Appendix V, Criteria for Determining the Completeness of Plan Submissions

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2.2 * * *

(i) Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.

* * * * *

[FR Doc. 91-27027 Filed 11-7-91; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 302-4, 303-1, and 303-2

[FTR Amendment 22]

Federal Travel Regulation; Allowance for Travel to Seek Residence Quarters in Alaska or Hawaii; Allowance for the Preparation and Transportation of the Remains of an Employee who Dies While Stationed in Alaska or Hawaii

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule implements paragraphs (c) and (d) of section 1206 of the Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101-510, November 5, 1990). This rule allows authorization at Government expense of a househunting trip for an employee and spouse when the employee is transferred to Alaska or Hawaii. This rule also allows payment for the expenses of preparing and transporting to the home, official station, or place of interment the remains of an employee who dies while performing official duties in, or in transit to or from, Alaska or Hawaii, as well as the expenses of transporting to the former home or other designated place the deceased employee's dependents and household goods.

EFFECTIVE DATE: Part 302-4 is effective November 8, 1991, and applies to an employee whose effective date of transfer (date the employee reports for duty at the new official station) is on or after November 8, 1991. Amendments to parts 303-1 and 303-2 are effective November 5, 1990, and applies to an employee whose death occurs on or after November 5, 1990.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: Paragraphs (c) and (d) of section 1206 of the Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101-510, November 5, 1990) amended title 5 of the United States Code by modifying section 5724a(a)(2), relating to payment for the expenses of travel to seek residence quarters, and by modifying section 5742 "Transportation of remains, dependents, and effects; death occurring away from official station or abroad". This final rule amends the Federal Travel Regulation to implement these statutory provisions.

The amendment allows an agency to authorize at Government expense the travel of an employee and spouse to seek residence quarters at the new official station when the employee is transferred to Alaska or Hawaii. Previously, househunting trips were allowed solely in connection with transfers inside the continental United States.

The amendment also allows payment for the expenses of preparing and transporting to the home, official station, or place of interment the remains of a Federal employee who dies while performing official duties in, or in transit to or from, Alaska or Hawaii. Previously, the statute and implementing regulations allowed payment for these costs only for a Federal employee stationed outside the United States, which effectively precluded the benefit for an employee stationed in Alaska or Hawaii, unless the employee was in a travel status at the time of death. Paragraph (d) of section 1206 of the statute authorizes payment for the expenses of transporting the deceased employee's dependents and household goods to the former home or other designated place when the employee dies while performing official duties in, or in transit to or from, Alaska or Hawaii. The Federal Travel Regulation previously allowed payment for the expenses of transporting the deceased employee's dependents and household goods to the employee's actual place of residence based on a Comptroller General decision that addressed the matter.

The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects

41 CFR Part 302-4

Government employees, Relocation allowances and entitlements, Transfers.

41 CFR Parts 303-1 and 303-2

Government employees, Relocation allowances and entitlements.

For the reasons set out in the preamble, 41 CFR parts 302-4, 303-1, and 303-2 are amended as follows:

PART 302-4—TRAVEL TO SEEK RESIDENCE QUARTERS

1. The authority citation for part 302-4 continues to read as follows:

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 302-4.1 is amended by revising paragraph (c)(3) to read as follows:

§ 302-4.1 Applicability and general policy for authorizing travel to seek residence quarters.

* * * * *

(c) * * *

(3) When either the old or new duty station, or both, are located outside the United States; and

* * * * *

PART 303-1—GENERAL

3. The authority citation for part 303-1 continues to read as follows:

Authority: 5 U.S.C. 5721-5734, 5741-5742; E.O. 11609, July 22, 1971 (36 FR 13747).

4. Part 303-1 is amended by redesignating § 303-1.4 as § 303-1.7 and redesignating § 303-1.3 as § 303-1.4.

5. Section 303-1.1 is revised to read as follows:

§ 303-1.1 Authority, coverage, and applicability.

