

47 CFR Part 73

[MM Docket No. 95-86; RM-8636]

**Radio Broadcasting Services;
Frankenmuth, MI****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: This document allots Channel 229A to Frankenmuth, Michigan, as that community's first local service in response to a petition filed by Frankenmuth Broadcasting, Inc. See 60 FR 32933, June 26, 1995. There is a site restriction 14.9 kilometers (9.3 miles) southeast of the community at coordinates 43-18-21 and 83-33-28. Concurrence has been received from the Canadian government for Channel 229A as a specially negotiated short-spaced allotment. With this action, this proceeding is terminated.

DATES: Effective October 23, 1995. The window period for filing applications will open on October 23, 1995, and close on November 24, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 95-86, adopted August 30, 1995, and released September 7, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Frankenmuth, Channel 229A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95-22569 Filed 9-11-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 90

[PR Docket No. 92-235, DA 95-1839]

**Freeze on the Filing of Applications for
12.5 KHz Offset Channels in the 421-
430 MHz and 470-512 MHz Bands****AGENCY:** Federal Communications Commission.**ACTION:** Final rule; Clarification.

SUMMARY: On June 15, 1995, the Commission adopted a *Report and Order* that resolves many of the technical issues which have inhibited private land mobile radio (PLMR) users from employing the most spectrally efficient technologies. This document clarifies the June 15, 1995 *Report and Order* so that license applications on frequencies 12.5 kHz removed from any channel available under the former rules in the 421-430 MHz and 470-512 MHz frequency bands will not be accepted for filing until issues are resolved relative to proper frequency coordination. Upon the resolution of these issues, the Commission will notify the public as to the lifting of the freeze.

EFFECTIVE DATE: August 22, 1995.

FOR FURTHER INFORMATION CONTACT: Ira Keltz of the Wireless Telecommunications Bureau at (202) 418-0616.

SUPPLEMENTARY INFORMATION: On June 15, 1995, the Commission adopted a *Report and Order*, PR Docket 92-235, FCC 95-255 (60 FR 37152, July 19, 1995), to promote more efficient use of the private land mobile radio (PLMR) spectrum in the 150-174 MHz VHF band, and in the 421-430 MHz, 450-470 MHz, and 470-512 MHz UHF bands. In the *Report and Order*, the Commission recognized the need for time to develop frequency coordination standards for the new narrowband channel plans. It stated that all new channels 7.5 kHz removed from any channel available in the 150-174 MHz band under the former rules, and those channels 6.25 kHz removed from any channel available in the 421-512 MHz UHF bands under the former rules, would not be available for licensing until August 18, 1996. See *Report and Order*, paragraph 41. Consistent with comments of the PLMR community, however, the Commission concluded that coordination and assignments on

the new channels 12.5 kHz removed in the UHF band could proceed.

On August 11, 1995, the Bureau granted a request by Hewlett-Packard Company (HP) to freeze the filing of new high-powered stations on 12.5 kHz offset channels in the 450-470 MHz band (60 FR 43720, August 23, 1995). On that same day, August 11, the Land Mobile Communications Council (LMCC) submitted a request to stay all assignments on the new channels in the VHF 150-174 MHz band and the UHF 421-430, 450-470, and 470-512 MHz bands. On August 17, LMCC provided supplemental information relating to this request. LMCC notes that the *Report and Order* created a complex new PLMR environment with a wide variety of operational systems, including analog and digital, trunked and conventional, older wideband and newer narrowband, and high and low-power stations. LMCC contends that at this time, the frequency coordinators do not have the information to make informed frequency recommendations regarding the assignment of the new channels.

In the *Report and Order*, we decided not to accept applications for new channels 7.5 kHz removed from any channel in the VHF band and 6.25 kHz removed from any channel in the 421-512 MHz UHF band pending the development of standards. The Bureau now also believes that the public interest will be served by giving the land mobile community additional time to develop standards for 12.5 kHz offset channels in the 421-430 MHz and 470-512 MHz UHF bands. Therefore, we are expanding the freeze granted on August 11 to include all new frequencies that are 12.5 kHz removed from any frequency available in the 421-430 MHz and 470-512 MHz bands under the former rules. As with our freeze on applications for high-powered stations on the 450-470 MHz offset channels, this freeze will be in effect until the issues related to proper coordination are resolved. Upon resolution of these issues, we will notify the public of the lifting of the freeze on these channels.

The imposition of the freeze is procedural in nature and, therefore, is not subject to the notice and comment, and effective date requirements of the Administrative Procedure Act (APA) (5 U.S.C. § 553). See *Neighborhood TV Co., Inc. v. FCC*, 742 F.2d 629 (D.C. Cir. 1984), *Buckeye Cablevision, Inc., v. United States*, 438 F.2d 948 (6th Cir. 1971), and *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963). Furthermore, good cause exists for this exception to the APA's notice and comment, and effective date requirements, because it would be impractical, unnecessary, and

contrary to the public interest if the Commission did not act to protect the PLMR spectrum from potential harmful interference. This action is effective August 22, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-22293 Filed 9-11-95; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF ENERGY

48 CFR Chapter 9

Acquisition Regulation; Regulatory Reduction

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today issues a final rule to amend the Department of Energy Acquisition Regulation (DEAR) in its continuing effort to achieve the goals of several Executive Orders (EO), including: EO 12861, Elimination of One-Half of Executive Branch Internal Regulations; EO 12931, Federal Procurement Reform; and EO 12866, Regulatory Planning and Review. This rule deletes existing regulatory material that has been determined to be unnecessary. Specific material deleted from the DEAR is summarized in the "Section-by-Section Analysis" appearing later in this document.

