by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.1020 is revised, to read as follows:

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues in or on the following raw agricultural commodities when used as a defoliant, desiccant, or fungicide in accordance with good agricultural practice.

Commodities

Beans, dry, edible
Corn, fodder
Corn, forage
Corn, grain
Cottonseed
Flaxseed
Flax, straw
Guar beans
Peas, southern
Peppers, chili
Rice
Rice, straw
Safflower, grain
Sorghum, grain
Sorghum, fodder
Sorghum, forage
Soybeans
Sunflower seed

[FR Doc. 89–5212 Filed 3–7–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–121; FCC 88–406]

FM Broadcast Service; Use of Directional Antennas in Making Short-Spaced Station Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts new rules that permit an applicant for a commercial FM broadcast station to request the authorization of a transmitter site that would be nominally short-spaced to other co-channel or adjacent channel stations, provided the service of those other licensees is protected from interference in accordance with well established criteria. The maximum amount of short-spacing is limited by the amount of separation specified for the next smaller size station class. However, because of resource limitations, permissible short-spacing will also be initially limited to 8 kilometers (5 miles). No change is made to the FM channel allotment process, or the intermediate frequency minimum distance separation requirements. The purpose of these new rules is to afford FM broadcast station licensees some additional flexibility in the selection of transmitter sites.

EFFECTIVE DATE: The Federal Communications Commission will issue a Public Notice, to be published in the Federal Register, announcing the effective date of this action.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: B.C. "Jay" Jackson, Jr., or Bernard Gorden, Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information is estimated to vary from 71 hours 45 minutes to 301 hours 30 minutes per response with an average of 110 hours 28 minutes per response for an FCC Form 301 applicant (3060–0027), and from 76 hours to 80 hours per response with an average of 78 hours 4 minutes for an FCC Form 340 applicant (3060–0034), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0027/3060–0034), Washington, DC 20503.

Following is a summary of the Commission's *Report and Order* adopted December 12, 1988, and released February 22, 1989. The full text of this action 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 action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of the Report and Order

1. The Commission adopts new rules that permit an applicant for commercial FM facilities to request the authorization of a transmitter site that would be nominally short-spaced to the facilities of other co-channel or adjacent channel stations, provided the service of other licensees is protected from interference in accordance with well established criteria. Various methods may be used to provide this protection, such as taking advantage of terrain elevation in the direction of the short-spaced station(s), making an appropriate reduction in operating facilities (power and/or antenna height), using a directional antenna, or employing any combination of these means. The maximum amount of short-spacing permitted will be limited by the amount of separation specified for the next smaller station class. However, because of limited application processing resources, permissible short-spacing is restricted temporarily to 8 kilometers (5 miles). No change is made in the current FM channel allotment process, under which proposals for new channel allotments must meet minimum distance separation requirements with respect to other co-channel and adjacent channel stations. Also, no change is made in the intermediate frequency minimum distance separation requirements. Although these new provisions pertain mainly to commercial FM stations, non-commercial educational FM stations that are currently subject to the distance separation requirements of 47 CFR 73.207 are also affected.

2. Under the new rules, all existing fully spaced stations will continue to be afforded protection based on the presumed use of the maximum ERP and reference HAAT for their station class.

However, only the actual facilities of the stations that apply for short-spaced locations under the new rules will be protected. In general, stations will not be authorized at locations that do not meet, as a minimum, the required co-channel and adjacent channel spacings applicable to the next lower class of station. Thus, short-spaced sites will be allowed, but only to the extent that would be feasible if the stations were to operate with the approximate minimum facilities permitted their class. The exact distances involved are specified in a new rule, 47 CFR 73.215. The Commission will continue to require licensees to provide principal city coverage (70 dBu) over their community of license and to preserve their service from interference.

3. Because this proceeding reintroduces, in a limited way, the contour protection method of making assignments affecting the commercial FM service, it was necessary to determine the signal strength to be used for FM stations' protected contour. The *Notice of Proposed Rule Making ("Notice")* questioned whether a uniform level of 1 mV/m for all station classes might be appropriate. This is the level used for non-commercial educational FM stations and approximates the level that is, in effect, protected for most of the commercial station classes. However, Class B and B1 stations in the non-reserved band, in effect, receive protection of somewhat lower signal levels, approximately 0.5 mV/m and 0.7 mV/m respectively. In view of the record developed in this proceeding, the Commission will use these lower values for Class B and Class B1 stations' protected contours for the purpose of contour protection in connection with these short-spacing rules, but recognizes that it may be appropriate to revisit this matter in the future.

4. On the matter of voluntary acceptance of interference, the comments were virtually unanimous that licensees should not be allowed to accept any interference beyond that already permitted. The Commission prefers to develop further experience with various methods of limiting interference, such as the use of directional antennas as contemplated in this proceeding. Accordingly, the new rules do not permit acceptance of additional interference.

5. The rules for determining antenna height above average terrain ("HAAT") in the non-commercial FM service and the Low Power TV service require the use of as many radials as necessary to establish the lack of prohibited overlap. In some cases, only a few radials are needed, while in other cases, such as a valley between two mountains, many radials may be necessary to accurately establish the lack of prohibited overlap. The Commission has determined that this method also be used for commercial FM broadcast stations when contour protection is required. The distance to pertinent contours is calculated at each azimuth using the HAAT and effective radiated power ("ERP") along the individual radial. This method must be used for both the protected contour and the interfering contour. However, for purposes of station authorization, the overall HAAT will be computed in accordance with the traditional eight-radial procedure.