(a) *Statutory Authority.* This chapter sets forth the allowable expenses, not otherwise provided for by law, authorized by 5 U.S.C. 5742(b) for the preparation and transportation of the remains of a deceased employee, and by 5 U.S.C. 5722 (See § 303-2.6 of this chapter) for the transportation of the immediate family and household goods of a deceased employee.

(b) *Persons covered.* The provisions of this chapter cover an employee who dies while:

(1) On official travel away from his/her official station in the United States.

(2) Performing official duties outside CONUS.

(3) Absent from duty as provided in § 303–1.5.

(4) Reassigned away from his/her home of record pursuant to a mandatory mobility agreement executed as a condition of employment.

(c) *Applicability.* The provisions of this chapter apply whether an employee's death is or is not work-related.

6. Section 303–1.2 is amended by removing the phrase "official station outside the United States", and adding in its place "official station outside CONUS"; and by removing the reference "Chapter 303", and adding in its place the word "chapter".

7. Section 303–1.3 is added to read as follows:

§ 303–1.3 Definitions.

As used in this chapter, and unless otherwise specifically provided in this chapter, the following definitions apply:

(a) *United States.* United States means the 50 States and the District of Columbia.

(b) *Continental United States.* The continental United States (or CONUS) means the 48 contiguous States and the District of Columbia.

8. Section 303–1.5 is revised to read as follows:

§ 303–1.5 Death during a period of absence from duty.

The provisions of this chapter apply when an employee is performing official travel away from his/her official station located in the United States and dies while temporarily absent from a temporary duty station. The provisions of this chapter also apply when an employee is performing official duties outside CONUS and dies while temporarily absent from his official station or temporary duty station outside CONUS. If the temporary absence is for the purpose of taking leave or occurs during nonworkdays, the allowable cost for the transportation of remains shall not exceed the amount which would have been allowed if death had occurred at the temporary duty station or at the official station outside CONUS.

PART 303–2—ALLOWANCES

9. The authority citation for part 303–2 continues to read as follows:

Authority: 5 U.S.C. 5721–5734, 5741–5742; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 303–2.1 [Amended]

10. Section 303–2.1 is amended by removing the phrase "official station outside the United States", and adding in its place "official station outside CONUS".

11. Section 303–2.3 is revised to read as follows:

§ 303–2.3 Transportation of employee remains.

(a) *Death while performing official travel within the continental United States.* When an employee dies while performing official travel within CONUS, payment is authorized for the cost of transporting the remains to the employee's place of actual residence, official station, or place of interment. The cost of transportation shall not exceed the cost to the place of actual residence or official station, whichever is more distant.

(b) *Death while performing official duties outside the continental United States.* When an employee dies while performing official duties outside CONUS, payment is authorized for the cost of transporting the remains to the employee's place of actual residence, official station, or place of interment. The cost of transportation shall not exceed the cost to the place of actual residence or official station, whichever is more distant.

12. Section 303–2.6 is amended by revising paragraph (a)(1), by removing paragraph (b), and by redesignating paragraph (c) as paragraph (b) to read as follows:

§ 303–2.6 Transportation of the immediate family and household goods.

(a) *While performing duties outside CONUS*—(1) *General.* The cost of return transportation of the immediate family and the baggage and household goods of the decedent and his/her immediate family shall be allowed when an employee dies while he/she is performing official duties outside CONUS, or while he/she is in transit to or from that place. Allowable transportation costs shall not exceed the costs of returning the immediate family and the baggage and household goods from the place where the official duties were performed or were to be performed, by the most direct route, to the decedent's place of actual residence, or to any other place as the head of the agency concerned or his/her designated representative may designate, provided the cost to the Government shall not exceed the cost of transportation to the decedent's place of actual residence.

* * * * *

§ 303–2.8 [Amended]

13. Section 303–2.8 is amended by removing the reference "Chapter 303" wherever it appears in the section, and adding in its place the word "chapter".

