station WJAC-TV, Channel 6, Johnstown, Pennsylvania. This document also dismisses a counterproposal by WJAC, Incorporated, licensee of Station WJAC-TV, proposing that Channel *246A be allotted to Grantsville, Maryland in lieu of existing noncommercial educational Channel 212B. This proposal was dismissed because there was no party expressing an interest in a Class A channel in Grantsville. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 16, 1988.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-454, adopted March 4, 1988, and released April 1, 1988. 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 contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under Maryland, by adding Channel *246A to Frostburg.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8074 Filed 4-12-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-408; RM-6004]

Radio Broadcasting Services; Chillicothe, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Wyandot Radio Corporation, substitutes Channel 232B1 for Channel 232A at Chillicothe, Ohio, and modifies its license for Station WFCB-FM to specify operation on the higher powered channel. Channel 232B1 can be allocated to Chillicothe in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.6 kilometers (4.1 miles) east to avoid a short-spacing to Stations WWNK-FM, Cincinnati, Ohio, and WSNY, Columbus, Ohio. Canadian concurrence in the allotment has been received. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 16, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-408, adopted March 4, 1988, and released April 4, 1988. 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 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended by revising the entry for Chillicothe, Ohio, by deleting Channel 232A and adding Channel 232B1.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8075 Filed 4-12-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-202; RM-5701]

Radio Broadcasting Services; Georgetown, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Ocean Communications, Inc., substitutes Channel 249C2 for Channel 249A at Georgetown, South Carolina, and modifies its license for Station WGMB to specify the higher powered channel. Channel 249C2 can be allocated to Georgetown in compliance with the Commission's minimum distance separation requirements and can be used at Station WGMB's present transmitter site. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 16, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-202, adopted February 23, 1988, and released April 4, 1988. 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 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Georgetown, South Carolina, is amended by deleting Channel 249A and adding Channel 249C2.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-8076 Filed 4-12-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 86-404, FCC 88-69]

Private Land Mobile Radio Services; Trunked SMR Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted rules to provide greater flexibility and enhanced service options for SMR licensees and end users. These rules address six major issues raised in the *Notice* to this proceeding (51 FR 45025, December 16, 1986): SMR end user eligibility; transfer of Subpart M trunked channels to the Subpart S trunked pool; processing and assignment procedures; loading; partial assignments; and technical standards.

EFFECTIVE DATE: April 13, 1988.

FOR FURTHER INFORMATION CONTACT: Ron Netro, Chief, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, PR Docket No. 86-404, adopted February 25, 1988, and released March 30, 1988.

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 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 NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. We will summarize the issues raised and resolved in this proceeding in six paragraphs below, discussing, respectively, SMR end user eligibility; the transfer of Subpart M trunked channels to the SMR pool; processing and assignment procedures; loading;

partial assignments; and technical standards.

2. *SMR End User Eligiblity.* Currently, SMR licensees may only serve those end users who would individually qualify for licensing under Part 90 of the rules, i.e., eligibles in the public safety, special emergency, industrial, and land transportation radio services. The Commission decided to expand the eligibility of SMR end users to include individuals and federal government agencies.

3. *Transfer of Subpart M Trunked Channels to the SMR Pool.* The merger of Subpart M into Subpart S required that the Commission decide what regulatory treatment to afford the 200 trunked channels now governed by Subpart M. Subpart M allocations were based on technology employed (i.e., trunked vs. conventional operations), while Subpart S allocations are based on broad radio service categories or pools. The *Notice* proposed transferring the 200 trunked Subpart M channels into the SMR pool of Subpart S. Observing that the vast majority of systems now operating on the Subpart M channels are SMR systems, the Commission decided to transfer the 200 trunked channels into the Subpart S SMR pool. The few non-SMR systems now licensed on these channels will be grandfathered indefinitely.