New Application Tenderability Requirements

6. Because applications processed pursuant to the new rules are entitled only to protection based on proposed facilities, applicants for such stations will be required to expressly indicate by an appropriate exhibit in their application that they are to be processed pursuant to these new rules. This will allow immediate identification of the protection to be afforded such applications. Failure to indicate that an application is to be processed under these new rules would afford the proposed facility more protection than it is entitled to and unnecessarily restrict other applicants. Therefore, if an applicant requests authorization to operate pursuant to these new rules, an additional element of substantial completeness at tender will be the requirement that an exhibit be submitted intended to demonstrate compliance with the applicable provisions of the new rules. Accordingly, an applicant's failure to submit the appropriate exhibit will result in the return of the application as not substantially complete at tender. The Commission is therefore adding this requirement for an exhibit to its list of tender criteria utilized in evaluating the substantial completeness of applications under the FM "hard look" processing procedures (*see Report and Order* in MM Docket No. 84–750, 50 FR 19936, May 13, 1985). Finally, the Commission is adding a question to Section V–B, FCC Form 301 ("Application for Authority to Construct or Make Changes in a Commercial Broadcast Station"), which will require an engineering study to establish the lack of prohibited overlap of contours involving affected stations. A similar revision in FCC Form 340 ("Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station") is being made. In the interim, before the changed forms are available, applicants proposing operation pursuant to the new rules must include, as a supplement to the old form, an additional exhibit. The information to be contained in the exhibit is given at the end of of this summary, however, a full sized copy of the exhibit, available from the Commission, must be used for actual filings.

7. Applications involving the use of directional antennas will require considerably more resources to process than others, both from a personnel and computer processing standpoint. Budgetary constraints will severely limit the Commission's ability to process any significant number of applications involving directional antennas at this time. The Commission therefore finds it necessary to limit temporarily the number of applications received that involve short-spacing and believes that this is best done by temporarily limiting the amount by which applicants may short-space to 8 kilometers (about 5 miles). This limit will enable the Commission to be responsive to the majority of applications which currently require consideration on a waiver basis and it will, moreover, assist it in identifying any unforeseen problems in the evaluation of these applications. Consistent with this short-term necessity, the Commission will not consider applications involving greater amounts of short-spacing at this time. This temporary policy is stated in a Note in the new rules. Authority is delegated to the Chief, Mass Media Bureau, to issue an Order to remove this Note when it is no longer necessary.

8. Also, pending the outcome of the Commission's proposal in MM Docket No. 88–375 (*see Notice of Proposed Rule Making*, 53 FR 38743, October 3, 1988) to increase the maximum power of Class A FM stations to 6 kW, it will not accept applications which involve contour protection based on the current 3 kW Class A power limit. Because such applications could preclude the intended benefits of the power increase proposal for individual Class A stations, it would clearly be inappropriate to accept them until a decision concerning Class A power is final. However, the Commission will accept applications based on the presumed use of an ERP of 6 kW and and antenna HAAT of 100 meters for Class A stations, as the potential preclusive effect of such applications on Class A facilities would be largely avoided. However, Class A applicants applying under the new rules should be aware that they will be protected only to their actual facilities

and therefore may not be able to take advantage of any rule changes that the Commission may adopt in MM Docket No. 88–375. A Note concerning this policy is being added following paragraph (b)(2)(ii) of new rule 47 CFR 73.215. This Note will be removed when final action concerning the Class A power increase is taken.

9. Applications submitted prior to the effective date of the new rules that include a request for waiver of 47 CFR 73.207 will be processed under the current minimum spacing rules only and not under the new contour protection rules. Applications submitted on or after the effective date must specify whether they are to be processed under the new contour protection rules. Amendments submitted on or after the effective date (including amendments to applications on file prior to the effective date) also must specify whether they are to be processed under the new contour protection rules. The Commission believes that it would be improper to presume, without an explicit election, that an applicant chooses processing under the new contour protection rules, as this entails some risk that future modifications of its facilities might become restricted as the result of protection of actual, rather than maximum, facilities. Therefore, in the absence of a specific request by the applicant, including the required supplementary exhibit as described below, the Commission will presume that the applicant intends the application to be processed under the minimum spacing rules only and not under the new contour protection rules.

10. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission notes that adoption of these provisions will provide broadcasters with an alternative and increased flexibility in selecting the most beneficial antenna site.

Additional Exhibit Required

11. The provisions contained in this action have been analyzed with respect to the Paperwork Reduction Act of 1980, and have been found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

12. Applicants requesting processing pursuant to 47 CFR 73.215 must submit additional information as follows, together with FCC Form 301 ("Application for Authority to Construct or Make Changes in a Commercial Broadcast Station"), or FCC Form 340 ("Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station"), as appropriate. The information to be submitted as an exhibit is a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

(a) Protected and interfering contours, in all directions (360°), for the proposed operation.

(b) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as transmitter location.

(c) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.

(d) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.

(e) The official title(s) of the map(s) used in the exhibit(s).

13. Accordingly, *it is ordered* That 47 CFR Part 73 is amended as set forth below. This action is taken pursuant to authority contained in sections 4 and 303 of the Communications Act of 1934, as amended. *It is further ordered* That this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 73

Radio broadcasting, FM broadcast stations, Minimum distance separation requirements, Directional antennas (FM), Short-spaced antenna sites (FM).

For the reasons set forth in the preamble, 47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for 47 CFR Part 73 continues to read as follows:

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

2. 47 CFR 73.207 is amended by revising paragraph (a) to read as follows:

§ 73.207 Minimum distance separation between stations.

(a) Except for assignments made pursuant to §§ 73.213 or 73.215, FM allotments and assignments must be separated from other allotments and assignments on the same channel (co-channel) and on nearby adjacent channels by not less than the minimum distances specified in paragraphs (b) and (c) of this section. The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments unless transmitter sites meet the minimum distance separation requirements of this section, or such applications conform to the requirements of §§ 73.213 or 73.215. However, applications to modify the facilities of stations with short-spaced antenna locations authorized pursuant to prior waivers of the distance separation requirements may be accepted, provided that such applications propose to maintain or improve that particular spacing deficiency. Class D (secondary) assignments are subject only to the distance separation requirements contained in paragraph (b)(3) of this section. (*See* § 73.512 for rules governing the channel and location of Class D (secondary) assignments.)

* * * * *

3. 47 CFR 73.209 is amended by revising paragraph (b) and removing paragraph (c), as follows:

§ 73.209 Protection from interference.