Dated: October 3, 1991.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 91–26693 Filed 11–7–91; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–121, FCC 91–273]

FM Broadcast Services; Short-Spaced Station Assignments With Reduced Facilities and/or Directional Antenna Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Through this decision, the Commission responds to petitions for reconsideration of the Report and Order (Report) in this proceeding (54 FR 9800, March 8, 1989). The Commission reaffirms its decision to allow routine short-spaced FM assignments, but adopt several of the requested refinements.

EFFECTIVE DATE: December 19, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order (MO&O) in MM Docket No. 87–121, adopted August 28, 1991, and released September 17, 1991. Adoption of this MO&O will have no additional significant resource implications beyond those specified at the time of its related earlier Report and Order was adopted. The decisions in this action have also been analyzed with respect to the Paperwork Reduction Act of 1980.

The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center, at (202) 452–1422, 1919 M Street, NW., Room 246, Washington, DC 20554.

Synopsis of Memorandum Opinion and Order

1. This action responds to petitions for reconsideration of rule amendments contained in the Report, filed by the Association for Broadcast Engineering Standards, Inc. (ABES), du Treil, Lundin

& Rackley, Inc. (dLR), Genesis Broadcasting, Inc. (Genesis), Greater Media, Inc. (Greater Media), Mullaney Engineering, Inc. (Mullaney) and the National Association of Broadcasters (NAB). Subsequently, NAB joined with ABES, dLR, Greater Media and Mullaney in filing a "Consensus and Joint Supplement to Petitions for Reconsideration" ("Consensus"). Two of the original petitions request that the Commission's action be set aside; the remaining petitions support the basic decision but suggest refinements to the adopted rules. After careful consideration of the issues raised in these petitions, this MO&O reaffirms the Commission's decision to allow routine short-spaced FM assignments, but adopts several of the requested refinements.

2. The Commission concludes that the rules adopted in the Report do not represent a departure from traditional methods of contour protection. They are largely based on an accurate determination of the antenna height above average terrain ("HAAT") in critical directions and they reflect essentially the same method for determining HAAT that the Commission has used for years in the non-commercial FM service and the Low Power TV service. Contrary to the assertions of ABES and NAB, the rules for determining antenna HAAT for short-spaced FM facilities do not include provisions for the use of either terrain shielding or a terrain roughness factor. Instead, the Commission has taken the well-established procedures currently required in the NCE–FM service and the Low Power TV service and adopted them for use in calculating protected and interfering contours for short-spaced FM station assignments. Adequate notice of the HAAT rules adopted was given because the Notice of Proposed Rule Making, 53 FR 12779, April 19, 1988 (Notice) clearly proposed use of predicted field strength contours as in the NCE–FM service, and the position of such contours in that service are now and have always been based on calculations of antenna HAAT in specific directions. Thus, the rules adopted in the Report do not implement a novel method of "terrain shielding" or use of a "terrain roughness factor," but rather, represent another application of a method already used in other services.

3. With respect to the impact of contour protection on the Commission's general allotment rules, the Commission has held throughout this proceeding that no change has been made or will be made in the FM channel allotment process. All proposals for channel allotments must meet the minimum distance separations of § 73.207 of the Commission's Rules with respect to other existing and prospective stations. All station assignments are still bound by the requirement of § 73.315(a), which requires a minimum field strength of 3.16 millivolts per meter over the principal community to be served. Therefore, these rules do not alter the service obligations of licenses. Consequently, the use of directional antennas permitted by the Commission's Rules is not inconsistent with the mandate of section 307(b).

4. While the Report clearly stated that no change was being made to the FM channel allotment process in this proceeding, Mullaney asserts that this point is not clearly expressed in paragraph (a) of § 73.207 and that this could easily be misunderstood by the public. Upon review of that particular paragraph, the Commission agrees with Mullaney that the existing wording of paragraph (a) of § 73.207 could be misinterpreted. Thus, the Commission makes a minor editorial change to avoid misunderstanding.