4. *Processing and Assignment Procedures.* Waiting lists are used in the assignment of channels now governed by Subpart M. Under Subpart S, the Commission processes SMR applications as they are filed with us. When required, lotteries are conducted to determine grants for Subpart S channels. The *Notice* proposed to establish a unified waiting list procedure for all SMR channels. Based on its experience and the comments received, the Commission decided that waiting lists would expedite reassignment of channels by eliminating the delay associated with lottery procedures. Separate waiting lists for 800 MHz and 900 MHz SMR systems will be established because equipment cannot operate over both bands. The Commission further decided in implementing this unified waiting list to assign the same preference status for fully-loaded systems now described in Subpart M.

5. *Loading.* Loading standards have been a valuable tool for, among other things, determining eligibility for system expansion, evaluating intercategory sharing requests, and promoting spectrum efficiency. The current rules contain three loading standards applicable to systems above 800 MHz. Upon consideration of the comments in this proceeding, the Commission has decided to adopt one loading standard, essentially the standard now contained in Subpart M. The Commission has decided, however, to make certain adjustments in its use of this standard. In this merger of Subpart M into Subpart S, the Commission has decided to combine features of the loading provisions in both subparts. Specifically, the Commission will impose a five-year loading requirement of 70 mobiles per channel for any system licensed before June 1, 1993. Systems licenses after that date will not be required to meet any loading requirements to retain their channels. A 70 mobiles per channel loading requirement will continue to be imposed upon licensees of existing trunked systems seeking to acquire additional channels for expansion. That is, should an existing trunked system licensee want to apply directly to the Commission for additional channels, or apply to obtain additional channels on an intercategory sharing basis, or apply to obtain channels assigned from another licensee, it must first have its existing trunked system loaded to 70 mobiles per channel. The Commission further decided, with respect to trunked systems in rural areas, that there is no clear public benefit to requiring that such rural trunked SMR systems meet a threshold loading standard before they can expand their systems. Accordingly, the Commission will allow a rural SMR system to add up to five additional channels to its system regardless of its loading.

6. *Partial Assignments.* A partial assignment is an assignment of less than the full number of channels for which a licensee is authorized. Current rules prohibited the partial assignment of an 800 MHz or 900 MHz SMR trunked system authorization. In light of several factors, the *Notice* proposed to eliminate the prohibition on partial assignments. Upon consideration of the comments, the Commission has decided to permit licensees to make partial assignments either to a new system licensee or to an existing trunked system that has already met the 70 mobiles per channel loading standard necessary for the grant of additional channels.

7. *Technical Standards.* The *Notice* in this proceeding proposed to allow SMR licensees operating at both 800 MHz and 900 MHz to use non-standard channel widths and modulation schemes without prior notification and approval. It was also proposed to remove the requirement that 900 MHz SMR licensees use trunked technology and permit them to choose conventional technology systems as well. Upon review of the comments and its existing rules, the Commission has decided that current regulations provide sufficient flexibility to SMR licensees. The existing rule does not now require prior Commission approval to permit SMR licensees (and other exclusive licensees) to use non-standard bandwidths within their assigned channels. The Commission has also decided to permit operation of 900 MHz SMR channels using modes of operation that are as efficient as trunking.

Regulatory Flexibility Act Final Analysis

8. 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.

9. The Secretary shall cause a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), (1981).

Paperwork Reduction Act Statement

10. The action 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 recordkeeping, labelling, disclosure, or record retention requirements and should decrease burden hours imposed on the public by allowing applicants to file once for the waiting list rather than submitting repetitive filings for filing windows and lotteries.

Ordering Clauses

11. Accordingly, *it is ordered*, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), that Part 90 of the Commission's Rules *is amended* as set forth below. *It is further ordered* that these Rules, as amended, shall be effective immediately upon publication in the **Federal Register** because they are either essentially procedural or relieve a restriction. *See* 5 U.S.C. 553(d). *It is further ordered* that the September 1, 1987, Petition for Interim Relief filed by Brown and Schwaninger *is dismissed.*

12. *It is further ordered* that this proceeding *is terminated.*

List of Subjects in 47 CFR Part 90

Radio, specialized mobile radio service.