* * * * *

(b) The nature and extent of the protection from interference afforded FM broadcast stations operating on Channels 221–300 is limited to that which results when assignments are made in accordance with the rules in this subpart.

4. A new section 47 CFR 73.215 is added to read as follows:

§ 73.215 Contour protection for short-spaced assignments.

The Commission will accept applications that specify short-spaced antenna locations (locations that do not meet the domestic co-channel and adjacent channel minimum distance separation requirements of § 73.207); Provided That, such applications propose contour protection, as defined in paragraph (a) of this section, with all short-spaced assignments, applications and allotments, and meet the other applicable requirements of this section. Each application to be processed pursuant to this section must specifically request such processing on its face, and must include the necessary exhibit to demonstrate that the requisite contour protection will be provided. Such applications may be granted when

the Commission determines that such action would serve the public interest, convenience, and necessity.

(a) *Contour protection.* Contour protection, for the purpose of this section, means that on the same channel and on the first, second and third adjacent channels, the predicted interfering contours of the proposed station do not overlap the predicted protected contours of other short-spaced assignments, applications and allotments, and the predicted interfering contours of other short-spaced assignments, applications and allotments do not overlap the predicted protected contour of the proposed station.

(1) The protected contours, for the purpose of this section, are defined as follows. For all Class B and B1 stations on Channels 221 through 300 inclusive, the F(50,50) field strengths along the protected contours are 0.5 mV/m (54 dBμ) and 0.7 mV/m (57 dBμ), respectively. For all other stations, the F(50,50) field strength along the protected contour is 1.0 mV/m (60 dBμ).

(2) The interfering contours, for the purpose of this section, are defined as follows. For co-channel stations, the F(50,10) field strength along the interfering contour is 20 dB lower than the F(50,50) field strength along the protected contour for which overlap is prohibited. For first adjacent channel stations (±200 kHz), the F(50,10) field strength along the interfering contour is 6 dB lower than the F(50,50) field strength along the protected contour for which overlap is prohibited. For second adjacent channel stations (±400 kHz), the F(50,10) field strength along the interfering contour is 20 dB higher than the F(50,50) field strength along the protected contour for which overlap is prohibited. For third adjacent channel stations (±600 kHz), the F(50,10) field strength along the interfering contour is 40 dB higher than the F(50,50) field strength along the protected contour for which overlap is prohibited.

(3) The locations of the protected and interfering contours of the proposed station and the other short-spaced assignments, applications and allotments must be determined in accordance with the procedures of paragraphs (c), (d)(2) and (d)(3) of § 73.313, using data for as many radials as necessary to accurately locate the contours.

(b) Applicants requesting short-spaced assignments pursuant to this section must take into account the following factors in demonstrating that contour protection is achieved:

(1) The ERP and antenna HAAT of the proposed station in the direction of the contours of other short-spaced assignments, applications and allotments. If a directional antenna is proposed, the pattern of that antenna must be used to calculate the ERP in particular directions. See § 73.316 for additional requirements for directional antennas.

(2) The ERP and antenna HAAT of other short-spaced assignments, applications and allotments in the direction of the contours of the proposed station. The ERP and antenna HAATs in the directions of concern must be determined as follows:

(i) For vacant allotments, contours are based on the presumed use, at the allotment's reference point, of the maximum ERP that could be authorized for the station class of the allotment, and antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the station class of the allotment.

(ii) For existing stations that were not authorized pursuant to this section, including stations with authorized ERP that exceeds the maximum ERP permitted by § 73.211 for the standard eight-radial antenna HAAT employed, and for applications not requesting authorization pursuant to this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in § 73.211), and the antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply (e.g. zoning laws, FAA constraints, application of § 73.213).

Note to paragraphs (b)(2)(i) and (b)(2)(ii): Until further notice, contours for existing Class A assignments, Class A applications not requesting authorization pursuant to this section, and Class A allotments are based on the presumed use of an ERP of 6000 Watts, and antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to 100 meters. This temporary provision will be removed after the final resolution of proposals in MM Docket No. 88-375.

(iii) For stations authorized pursuant to this section, except stations with authorized ERP that exceeds the maximum ERP permitted by § 73.211 for the standard eight-radial antenna HAAT employed, contours are based on the use of the authorized ERP in the directions of concern, and HAATs in the directions of concern derived from the authorized standard eight-radial antenna HAAT. For stations with authorized ERP that exceeds the maximum ERP permitted by § 73.211 for the standard eight-radial antenna HAAT employed, authorized under this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in § 73.211), and antenna HAATs in the directions of concern that would result from a non-directional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply.

(iv) For applications containing a request for authorization pursuant to this section, except for applications to continue operation with authorized ERP that exceeds the maximum ERP permitted by § 73.211 for the standard eight-radial antenna HAAT employed, contours are based on the use of the proposed ERP in the directions of concern, and antenna HAATs in the directions of concern derived from the proposed standard eight-radial antenna HAAT. For applications to continue operation with an ERP that exceeds the maximum ERP permitted by § 73.211 for the standard eight-radial HAAT employed, if processing is requested under this section, contours are based on the presumed use of the maximum ERP for the applicable station class (as specified in § 73.211), and antenna HAATs in the directions of concern that would result from a nondirectional antenna mounted at a standard eight-radial antenna HAAT equal to the reference HAAT for the applicable station class, without regard to any other restrictions that may apply.

Note to paragraph (b): Applicants are cautioned that the antenna HAAT in any particular direction of concern will not usually be the same as the standard eight-radial antenna HAAT or the reference HAAT for the station class.

(c) Applications submitted for processing pursuant to this section are not required to propose contour protection of any assignment, application or allotment for which the minimum distance separation requirements of § 73.207 are met, and may, in the directions of those assignments, applications and allotments, employ the maximum ERP permitted by § 73.211 for the standard eight-radial antenna HAAT employed.

(d) Stations authorized pursuant to this section may be subsequently authorized on the basis of compliance with the domestic minimum separation distance requirements of § 73.207, upon filing of an FCC Form 301 or FCC Form

340 (as appropriate) requesting a modification of authorization.