5. Because contour protection has been used for many years in the NCE–FM broadcast service, the Commission anticipated that there would be little question of its validity as a station assignment methodology. In the Report, the Commission noted that contour protection takes into account the differences in elevations of the terrain surrounding stations, whereas the distance separation requirements are based on average terrain assumed to be uniform in all compass directions. The Commission observed that this failure to account for variations in the HAAT as a function of direction means that the separation requirements sometimes overprotect, and at other times, underprotect FM service. Thus, contour protection is a more accurate approach to making FM assignments. Consequently, the Commission concludes that in the Report, it did consider whether contour protection would adequately protect the FM service.

6. With respect to the NAB and ABES allegations that the Commission did not provide adequate notice of its proposals, the Commission notes that 5 U.S.C. 553(b)(3) requires only that Agencies give notice of "either the terms or substance of the proposed rule or a description of the subjects and issues involved." NAB is correct that when the Commission proposed to relax its spacing rules to permit short-spacing where contours were protected, it did not suggest that some spacing limits would still be maintained. In response to concerns expressed by commenters, including NAB, that this approach might cause objectionable interference, the Commission took a somewhat more cautious approach and retained some spacing requirements. Such a decision is well within the scope of the Notice and self-evidently a "logical outgrowth" therefrom. See *Small Refiner Lead Phase-Down Task Force* v. *EPA*, 705 F. 2d 506, 547 (D.C. Cir. 1983). With respect to NAB's suggestion that there was insufficient notice that non-commercial FM stations might be affected presumably because short-spacing to non-commercial stations might be permitted, paragraph 12 of the Notice indicated that short-spacing would be permitted to "adjacent and co-channel stations and allotments * * *" 3 FCC Rcd at 1821. Some non-commercial stations and allotments are, of course, adjacent to commercial stations. Thus, it was self-evident in the Notice that such non-commercial stations would be affected. Indeed, NPR recognized in its comments that some non-commercial stations could be affected. Finally, as indicated above, the Commission has not allowed the routine use of terrain shielding or terrain roughness. In footnote 15 of the Notice of Inquiry, 52 FR 20430, June 1, 1987 (Inquiry) the Commission specifically declined to consider terrain roughness in this proceeding. Terrain variation is a fundamental component of the contour determination process, an issue discussed in paragraph 15 of the Inquiry and paragraph 24 of the Notice. In view of the extensive description of the subject in both the Inquiry and the Notice, the Commission found that the notice requirements of the Administrative Procedures Act were legally satisfied.

7. The table in § 73.215(e) gives one minimum short-spaced separation distance for each class pair regardless of the class of station to be short-spaced. Problems occur when classes are mixed, *e.g.* B to C. Also, flexibility for second and third adjacent channels is modest because spacings are tight to begin with. Moreover, since the adoption of these new short-spacing distances, the Commission has created an additional intermediate C3 class of FM broadcast station for Zone II with maximum facilities of 25 kW effective rated power at 100 meters reference height above average terrain, and has also increased the maximum permitted power for Class A stations, including increased minimum separation distances with respect to Class A stations.

Prior to creation of the Class C3 stations, Class A station status was the next lower class from a Class C2 station that might propose to short-space its facilities; now, Class C3 is the next lower station classification in such situation. Also, with the Class A power increase provisions, the previously permitted amount of short-spaced separation has been reduced towards Class A stations. Thus, portions of the table in § 73.215(e) need updating.

8. Petitioners believe that the limits in the § 73.215(e) table are arbitrary and unduly restrictive (particularly in the case of second and third adjacent channel separations). There also appears to be some agreement that a fixed limit should be applied. The most popular limit mentioned is 8 kilometers (5 miles). Eight kilometers is, of course, the limit currently imposed by what was intended as a temporary note to the table in § 73.215(e). However, the Commission believes that it should continue to strike a balance between the 8 kilometer initially imposed and the essentially unrestricted limit suggested in dLR's petition. Therefore, the Commission concludes that the "next lower class" approach continues to be the most suitable limit at this time. Accordingly, § 73.215(e) will be updated to reflect changes in the station classes that have occurred since its adoption and to consistently reflect that the amount of short-spacing permitted is the lesser value obtained by referring to Table A in § 73.207.