EFFECTIVE DATE: This final rule will be effective October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Kevin M. Smith, Office of Policy (HR-51), Office of Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 586-8189.

SUPPLEMENTARY INFORMATION:

I. Background

II. Section-by-Section Analysis

III. Procedural Requirements

- A. Review Under Executive Order 12866
- B. Review Under Executive Order 12778
- C. Review Under the Regulatory Flexibility Act
- D. Review Under the Paperwork Reduction Act
- E. Review Under Executive Order 12612
- F. Review Under the National Environmental Policy Act
- G. Public Hearing Determination

I. Background

Executive Order (EO) 12861, dated September 11, 1993, Elimination of One-Half of Executive Branch Internal Regulations, was issued by the President to streamline Government operations,

improve productivity, and improve customer service. EO 12931, dated October 13, 1994, Federal Procurement Reform, calls for significant changes to make the Government procurement process more effective and efficient. EO 12866, dated September 30, 1993, Regulatory Planning and Review, requires agencies to review regulations to improve effectiveness and to reduce regulatory burden. This rule eliminates existing regulatory material that is unnecessary. In promulgating this rule, the Department will further the objectives of the EOs by reducing the volume of the DEAR; streamlining operations; reducing constraints, prescriptive requirements, and administrative processes; making requirements outcome oriented vs. process oriented; and, defining roles and responsibilities at the lowest appropriate level within the procurement organization by lowering certain responsibilities from the Head of the Contracting Activity to the contracting officer. The DEAR coverage removed includes material that is for informational purposes only and nonregulatory in nature; internal guidance and procedures; regulations that constrain the Department's own procuring activities; coverage that is more restrictive than the Federal Acquisition Regulation (FAR); and coverage that is repetitive of the FAR or of other regulations. A Notice of Proposed Rulemaking was published in the **Federal Register** on June 8, 1995 (60 FR 30258). Interested persons were invited to participate in this rulemaking by submitting data, views or arguments with respect to the DEAR amendments set forth in the Notice of Proposed Rulemaking. The public comment period closed on August 7, 1995, a period of 60 days. During that period, no comments were received by DOE.

II. Section-by-Section Analysis

The following sections of the DEAR are eliminated:

1. Section 901.103, second sentence, addressing the applicability of the DEAR to procurements using nonappropriated funds; this is recommended guidance and is nonregulatory in nature.
2. Subsection 901.103-70, identifying those types of actions excluded from the scope of the DEAR; this is for informational purposes only and is nonregulatory in nature.
3. Subsection 901.104-3, third sentence of paragraph (a), and paragraph (b), identifying distribution procedures of the DEAR; this is for informational purposes only and is nonregulatory in nature.

4. Section 901.170, explaining references to organizations within DOE; this is for informational purposes only and is nonregulatory in nature.

5. Subsection 901.301-71, addressing the amendment procedure; this is internal procedural information and is nonregulatory in nature.

6. Subsection 901.301-72, paragraphs (a), (b), and (c), detailing other issuances related to acquisition; this is for informational purposes only and is nonregulatory in nature.

7. Subsection 901.601-70, prescribing the use of internal controls for DOE activities; this is internal oversight procedure and is nonregulatory in nature.

8. Subsection 901.603-70, addressing modification to existing contracting officer authority; this is internal oversight procedure and is nonregulatory in nature.

9. Subsection 901.603-71, addressing the responsibility of other Government personnel; this is internal oversight procedure and is nonregulatory in nature.

10. Subsection 901.603-72, paragraph (b), addressing contracting officer subordinates; this is for informational purposes only and is nonregulatory in nature.

11. Subpart 902.1, providing definitions; this is for informational purposes only and is nonregulatory in nature.

12. Subsection 903.101-3, last four sentences, requiring a standards of conduct notebook to be maintained at all contracting activities; this is unduly constrictive oversight of the Department's contracting offices.

13. Section 904.402, paragraph (b), second and third sentences, and paragraphs (c) through (k), providing cross-reference information on security issues; this is for informational purposes only and is nonregulatory in nature.

14. Section 904.403, providing cross-reference information on restricted data; this is for informational purposes only and is nonregulatory in nature.

15. Section 904.601, providing information on contract reporting; this is for informational purposes only and is nonregulatory in nature.

16. Subsection 904.601-70, providing information on contract reporting; this is for informational purposes only and is nonregulatory in nature.

17. Subsection 904.601-71, paragraphs (a) and (b), providing information on contract reporting; this is for informational purposes only and is nonregulatory in nature.

18. Section 904.702, paragraph (b), second sentence, explaining the need for longer retention periods of certain