(e) The Commission will not accept applications that specify a short-spaced antenna location for which the following minimum distance separation requirements, in kilometers (miles), are not met:

Relation	Co-channel	200 kHz	400/600 kHz
A to A	82 (51)	42 (26)	25 (16)
A to B1	119 (74)	66 (41)	46 (29)
A to B	143 (89)	88 (55)	67 (42)
A to C2	143 (89)	84 (52)	53 (33)
A to C1	178 (111)	111 (69)	73 (45)
A to C	203 (126)	142 (88)	93 (58)
B1 to B1	138 (86)	88 (55)	48 (30)
B1 to B	175 (109)	114 (71)	69 (43)
B1 to C2	163 (101)	105 (65)	55 (34)
B1 to C1	200 (124)	134 (83)	74 (46)
B1 to C	233 (145)	169 (105)	105 (65)
B to B	211 (131)	145 (90)	71 (44)
B to C2	200 (124)	134 (83)	69 (43)
B to C1	241 (150)	169 (105)	77 (48)
B to C	270 (168)	195 (121)	105 (65)
C2 to C2	163 (101)	105 (65)	55 (34)
C2 to C1	196 (122)	130 (81)	74 (46)
C2 to C	224 (139)	169 (105)	105 (65)
C1 to C1	224 (139)	158 (98)	79 (49)
C1 to C	249 (155)	188 (117)	105 (65)
C to C	270 (168)	209 (130)	105 (65)

Note to paragraph (e): Until further Notice, the Commission will not accept applications that specify short-spaced antenna locations pursuant to this section wherein the proposed distance separation is less than the normally required distance separation in § 73.207 by more than 8 kilometers (5 miles). This temporary restriction will be removed when the Commission determines that available resources are sufficient to allow the timely processing of additional applications proposing short-spaced locations using contour protection.

5. 47 CFR 73.311 is amended by revising paragraph (a) and adding a new paragraph (b)(4) as follows:

§ 73.311 Field strength contours.

(a) Applications for FM broadcast authorizations must show the field strength contours required by FCC Form 301 or FCC Form 340, as appropriate.

(b) * * *

(4) In determining compliance with § 73.215 concerning contour protection.

6. 47 CFR 73.316 is amended by revising paragraphs (b), (c)(1), (c)(2), and (c)(3), and by adding paragraphs (c)(4), (c)(5), (c)(6), (c)(7), and (c)(8), to read as follows:

§ 73.316 FM antenna systems.

* * * * *

(b) *Directional antennas.* A directional antenna is an antenna that is designed or altered for the purpose of obtaining a non-circular radiation pattern.

(1) Directional antennas that have a ratio of maximum to minimum radiation in the horizontal plane of more than 15 dB will not be authorized.

(2) Directional antennas that have a radiation pattern which varies more than 2 dB per 10 degrees of azimuth will not be authorized.

(c) * * *

(1) A complete description of the proposed antenna system, including the manufacturer and model number of the proposed directional antenna. It is not sufficient to label the antenna with only a generic term such as "dipole". A specific model number must be provided. In the case of individually designed antennas with no model number, or in the case of a composite antenna composed of two or more individual antennas, the antenna must be described as a "custom" or "composite" antenna, as appropriate. A full description of the design of the antenna must also be submitted.

(2) A relative field horizontal plane pattern of the proposed directional antenna. A single pattern encompassing both the horizontal and vertical polarization is required, rather than separate patterns for horizontal and vertical polarization. A value of 1.0 must be used to correspond to the direction of maximum radiation. The plot of the pattern must be oriented such that 0° corresponds to the direction of maximum radiation or alternatively, in the case of an asymmetrical antenna pattern, the plot must be oriented such that 0° corresponds to the actual azimuth with respect to true North. The horizontal plane pattern must be plotted to the largest scale possible on unglazed letter-size polar coordinate paper (main engraving approximately 7" x 10") using only scale divisions and subdivisions of 1, 2, 2.5, or 5 times 10 to the Nth power. Values of field strength less than 10% of the maximum field strength plotted on that pattern must be shown on an enlarged scale. In the case of a composite antenna composed of two or more individual antennas, the pattern required is that for the composite antenna, not the patterns for each of the individual antennas.

(3) A tabulation of the relative field pattern required in paragraph (c)(2) of this section. The tabulation must use the same zero degree reference as the plotted pattern, and must contain values for at least every 10°. In addition, tabulated values of all maximas and minimas, with their corresponding azimuths, must be submitted.

(4) Sufficient vertical patterns to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. Complete information and patterns must be provided for angles of ±10° from the horizontal plane and sufficient additional information must be included on that portion of the pattern lying between +10° and the zenith and −10° and the nadir, to conclusively demonstrate the absence of undesirable lobes in these areas. The vertical plane pattern must be plotted on rectangular coordinate paper with reference to the horizontal plane. In the case of a composite antenna composed of two or more individual antennas, the pattern required is that for the composite antenna, not the patterns for each of the individual antennas.

(5) A statement that the antenna will be mounted on the top of an antenna tower recommended by the antenna manufacturer, or will be side-mounted on a particular type of antenna tower in accordance with specific instructions provided by the antenna manufacturer.

(6) A statement that the directional antennas will not be mounted on the top of an antenna tower which includes a top-mounted platform larger than the nominal cross-sectional area of the tower in the horizontal plane.

(7) A statement that no other antennas of any type are mounted on the same tower level as a directional antenna, and that no antenna of any type is mounted within any horizontal or vertical distance specified by the antenna manufacturer as being necessary for proper directional operation.

(8) In the case of applications for license upon completion of antenna construction, a statement from a licensed surveyor that the antenna has been installed pursuant to the manufacturer's instructions and is in the proper orientation.