9. The Commission concluded, in the Report, that the new FM short-spacing rules would permit it to discontinue granting waivers of § 73.207 for co-channel and adjacent channel short-spacing. Greater Media urges the Commission, however, to reconsider this policy change and to allow very minor short-spacing for multi-user common antenna systems that permit desirable co-location of facilities in metropolitan areas.

10. The FM directional antenna rules were developed in order to permit stations to short space in cases of necessity without diminishing the coverage of other stations. Certainly, technology exists that will afford the desired protection. Moreover, the Commission viewed the policy of waiving § 73.207, even if only to permit short-spacing of a mile, as undesirable because it undermines, at least to some extent, the effectiveness of the distance separation table. The adopted § 73.215 provides the site selection flexibility in those exceptional circumstances where no fully spaced sites are available. The Commission does not believe additional short-spacing waivers of § 73.207 would generally be in the public interest where an alternative means of achieving a similar result, such as § 73.215, is available. The Commission will also consider waiving § 73.215 to permit greater power where an applicant demonstrates the waiver is necessary to allow use of a multiplexed transmitting antenna and the authorization would otherwise serve the public interest. Therefore, the Commission will not reinstate consideration of § 73.207 waivers.

11. The Commission denies a request that stations authorized pursuant to § 73.215 be protected based on their maximum possible facilities and also a request that the Commission consider allowing stations to accept interference in limited cases. The Commission also maintains the adopted protection method involving contour overlap standards and declines to change either to an "equivalent protection" method as used in the television service or an alternate method used under the provisions for grandfathered short-spaced FM stations in § 73.213.

12. The Commission is concerned by an issue raised in petitions about the inconsistent treatment of second adjacent channel stations accorded by the commercial FM distance separation table in § 73.207 and the site flexibility provisions in § 73.215. In adopting the contour protection provisions, the Commission's model was the interference protection criteria that have been employed successfully by non-commercial educational FM stations (§ 73.509). In most situations, the NCE–FM requirements are based on the same planning factors as the commercial FM requirements. However, the second adjacent channel protection ratio is a significant exception. The adopted rules establish an incongruity in the way commercial FM stations are treated. Both the § 73.207 domestic distance separation table and the § 73.215(e) minimum distance table, which limits the extent of short-spacing, are based on a 40 dB protection ratio while the adopted contour protection provisions of section 215(a) require use of a more restrictive 20 dB protection ratio. The Commission has no reason to believe that the commercial FM second adjacent channel protection is inadequate, or that it allows significantly more actual interference than NCE–FM protection. Therefore, even though the Commission's confidence that contour protection is a valid approach is founded in part on non-commercial educational FM experience, the Commission now believes that it is more important to make the commercial FM contour protection provisions internally consistent with the other commercial FM requirements. Accordingly, the Commission amends § 73.215(a)(2) by replacing the overlap provision of an interference contour that is 20 dB higher than the protected contour of second adjacent channel stations with one that is 40 dB higher.

13. In the Report, the Commission concluded that its existing policy of restricting the rate of change of the horizontal antenna radiation pattern to 2 dB per 10 degrees of azimuth should be applied to all future directional antenna systems. Additionally, due to a lack of support in the comments, the Commission decided not to amend the current requirement restricting the maximum to minimum antenna pattern gain to a 15 dB ratio.

14. Upon reconsideration, the Commission is persuaded that it should apply to 2 dB per 10 degrees rate of change limitation only where the directional antenna is used to provide protection to a short-spaced station. At this time the Commission is not prepared to eliminate or otherwise change either this requirement or the 15 dB maximum to minimum radiation ratio limit. While the Commission recognizes that the contour overlap provisions of § 73.215 adopted in this proceeding require protection of a station's entire service area, the Commission does not have an adequate record to justify relaxing these antenna requirements. The Commission expects to further consider these matters when it institutes a separate proceeding on FM directional antennas. Finally, the Commission is amending § 73.316(b)(1) to clarify that it now considers the 15 dB maximum to minimum radiation limit to be a requirement imposed on the antenna design and, while the goal should be to construct an antenna that will match the predicted pattern, the Commission recognizes that the actual pattern of the constructed and installed antenna may depart from that limit.