Amendatory Text

A. 47 CFR Part 90 is amended as follows:

PART 90—[AMENDED]

1. The authority citation for Part 90 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

2. 47 CFR 90.7 is amended by adding the following definition:

§ 90.7 Definitions

* * * * *

Specialized Mobile Radio Service. A radio service in which licensees provide land mobile communications services in the 800 MHz and 900 MHz bans on a commercial basis to entities eligible to be licensed under this part, federal government entities, and individuals.

* * * * *

3. 47 CFR 90.179 is amended by revising the section heading and introductory paragraph to read as follows:

§ 90.179 Shared use of radio stations in the frequency bands below 800 MHz.

Licensees of radio stations below 800 MHz authorized under this rule part may share the use of their facilities. A station is shared when persons not licensed for the station control the station for their own purposes pursuant to the licensee's authorization. Shared use of a radio station below 800 MHz may be either on a non-profit, cost-shared basis or on a for-profit private carrier basis. Shared use of an authorized station below 800 MHz is subject to the following conditions and limitations:

* * * * *

§§ 90.350-90.390 (Subpart M) [Removed and reserved]

4. Subpart M (§§ 90.350 through 90.390) is removed in its entirety and the word "Reserved" substituted.

5. 47 CFR 90.601 is revised to read as follows:

§ 90.601 Scope.

This subpart sets out the regulations governing the licensing and operations of all systems operating in the 806.824/851–869 MHz and 896–901/935–940 MHz bands. This subpart also governs the use of frequencies in the 806–821/851–866 MHz bands along the Mexican and Canadian border areas in accordance with existing agreements. It includes eligibility requirements, application procedures, operational and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands.

6. 47 CFR 90.603 is amended by revising paragraph (c) to read as follows:

§ 90.603 Eligibility.

* * * * *

(c) Any person, except wire line telephone common carriers, eligible under this part and proposing to provide on a commercial basis base station and ancillary facilities as a Specialized Mobile Radio System operator, for the use of individuals, Federal Government agencies and persons eligible for licensing under Subparts B, C, D, or E of this part.

7. 47 CFR 90.609 is amended by revising paragraph (c) to read as follows:

§ 90.609 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems used to provide service to persons other than the licensee.

* * * * *

(c) Licensees of constructed systems are permitted to make partial assignments of an authorized grant to an applicant proposing to create a new system or to an existing licensee that has loaded its system to 70 mobiles per channel and is expanding that system. An applicant authorized to expand an existing system or to create a new system with channels it obtains through partial assignment will receive the assignor's existing license expiration date and loading deadline. A licensee that makes a partial assignment will not be authorized to obtain additional channels for that same system for a period of one year from the date of the partial assignment.

8. 47 CFR 90.611 is amended by revising paragraph (b), by redesignating existing paragraphs (c), (d), and (e) as new paragraphs (d), (e), and (f) respectively, by adding a new paragraph (c), and by revising newly designated paragraph (d) to read as follows:

§ 90.611 Processing of applications.

* * * * *

(b) All applications in pending status will be processed in the order in which they are received, determined by the date on which the application was received by the Commission in its Gettysburg, PA office, or the address set forth at § 0.401(b) for applications requiring the fees established in Part 1, Subpart G of this chapter.

(c) Each application will be reviewed to determine whether it can be granted. Applications for channels in he Public Safety/Special Emergency, Industrial/Land Transportation, and Business categories, as well as the 150 channels available for conventional use in § 90.615, must specify the intended frequency (or frequencies) of operation. Applications for channels in the SMRS category may either specify the intended frequency (or frequencies) of operation in accordance with the provisions of § 90.621 or request the Commission to perform the selection.

(d) Applications that cannot be granted due to a lack of available channels in a particular area will be placed on a waiting list for that area. Waiting lists will consist of two groups. The first group will be comprised of applications from existing licensees who, in the area corresponding to the particular waiting list, operate trunked systems with 70 or more mobile units per channel. The second group will be comprised of applications to establish new systems or to obtain additional channels for conventional systems. Applications will be placed in the appropriate group according to filing dates, with the earliest date receiving the highest ranking. All applications in the first group will receive priority over any application in the second group regardless of filing date. When channels become available, the highest ranking application(s) will be granted based on the site specified and the Commission's mileage separation standards. Trunked systems that have had authorized channels cancelled due to failure to meet the loading requirements in § 90.631 will not be permitted on the waiting list for a period of 6 months from the date of the issuance of the superseding license.