* * * * *

[FR Doc. 89-5277 Filed 3-7-89; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-114; FCC 89-43]

Broadcast Services; Deregulatory Review of Technical and Operational Regulations for Television Stations

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This action amends certain technical and operational regulations for television broadcast stations. This action continues the Commission's deregulatory review of technical and operational regulations for various radio services. It is intended to delete burdensome or outdated television

broadcast regulations that are no longer needed.

EFFECTIVE DATE: April 13, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* adopted February 7, 1989, and released February 28, 1989. The full text of this action 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 action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. This action deletes certain technical and operational television broadcast regulations that are outdated and unnecessary. The majority of comments filed in response to the *Notice of Proposed Rule Making (Notice)* in this proceeding generally supported these rule amendments.

2. *Separate operation of TV aural and visual transmitters.* Television broadcasts are usually composed of both picture and sound signals. The picture and sound generally are transmitted simultaneously via separate video and audio transmitters. Under certain conditions, however, programs may consist of picture and sound transmissions that are unrelated to one another. For example, TV stations may provide an additional broadcast service in the form of an audio program with or without visual material, or a video informational bulletin board with or without related sound information. Such a service might display the text of news, weather, and other reports. Currently, such service is restricted by our rules to "graveyard hours" (12 midnight to 6 a.m.), or for only 15 minutes just prior to a station regular sign-on time, if after 6 a.m. When those provisions were adopted in 1980, the Commission was concerned that broadcasters might over use this form of service by filling their program day with audio-only or video-only bulletin board-like informational service, in place of normal programming during regular operational hours.

3. Upon reviewing the comments, all of which supported the proposed relaxation, the Commission can find no basis for continuing to preclude licensees from making a wider range of programming judgments. The Commission believes that the public interest would better be served by allowing licensees to establish the duration and time of day deemed to be most appropriate for transmitting separate audio or video services. Therefore, the Commission is amending § 73.653 by eliminating all time restrictions pertaining to the transmission of separate aural and video service.

4. *Power meter calibration.* The rules currently require that a television broadcast licensee have the capability to determine the station's visual power at all times. The most popular method of complying with this regulation is use of a power meter that must be calibrated at least once every 6 months. Because the rules also stipulate that this meter should be calibrated as often as necessary to ensure compliance with the appropriate power level, we find that the 6-month calibration requirement to be redundant.

5. While the comments filed in response to the *Notice* supported the requirement to perform meter calibration as often as needed, they recommended that the Commission eliminate the periodic 6-month calibration period as being duplicative of the general calibration requirement. Accordingly § 73.663 is amended to reflect this decision.

6. *Color burst signal requirement.* The color burst is a special synchronizing signal, transmitted within the television picture signal, that enables the TV receiver to decode the color information for proper display on the screen. During the transmission of black-and-white video programming, color burst signals do not benefit reception. In fact, they have the potential to degrade the picture quality if transmitted along with certain black-and-white picture signals. Thus, the rules currently require that the color burst signal be omitted during the extended transmission of black-and-white programming..

7. In recent years however, broadcasters have encountered certain operational disadvantages in omitting the color burst signal during black-and-white program production. Modern video equipment technology now utilizes the color burst signal for more than its original purpose of conveying transmitted color reference information. Popular types of video processing equipment now rely on the color burst for timing and synchronization information to correct video signal stability or timing errors. For example, many production video tape recorders (as opposed to most consumer equipment) require the color burst signal for proper operation. Consequently, broadcasters have occasionally requested and received waivers of our color burst rules on a case-by-case basis. Also, some broadcasters have suggested that the color burst omission requirement should be eliminated because they believe that today's television receivers have been developed to the point that they are immune to picture degradation caused by the color burst signal.

8. On the other hand, some television receiver manufacturers are skeptical, recalling that older model receivers have in fact experienced black-and-white picture degradation due to the color burst and that current receivers may not be totally immune either. Thus, the manufacturers generally prefer that the current color burst omission standard be retained.

9. While the comments were divided over the extent of picture degradation caused by the presence of the color burst, the Commission notes that the color burst omission requirement was established as a quality control regulation and does not relate to preventing or restricting cochannel or adjacent channel interference. However, the comments have focused our attention on the fact that the current requirement has become a television receiver interoperability standard. Thus, television sets are currently designed and produced in accordance with the traditional objectives of the color burst omission requirement. Therefore, the Commission believes the current rule should be retained as a *recommended* standard instead of an absolute broadcast operating requirement. This approach is consistent with a 1985 action taken by the Commission with respect to standards relating to maximum horizontal and vertical blanking intervals (*see Report and Order*, MM Docket No. 79–145, 50 FR 13971, April 9, 1985). Therefore, § 73.699 is amended accordingly.

10. *Equipment installation and safety specifications.* The rules currently contain requirements pertaining to the construction and installation of transmission systems and studio equipment, as well as related safety procedures. These requirements were imposed many years ago, when it was common for broadcasters to design and build their own facilities. Today, nearly all broadcasters acquire their transmission system equipment from manufacturers that must design it to meet the safety requirements imposed by other regulatory agencies (*e.g.*, OSHA and various local and state agencies).

11. The comments favored elimination of the current requirements, but

suggested that an advisory reference to pertinent federal, state, local or other recognized safety organizations standards and procedures would be appropriate. The Commission agrees and amends § 73.687 accordingly.

12. *Reference table for conversion of minutes and seconds to decimal parts of a degree.* This table contains mathematical conversions for minutes-to-decimal and seconds-to-decimal parts of a degree. These values may be used in the calculation of geographical distance separations between television channel assignment locations. They were placed in the rules to provide the means for consistent and accurate calculations before the advent and widespread availability of electronic calculators and computers.

13. The commenters agreed with the Commission that the table has become superfluous and no longer needed because of the universal availability of electronic calculators and computers that provide far more accuracy. Therefore, the Commission is deleting from § 73.698 the reference table of minutes and seconds converted to decimal parts of a degree.