15. The intent behind the provision of § 73.316(c) (6) and (7) adopted in the Report was to ensure that the pattern of a directional antenna was not distorted by other nearby objects in the horizontal plane. For example, the "platform restriction" was developed out of concern that a directional antenna intended to be mounted on top of a tower in an unobstructed configuration could have its pattern distorted by another FM, TV or even a land mobile antenna that might be mounted nearby elsewhere on the platform.

16. The Commission continues to believe that at this time it must proceed cautiously and assure that FM directional antennas operate in a controlled, unobstructed and static environment. The Commission's review of the provisions in § 73.316(c) (6) and (7) leads it to conclude that they strike an appropriate balance between the differing concerns of the parties in this proceeding and that their amendment at this time is not warranted. However, the Commission recognizes that these provisions could unnecessarily preclude some valid FM directional antenna designs. Therefore, while the Commission will consider waiving these rules in appropriate cases, upon a showing that the particular antenna design takes into consideration all other nearby antennas and other potentially reradiating structures, the requests for amendment of § 73.316(c) (6) and (7) will be denied.

17. The Commission agrees with the petitioners that a refinement in § 73.316(c)(8) is necessary. On reconsideration, the Commission believes that certification of an FM directional antenna's installation "pursuant to the manufacturer's instructions" is outside the competence of a surveyor. Therefore, the Commission is revising the rule to require that the installation be certified by an engineer whose qualifications shall be submitted at the time of application for license. However, inasmuch as most electronics engineers are not trained in surveying, the Commission will continue to require that a licensed surveyor certify that the azimuth of the directional antenna is "in the proper orientation." The Commission expects that at the time surveying services are either arranged for or provided, the surveyor will be provided with the information necessary to determine the relationship between the antenna's main lobe and its mechanical construction.

18. In the Report, the Commission found no apparent need for changes in the policies and rules governing installation and maintenance of directional antenna performance. The Commission stated that existing requirements would be sufficient, for the most part, but added a number of requirements in § 73.316(c) to further ensure that the predicted directional performance will be realized and maintained. The Commission will also continue to require proofs of performance to establish that directional antennas have acceptable measured patterns. While petitions do not contain the information necessary to improve upon the current requirements, this matter may be explored further in a future directional antenna rule making. Until then, the Commission believes the current provisions will be sufficient.

19. The Report did not address the greater facilities permitted for FM stations in Puerto Rico and the Virgin Islands by § 73.211(b)(3). The Commission now concludes that stations in Puerto Rico and the Virgin Islands that may wish to short-space their antenna sites may do so by applying the protection method set forth in the grandfather provisions of § 73.213. Thus, § 73.215 is amended to allow these stations to short-space their locations provided the predicted distance to the 1 mV/m field strength contour is not extended toward the 1 mV/m field strength contour of any short-spaced station.

20. The Commission notes that non-commercial licensees operate on channels 218, 219, and 220 on a contour protection basis, and are required to afford maximum protection to adjacent channel commercial station licensees. Thus, in keeping with current assignment practice, the Commission wishes to make clear that adjacent channel commercial stations should base the protection afforded such non-commercial stations on their actual facilities since this is the level of protection that they receive from other non-commercial stations.

21. The Commission clarifies that existing short-spacings that occurred after November 1964, and therefore, are not covered under § 73.213 of the rules may also seek modifications pursuant to § 73.215 even if they have existing overlap with another FM station. While the directional antenna provisions are primarily intended to maximize protection to the service of the non-encroaching station, the Commission sees no reason why existing short-spaced licensees seeking to re-locate to another similarly short-spaced site should forfeit service already established in directions where some overlap exists. Therefore, the Commission will permit such facility re-location provided the current overlap is not increased.