* * * * *

9. 47 CFR 90.617 is amended by revising paragraph (d) introductory text, amending Table 4A by revising the entry for Group No. 228 and adding new entries for Group Nos. 401–440, revising the heading for Table 4B and creating a new Table 4C to read as follows:

§ 90.617 Frequencies in the 809.750–816/854.750–861 MHz, 821–824/866–869 MHz, and 896–901/935–940 MHz bands available for trunked or conventional system use in non-border areas.

* * * * *

(d) The channels listed in Tables 4A and 4B are available only for eligibles in the SMR category which consists of Specialized Mobile Radio (SMR) stations and eligible end users. This paragraph deals with the assignment of frequencies only in areas farther than 110 km (68.4 miles) from the U.S./

Mexicio border and farther than 140 km (87 miles) from the U.S./Canada border. See § 90.619 for the assignment of SMR frequencies in these border areas. For stations located within 70 miles of Chicago, channels 401–600 will be assigned in groups as outlined in Table 4C.

TABLE 4A.—SMR CATEGORY 806–821/851–866 MHz BAND CHANNELS (280 CHANNELS)

Group No.	Channel Nos.
* * * * *	
228	228-268-308-348-388
401	401-441-481-521-561
402	402-442-482-522-562
403	403-443-483-523-563
404	404-444-484-524-564
405	405-445-485-525-565
406	406-446-485-526-566
407	407-447-487-527-567
408	408-448-488-528-568
409	409-449-489-529-569
410	410-450-490-530-570
411	411-451-491-531-571
412	412-452-492-532-572
413	413-453-493-533-573
414	414-454-494-534-574
415	415-455-495-535-575
416	416-456-496-536-576
417	417-457-497-537-577
418	418-458-498-538-578
419	419-459-499-539-579
420	420-460-500-540-580
421	421-461-501-541-581
422	422-462-502-542-582
423	423-463-503-543-583
424	424-464-504-544-584
425	425-465-505-545-585
426	426-466-506-546-586
427	427-467-507-547-587
428	428-468-508-548-588
429	429-469-509-549-589
430	430-470-510-550-590
431	431-471-511-551-591
432	432-472-512-552-592
433	433-473-513-553-593
434	434-474-514-554-594
435	435-475-515-555-595
436	436-476-516-556-596
437	437-477-517-557-597
438	438-478-518-558-598
439	439-479-519-559-599
440	440-480-520-560-600

Table 4B-SMR Category 896–901/935–940 MHz Band—Channels (200 Channels):

* * * * *

TABLE 4C-SMR CATEGORY—CHICAGO PLAN [2, 3]

Group No.	Channel Nos.
401 [1]	401 through 410
411	411-447-483-519-555
412	412-448-484-520-556
413	413-449-485-521-557
414	414-450-486-522-558
415	415-451-487-523-559
416	416-452-488-524-560
417	417-453-489-525-561
418	418-454-490-526-562
419	419-455-491-527-563
420	420-456-492-528-564
421	421-457-493-529-565
422	422-458-494-530-566
423	423-459-495-531-567
424	424-460-496-532-568
425	425-461-497-533-569
426	426-462-498-534-570
427	427-463-499-535-571
428	428-464-500-536-572
429	429-465-501-537-573
430	430-466-502-538-574
431	431-467-503-539-575
432	432-468-504-540-576
433	433-469-505-541-577
434	434-470-506-542-578
435	435-471-507-543-579
436	436-472-508-544-580
437	437-473-509-545-581
438	438-474-510-546-582
439	439-475-511-547-583
440	440-476-512-548-584
441	441-477-513-549-585
442	442-478-514-550-586
443	443-479-515-551-587
444	444-480-516-552-588
445	445-481-517-553-589
446	446-482-518-554-590
591	591-592-593-594-595
596	596-597-598-599-600

[1] Reserved for contiguous assignments or as a frequency pool for assignments to systems with odd number of channels.