14. *Antenna radiation pattern limitations.* Television broadcasting directional antennas may be useful in improving service, *e.g.*, to reduce radiation over large bodies of water and concentrate it over populated areas. In such cases, the antennas must normally comply with restrictions that limit the ratio of the maximum radiated power at any point in the antenna pattern to the minimum radiated power at some other point in the pattern (the degree of suppression or null). The Commission adopted these limits in the early 1950s. It concluded at that time that the limits were needed because of the difficulty in determining the actual radiated pattern of an antenna with very sharp nulls. Additionally, early antenna patterns were considered unstable, and more subject to television picture "ghosting" degradation in null areas because of the exaggerated signal strength ratio that is possible between the directly received signal and other reflected signals.

15. However, over the years broadcasters have been granted waivers to exceed the current ratio limits in order to more effectively limit the power radiated over large bodies of water, or to avoid excessive signal radiation toward the face of a hill or mountain, which could reflect the signal and cause "ghosting" degradation. Also, the current ratio limits have no relationship with the spacing criteria used to control interstation interference. Thus, the *Notice* proposed that these limits be eliminated.

16. The comments, however, have convinced the Commission that while waivers permitting the use of non-restricted radiation patterns are often appropriate (as described above), such operation might not be advisable in all situations, particularly in cases involving tightly located or short-spaced stations. The comments further expressed concern over the Commission's ongoing FM directional antenna proceeding, which is addressing a similar issue, but which does contemplate the short-spacing of FM station antenna sites (*see* MM Docket No. 87-121, 53 FR 12779, April 19, 1988). The comments emphatically reject such short-spacing in the case of TV stations. Thus, the Commission's proposal to eliminate the current ratio limits received only qualified support. Moreover, the record is inadequate in terms of suggesting what degree of relaxation in the limits might be appropriate. Because of the current controversy over the circumstances in which directional antennas should be authorized, and because the Commission's current waiver process appears adequate in dealing with unusual situations, elimination of the current rule does not appear to be a matter of great urgency. Accordingly, the Commission believes the appropriate course of action is to retain the current rules for the time being, and reconsider this matter at some time in the future if circumstances warrant.

17. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the Commission notes that adoption of these provisions will provide broadcasters with alternatives and increased flexibility in meeting their operational requirements.

18. The rule amendments contained herein have 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 requirement; and will not increase or decrease burden hours imposed on the public.

19. Accordingly, *it is ordered that,* Pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, Part 73 of the Commission's Rules and Regulations are amended as set forth at the end of this document. *It is further ordered,* That this proceeding is terminated.

Donna R. Searcy,

Secretary, Federal Communications Commission.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

Appendix

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73 [AMENDED]

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

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

2. Section 73.208 is amended by removing paragraphs (c)(1) (i) and (ii) and revising paragraph (c)(1) to read as follows:

§ 73.208 Reference points and distance computations.

* * * * *

(c) * * *

(1) Convert the latitudes and longitudes of each reference point from degree-minute-second format to degree-decimal format by dividing minutes by 60 and seconds by 3600, then adding the results to degrees.

* * * * *

3. 47 CFR 73.653 is revised in its entirety to read as follows:

§ 73.653 Operation of TV aural and visual transmitters.

The aural and visual transmitters may be operated independently of each other or, if operated simultaneously, may be used with different and unrelated program material.

4. 47 CFR 73.663 is amended by revising paragraph (b)(3) to read as follows:

§ 73.663 Determining operating power.

* * * * *

(b) * * *

(3) The meter must be calibrated with the transmitter operating at 80%, 100%, and 110% of the authorized power as often as may be necessary to maintain its accuracy and ensure correct transmitter operating power. In cases where the transmitter is incapable of operating at 110% of the authorized power output, the calibration may be made at a power output between 100% and 110% of the authorized power output. However, where this is done, the output meter must be marked at the point of calibration of maximum power output, and the station will be deemed to be in violation of this rule if that power is exceeded. The upper and lower limits of permissible power deviation as determined by the prescribed calibration, must be shown upon the meter either by means of adjustable red markers incorporated in the meter or by red marks placed upon the meter scale or glass face. These markings must be

checked and changed, if necessary, each time the meter is calibrated.

5. 47 CFR 73.687, Transmission system requirements, is amended by revising paragraph (d), and removing paragraphs (e), (f) and (h), and redesignating paragraph (g) as (e) to read as follows:

§ 73.687 Transmission system requirements.

* * * * *

(d) The construction, installation, and operation of broadcast equipment is expected to conform with all applicable local, state, and federally imposed safety regulations and standards, enforcement of which is the responsibility of the issuing regulatory agency.

* * * * *

§ 73.698 [Amended]

6. 47 CFR 73.698, Tables, is amended by removing and reserving in its entirety Table I.

7. 47 CFR 73.699, Figure 6, is amended by revising Note 8 to read as follows:

§ 73.699 TV engineering charts.

* * * * *

Figure 6, Television Synchronizing Waveform for Color Transmission

Notes

* * * * *

8. It is recommended that color bursts signal be omitted during monochrome transmission.

* * * * *

§ 73.4272 [Removed]

8. 47 CFR 73.4272 is removed in its entirety.

[FR Doc. 89-5131 Filed 3-7-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 219, and 252

Federal Acquisition Regulation Supplement; Small Business Competitiveness Demonstration Program

AGENCY: Department of Defense (DoD).

ACTION: Interim rule (Extension of comment period).

SUMMARY: The Defense Acquisition Regulatory Council published an interim rule with request for public comment on January 27, 1989 (54 FR 4246), to revise the Department of Defense Federal Acquisition Regulation Supplement (DFARS) Parts 204, 219, and 252 to further implement FAR Subpart 19.10 and the December 22, 1988 joint Office of Federal Procurement Policy (OFPP) and Small Business Administration (SBA) interim policy directive and test plan implementing Title VII of the "Business Opportunity Development Reform Act of 1988", Pub. L. 100-656 (53 FR 52889). The original date for submission of comments, February 27, 1989, has been extended to April 15, 1989, to accommodate the requests of interested parties.