22. Pursuant to the Regulatory Flexibility Act of 1980, the decisions in this action have been analyzed and 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.

23. Accordingly, *it is ordered* That the Petitions for Reconsideration *are granted* to the extent indicated above and are denied in all other respects. *It is Further ordered* That, pursuant to authority contained in section 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303, and effective November 15, 1991, part 73 of the Commission's rules *is amended* as set forth below.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Amendatory Text

47 CFR part 73 is amended as follows:

1. The authority citation for 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 five pairs of 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 unless the reference points meet all of the minimum distance separation requirements of this section. The Commission will not accept 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 73.215 is amended by revising paragraph (a)(2), adding paragraph (a)(4), and revising paragraph (e) to read as follows:

§ 73.215 Contour protection for short-spaced assignments.

* * * * *

(a) * * *

(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 both second and third adjacent channel stations (±400 kHz and ±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.

* * * * *

(4) Stations in Puerto Rico and the Virgin Islands may submit application for short-spaced locations provided the predicted distance to their 1 mV/m field strength contour is not extended toward the 1 mV/m field strength contour of any short-spaced station.

* * * * *

(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	92(57)	49(30)	29(18)
A to B1	119(74)	72(45)	46(29)
A to B	143(89)	96(60)	67(42)
A to C3	119(74)	72(45)	40(25)
A to C2	143(89)	89(55)	53(33)
A to C1	178(111)	111(69)	73(45)
A to C	203(126)	142(88)	93(58)
B1 to B1	143(89)	96(60)	48(30)
B1 to B	178(111)	114(71)	69(43)
B1 to C3	143(89)	96(60)	48(30)
B1 to C2	175(109)	114(71)	55(34)
B1 to C1	200(124)	134(83)	75(47)
B1 to C	233(145)	165(103)	95(59)
B to B	211(131)	145(90)	71(44)
B to C3	178(111)	114(70)	69(43)
B to C2	211(131)	145(90)	71(44)
B to C1	241(150)	169(105)	77(48)
B to C	270(168)	195(121)	105(65)
C3 to C3	142(88)	89(55)	42(26)
C3 to C2	166(103)	106(66)	55(34)
C3 to C1	200(124)	133(83)	75(47)
C3 to C	226(140)	165(103)	95(59)
C2 to C2	177(110)	117(73)	56(35)
C2 to C1	211(131)	144(90)	76(47)
C2 to C	237(147)	176(109)	96(60)
C1 to C1	224(139)	156(98)	79(49)
C1 to C	249(155)	186(117)	105(65)
C to C	270(168)	209(130)	105(65)

* * * * *

4. 47 CFR 73.316 is amended by revising paragraphs (b) 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) Applications for the use of directional antennas that propose a ratio of maximum to minimum radiation in the horizontal plane of more than 15 dB will not be accepted.

(2) Directional antennas used to protect short-spaced stations pursuant to § 73.213 or § 73.215 of the rules, that have a radiation pattern which varies more than 2 dB per 10 degrees of azimuth will not be authorized.

(c) * * *

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

* * * * *

[FR Doc. 91-24502 Filed 11-7-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-124; RM-7586]

Radio Broadcasting Services; Bentonville, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 252C3 for Channel 252A at Bentonville, Arkansas, and modifies the license of Station KOLZ(FM) to specify operation on the higher powered channel, as requested by Demaree Media, Inc. See 56 FR 19827, April 30, 1991. Coordinates for Channel 252C3 at Bentonville are 36-31-08 and 94-10-38. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 23, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-124, adopted October 24, 1991, and released November 5, 1991. 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, Downtown Copy Center, (202) 452-1422, 1714-21st Street, NW., Washington, DC 20036.

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 for Arkansas, is amended by removing Channel 252A at Bentonville and adding Channel 252C3.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-27034 Filed 11-7-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 911066-1266]

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission, publishes notice of amended regulations promulgated by that Commission and approved by the U.S. Government to govern the Pacific halibut fishery. These regulations are intended to allow full harvests, within conservation constraints, of available