[2] These frequencies will be authorized only in the area encompassed by a 70 mile radius centered at 41°52'28" N, 87°38'22" W.

[3] All stations located beyond the 70 mile distance authorized on or before August 16, 1982 to use these frequencies may continue to do so. Stations beyond the 70 mile distance authorized after August 16, 1982 shall employ frequencies listed in Table 4A subject to the provisions of § 90.621 (b) or (c) as applicable.

* * * * *

10. 47 CFR 90.627 is amended by revising paragraph (b)(2) to read as follows:

§ 90.627 Limitation on the number of frequency pairs that may be assignable for trunked systems and on the number of trunked systems.

* * * * *

(b) * * *

* * * * *

(2) The licensee's existing trunked system is loaded to at least 70 mobile and control stations per channel; or,

* * * * *

11. 47 CFR 90.631 is amended by revising the section heading and paragraph (b); by redesignating existing paragraphs (c), (d), (e), and (f) to new paragraphs (e), (f), (g), and (h), respectively; and by adding new paragraphs (c) and (d) to read as follows:

§ 90.631 Trunked systems loading, construction and authorization requirements.

* * * * *

(b) Each applicant for a trunked system shall certify that a minimum of 70 mobiles for each channel authorized will be placed in operation within five years of the initial license grant. If at the end of five years a trunked system is not loaded to the prescribed levels and all channels in the licensee's category are assigned in the system's geographic area, authorization for channels not loaded to 100 mobile stations per channel cancels automatically. All licensees who are authorized initially before June 1, 1993, and are within their original license term are subject to this condition. A licensee that has had authorized channels cancelled due to failure to meet the above loading requirements will not be authorized to obtain additional channels to expand that same system for a period of six months from the date of cancellation.

(c) Except as provided in paragraph (d) of this section, an applicant seeking to expand a trunked system by requesting additional channels from the Commission, or through intercategory sharing, or through an assignment must have a loading level of 70 mobiles per channel on the existing system that is the subject of the expansion request.

(d) In rural areas, a licensee of a trunked system may request to increase its system capacity by five more channels than it has constructed without meeting the loading requirements specified in paragraphs (b) and (c) of this section. A rural area is defined for purposes of this section as being beyond a 100-mile radius of the designated centers of the following urbanized areas, as well as those areas that have a waiting list. (Rural areas may be different for 800 and 900 MHz channels since the Commission maintains separate waiting lists for these frequency bands.) The identified urbanized areas are: New York, NY; Los Angeles, CA; Chicago, IL; Philadelphia, PA; San Francisco, CA; Detroit, MI; Boston, MA; Houston, TX; Washington, DC; Dallas-Fort Worth, TX; Miami, FL; Cleveland, OH; St. Louis, MO; Atlanta, GA; Pittsburgh, PA; Baltimore, MD; Minneapolis-St. Paul, MN; Seattle, WA; San Diego, CA; and Tampa-St. Petersburg, FL. The coordinates for the centers of these areas are those referenced in § 90.635, except that the coordinates for Tampa-St. Petersburg are latitude 28°00'00" N, longitude 82°27'00" W. Where waiting lists determine whether an area is rural, the designated centers of those areas will be identified on the actual waiting lists released by the Commission. If a waiting list is later established in a rural area, licensees who have acquired additional

channels pursuant to this paragraph will be subject to the automatic cancellation provisions in paragraph (b) of this section at the end of one year from the date the area first appears on a Commission waiting list, or at the end of their license term, whichever is longer.

12. 47 CFR 90.637 is amended by revising paragraph (a) as follows:

§ 90.637 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 806–824 MHz, 851–869 MHz, 896–901 MHz, or 935–940 MHz bands. This does not preclude secondary fixed tone signaling and alarm operations authorized in § 90.235 or in paragraph (c) of this section.

* * * * *

13. 47 CFR 90.655 is revised as follows:

§ 90.655 Special licensing requirements for Specialized Mobile Radio systems.