DATE: Written comments on the interim rule should be submitted to the address shown below not later than April 15, 1989, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OASD(P&L) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062. Please cite DAR Case 88-322 in all correspondence related to this subject.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 89-5384 Filed 3-7-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

48 CFR Parts 932 and 952

Acquisition Regulation; Prompt Payment Policies, Procedures and Contract Clauses

AGENCY: Department of Energy (DOE).

ACTION: Final Rule.

SUMMARY: This final rule amends the Department of Energy Acquisition Regulation (DEAR), by deleting the DOE unique prompt payment policies, procedures and contract clauses established in the DEAR to implement the requirements of the Prompt Payment Act (Pub. L. 97-177; May 21, 1982), and requires the use of the prompt payment policies, procedures and contract clauses recently established, on a Federal-wide basis, in the Federal Acquisition Regulation (FAR).

EFFECTIVE DATE: The requirements of this amended regulation are effective as of March 8, 1989.

FOR FURTHER INFORMATION CONTACT:

Rudolph J. Schuhbauer, Business and Financial Policy Division (MA-422), Procurement and Assistance Management, Washington, DC 20585, (202) 586-8175

Paul A. Gervas, Office of the Assistant General Counsel for Procurement and Finance (GC-34), Washington, DC 20585, (202) 586-6906.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the DEAR was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984), 48 CFR Chapter 9.

The purpose of this final rule is to revise the DEAR, as necessary, to implement the requirements of the Prompt Payment Act as implemented by Office of Management and Budget (OMB) Circular A-125, Prompt Payment, and FAR Subpart 32.9, Prompt Payment, which was published in the **Federal Register** (53 FR 3688, February 8, 1988) as Federal Acquisition Circular 84-33.

A brief description of the DEAR amendments follows:

DEAR Section 932.111, Contract Clauses, is deleted in its entirety.

DEAR Subpart 932.71, Contract Payments, is deleted in its entirety.

DEAR Subpart 932.9, Prompt Payment, is added as a new subpart in order to establish certain DOE specific policies and procedures required to implement the prompt payment provisions specified in FAR Subpart 32.9.

Under Part 952, Solicitation Provisions and Contract Clauses, Section 952.232, including Subsections 952.232-1 through 952.232-8, 952.232-10, and 952.232-70 through 952.232-73, is deleted in its entirety.

II. Procedural Requirements

A. Review Under Executive Order 12291

In accordance with the requirements of Executive Order 12291 (46 FR 13193, February 27, 1981), this rulemaking has been reviewed by DOE. DOE has concluded that the rule is not a "major rule" because its promulgation will not

result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

B. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This rule will simplify DOE's implementation of Pub. L. 97–177, by requiring use of the Federalwide prompt payment policies, procedures, and contract clauses prescribed in FAR Subpart 32.9, rather than the unique DEAR provisions established by DOE in 1984. Accordingly, this rule will have no impact on interest rates, tax policies or liabilities, the costs of goods or services or other direct economic factors. It will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed by this amended rule. Accordingly, no OMB clearance is required by section 350(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 et seq., 1976), or the Council on Environmental Quality regulations (40 CFR Part 1020), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Public Hearing

The Department has concluded that this final rule does not involve a substantial issue of fact or law, and that the rule should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. This rule will result in uniform implementation of the Federal-wide prompt payment provisions recently established in the FAR. Therefore, pursuant to Pub. L. 95–91, the DOE Organization Act, the Department did not hold a public hearing on this rule.

III. Public Comments

This final rule is based on the Notice of Proposed Rulemaking (NOPR) that DOE published in the **Federal Register** on November 9, 1988 (53 FR 45294), wherein public comments were invited for the 30-day period ending December 9, 1988. No public comments were received.

List of Subjects in 48 CFR Parts 932 and 952

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC on February 27, 1989.

Berton J. Roth,

Deputy Assistant Secretary for Procurement and Assistance Management.

PART 932—CONTRACT FINANCING

1. The authority citation for Parts 932 and 952 continues to read as follows:

Authority: (42 U.S.C. 7254; 40 U.S.C. 486(c)).

§ 932.111 [Removed]

2. Section 932.111 is removed in its entirety.

Subpart 932.71—[Removed]

3. Subpart 932.71, consisting of sections 932.7100, 932.7101, 932.7102, 932.7103, 932.7104, 932.7105, 932.7106 and 932.7107 and subsections 32.7107–1 and 932.7107–2, is removed in its entirety.

4. Part 932 is amended by adding a new Subpart 932.9, Prompt Payment, consisting of §§ 932.908 and 932.970, as follows:

Subpart 932.9—Prompt Payment

Subpart 932.9—Prompt Payment

§ 932.908 Contract clause.

(c) The contracting officer shall incorporate paragraph (c), *Electronic Funds Transfer,* promulgated as Alternate II at FAR 52.232–25, in solicitations and contracts containing the basic Prompt Payment clause or its Alternate I as prescribed at FAR 32.908(a) and FAR 32.908(b), respectively.

§ 932.970 Implementing DOE policies and procedures.

(a) *Invoice payments.* (1) *Contract Settlement Date.* For purposes of determining payment due dates on a final invoice pursuant to paragraph (a)(2)(ii) of the basic Prompt Payment clause and (a)(2)(i)(B) of its Alternate I at FAR 52.232–25, contract settlement occurs when the contracting officer determines that the contractor has complied with all contract terms and conditions, including all administrative requirements (e.g., execution and delivery of contractor's release of claims, execution of understandings setting forth final indirect cost rates, and establishment of final contract price). In addition, for purposes of determining any interest penalties under cost-type contracts, the effective date of contract settlement shall be the effective date of the final contract modification issued to acknowledge contract settlement and to close out the contract.