All end users of conventional or trunked Special Mobile Radio systems must be licensed for any associated control points, control stations and mobile radio stations and only licensed end users are authorized to use those systems.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–7844 Filed 4–12–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[FHWA Docket No. MC–126]

Minimum Levels of Financial Responsibility For Motor Carriers; Environmental Restoration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the Minimum Levels of Financial Responsibility regulations to make permanent an amendment contained in an interim rule published in the **Federal Register** on September 23, 1986. This change makes clear that motor carriers are required to provide evidence of financial responsibility to satisfy claims for damage to human health and to the environment including necessary environmental restoration costs, but not for potential or speculative damages for which they would not otherwise be found liable.

EFFECTIVE DATE: This rule is effective April 13, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–4049, or Paul L. Brennan, Office of the Chief Counsel, (202) 366–1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except on legal holidays.

SUPPLEMENTARY INFORMATION: The FHWA published an interim final rule (Docket No. MC–126; Amdt. No. 83–19) in the **Federal Register** on September 23, 1986 (51 FR 33854), deleting the phrase "or potential for damage" from the definition of "environmental restoration" in 49 CFR 387.5. The rulemaking was in response to a joint petition filed by the American Insurance Association (AIA) and the American Trucking Associations, Inc. (ATA). In amending this section of the Federal Motor Carrier Safety Regulations (FMCSRs), the FHWA deleted a phrase from the definition which required liability coverage for the "potential for damage" to the environment. This action was intended to reduce the uncertainty as to the extent of liability of the insured and the insurer by clarifying that the evidence of financial responsibility did not need to cover potential or speculative damage for which the motor carrier would not otherwise be found liable.

Comments

The FHWA received 13 comments to the public docket in response to the interim final rule. Eleven commenters supported the adoption of the interim final rule as a final rule. One commenter opposed the adoption and one comment was not germane to the rulemaking.

The Regular Common Carrier Conference (RCCC), in its support of the adoption as a final rule, echoed the comments of many of the supporters for adoption. The RCCC asserted that insurers view the request to insure motor carriers for environmental restoration claims as a request to provide bondless coverage.

The National-American Wholesale Grocers' Association (NAWGA) argued that obtaining liability insurance has become increasingly difficult for virtually all its members, but those policies which can be purchased are often accompanied by substantial increased premiums. The NAWGA contends that this dramatic increase in premium rates is at least partially due to the vagueness of the "potential for damage" language contained in the previous definition of "environmental restoration."

The Transportation Committee of the Rubber Manufacturers Association, Inc. (RMA), opposed the amendment. It stated its "concern that the FHWA's proposed rules will have the unintended result of permitting motor carriers to carry an insufficient amount of insurance to cover all of their liability currently imposed under federal law," and that, "* * * the insurance crisis affecting all sections of commerce should not be allowed to undermine basic elements of financial responsibility."

The RMA asserted that, "* * * the FHWA does not address the fact that carriers are liable for potential environmental restoration costs under Federal law. Specifically, no consideration is given to the fact that under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9601 *et seq.* (as amended 1986), once there has been a accidental discharge of hazardous material by a carrier, the carrier is considered to be a generator or transporter of hazardous waste. As a generator of waste, the carrier's liability includes liability for the costs of potential environmental restoration costs."

Based on the CERCLA requirements, RMA argued that, "By ignoring the liability of carriers under CERCLA, and eliminating the requirement for insurance to cover potential environmental restoration, the FHWA succeeds only in ensuring that motor carriers are not likely to have adequate insurance to cover their liability under CERCLA in case of accidential spills." Thus, "* * * whereas carriers are liable under CERCLA for potential environmental restoration, the statutory scheme provides for financial responsibility for that liability under the Motor Carrier Act of 1980. The FHWA's proposed action would remove the insurance requirement, but certainly would not remove the carriers' liability under CERCLA."

Rebuttal comments were received from the American Insurance Association (AIA) and from the National Tank Truck Carriers, Inc. (NTTC).

The AIA believes that the RMA misconstrues the scope of liability imposed by CERCLA and that "the minimum dollar amount of insurance * * * required under Section 30 and the maximum liability imposed under CERCLA are not coextensive, nor was that intended by Congress."