(2) *Constructive acceptance periods.* It is expected that, in the majority of cases, Government acceptance or approval can occur within the standard constructive acceptance or approval periods specified in paragraphs (a)(6)(i) of the basic Prompt Payment clause and (a)(5)(i) of its Alternate I at FAR 52.232–25. However, the contracting officer should coordinate these provisions with the DOE official(s) that will be responsible for performing the acceptance and/or approval function(s). Where the contracting officer determines, in writing, on a case-by-case basis, that it is not reasonable or feasible for DOE to perform the acceptance or approval function within the standard period, the contracting officer should specify a longer constructive acceptance or approval period, as appropriate. Considerations include, but are not limited to, the nature of supplies or services involved, geographical site location, inspection and testing requirements, shipping and acceptance terms, and available DOE resources.

(b) *Contract Financing Payments.* (1) The standard payment due date, to be specified by the contracting officer in paragraphs (b)(2) of the basic Prompt Payment clause and its Alternate I at FAR 52.232–25, shall normally be 30 days for progress payments and 30 days for interim payments on cost-type contracts.

(2) Contracting officers may specify payment due dates that are less than the standard when a determination is made,

in writing, on a case-by-case basis, that a shorter contract financing payment cycle will be required to finance contract work. In such cases, the contracting officer should coordinate with the finance and program officials that will be involved in the payment process to ensure that the contract payment terms to be specified in solicitations and resulting contract awards can be reasonably met. Consideration should be given to geographical separation, workload, contractor ability to submit a proper request, and other factors that could affect timing of payment. However, payment due dates that are less than 7 days for progress payments or less than 14 days for interim payments on cost-type contracts are not authorized

PART 952—SOLICITATION PROVISION AND CONTRACT CLAUSES

§§ 952.232, 952.232-1, 952.232-2, 952.232-3, 952.232-4, 952.232-5, 952.232-6, 952.232-7, 952.232-8, 952.232-10, 952.232-70, 952.232-71, 952.232-72, and 952.232-73—[Removed]

5. Subpart 952.2 is amended by removing section 952.232 and subsections 952.232–1, 952.232–2, 952.232–3, 952.232–4, 952.232–5, 952.232–6, 952.232–7, 952.232–8, 952.232–10, 952.232–70, 952.232–71, 952.232–72, and 952.232–73.

[FR Doc. 89–5245 Filed 3–7–89; 8:45am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[Docket Number 87–09; Notice 9]

RIN: 2127–AC42

Odometer Disclosure Requirements

AGENCY: National Highway Traffic Safety Administration.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule is in response to a recent amendment to the Truth in Mileage Act (contained in the Pipeline Safety Reauthorization Act of 1988). The amendment concerns powers of attorney used in connection with mileage disclosures and requires NHTSA to promulgate regulations concerning their use.

This rule permits, in limited circumstances when a title document is physically held by a lienholder, the use of a secure power of attorney form. It allows a transferor to make the required odometer disclosure on a secure power of attorney form, issued by a State, that would authorize the transferee to exactly restate the mileage on the title document on the transferor's behalf. Similarly, this rule allows a transferee to authorize this transferor to sign the disclosure on the title document, on behalf of the transferee. To the extent that they are consistent with the new law, this rule grants, in whole or in part, three petitions for reconsideration.

This notice is published as an interim final rule without notice and the opportunity for comment. However, NHTSA requests comments on this rule. Following the close of the comment period, NHTSA will publish a notice responding to the comments and, if appropriate, NHTSA will amend the provisions of this rule.

DATES: Comments on this interim rule are due no later than April 7, 1989. This interim final rule becomes effective on April 29, 1989, unless a permanent final rule is issued thirty days prior to that date.

ADDRESS: Written comments should refer to the docket number of this notice and should be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

To implement the Truth in Mileage Act of 1986 and to make some needed changes in the Federal odometer regulations, the National Highway Traffic Safety Administration (NHTSA) published a notice of proposed rulemaking (NPRM) on July 17, 1987. 52 FR 27022 (1987). The agency received numerous comments on the NPRM, representing the opinions of new and used car dealers, auto auctions, leasing companies, State motor vehicle administrators, and enforcement and consumer protection agencies. Each of the comments was considered and a final rule was published on August 5, 1988. 53 FR 29464 (1988).

As required by the Truth in Mileage Act, the August 1988 final rule requires the transferor of a motor vehicle to provide a mileage disclosure on the title document or, if the title document does not include a space for the mileage disclosure (during the phase-in period), or if the vehicle has not been previously titled, it requires the transferor to make a written disclosure of mileage on a separate document. Also as required by that statute, that final rule requires that title documents be manufactured or otherwise set forth by a secure process to deter counterfeiting and alteration; requires that at the time of issue, the titles include the mileage disclosure; adds disclosure requirements for lessors and lessees; and adds retention requirements for lessors and auction companies. In addition, consistent with the statute, the rule amends the form and content of the odometer disclosure statement. The August 1988 rule also prohibits a person from signing the disclosure as both the transferor and transferee in the same transaction in order to guard against a situation where only one party to the transaction would be aware of the disclosure. Finally, that rule clarifies the definition of transferor and transferee and extends the record retention requirement for dealers and distributors.

The Agency received seven petitions for reconsideration of the August 1988 final rule. In addition, we received numerous letters concerning the final rule and supporting the petitions. These petitions requested that NHTSA reconsider the provisions of the final rule that: (1) Prohibit a person from signing the odometer disclosure statement as both the transferor and transferee in the same transaction; (2) define "transferor" and "transferee"; (3) define "secure printing process"; (4) concerned the language included on the odometer disclosure statement; and (5) require dealers and distributors to retain, for five years, a copy of every odometer disclosure statement, including the transferee's signature, that they issue and receive. These petitions and letters have been placed in the docket. Before the Agency could fully consider the petitions, Congress enacted the Pipeline Safety Reauthorization Act of 1988, Pub. L. 100–561.

Section 401 of the Pipeline Safety Reauthorization Act, which amends section 408(d)(1) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1988(d)(1), concerns the use of certain powers of attorney in connection with the required mileage disclosure. Although the Truth in Mileage Act generally requires that a vehicle seller (or other transferor) make the required disclosure on the vehicle's title, Congress determined that, under certain limited conditions when the title document is physically held by a lienholder, the transferor should not be precluded from making the disclosure on a secure power of attorney form which