

FEDERAL MARITIME COMMISSION

46 CFR part 565

[Docket No. 98–25]

Amendments to Regulations Governing Restrictive Foreign Shipping Practices, and New Regulations Governing Controlled Carriers

AGENCY: Federal Maritime Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Maritime Commission published in the **Federal Register** of February 18, 1999, a final rule making changes and corrections to existing regulations to update and improve them, and to bring them into conformity with the Ocean Shipping Reform Act of 1998. Inadvertently, § 565.10 was mistitled.

FOR FURTHER INFORMATION CONTACT:

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street N.W., Washington, D.C. 20573–0001, (202) 523–5740.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission (“Commission”) published a final rule in the **Federal Register** of February 18, 1999 (64 FR 8007) which, among other changes, implemented rules addressing controlled carriers. The Commission inadvertently mistitled § 565.10 “Suspension procedures period and replacement rates.” The correct title for this section is “Suspension procedures, period of suspension, and replacement rates.”

In Docket No. 98–25, published on February 18, 1999 (64 FR 8007), make the following corrections:

On page 8011, in the first column, in the table of contents, replace “565.10 Suspension procedures period and replacement rates” with “565.10 Suspension procedures, period of suspension, and replacement rates.”

On page 8012, in the second column, replace “565.10 Suspension procedures period and replacement rates” with “565.10 Suspension procedures, period of suspension, and replacement rates.”

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–5330 Filed 3–3–99; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 97–153, RM–8584, RM–8623, RM–8680, RM–8734; FCC 99–9]

Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has released this document that adopts several amendments to the Private Land Mobile Radio Services rules. This document was prepared in response to the Commission’s *Notice of Proposed Rulemaking* in this proceeding regarding eliminating certain frequency coordination requirements in the Business Radio Service, the transmission of safety alerting signals on Radiolocation Service frequencies, and modifying construction and loading requirements for private, non-Specialized Mobile Radio systems operating in the 800 and 900 MHz bands. The adopted rules will reduce the regulatory burden on licensees, and will promote more efficient and flexible use of the private land mobile radio frequency spectrum.

DATES: Effective April 5, 1999.

FOR FURTHER INFORMATION CONTACT:

Gene Thomson, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Report and Order*, WT Docket No. 97–153, FCC 99–9, adopted January 28, 1999, and released February 19, 1999. The full text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 246, 1919 M Street N.W., Washington, D.C. The complete text may be purchased from the Commission’s copy contractor, ITS, Inc., 1231 20th St. N.W., Washington, D.C. 20036, telephone (202) 857–3800. The complete (but unofficial) text is also available on the Commission’s Internet site at <<http://www.fcc.gov/Bureaus/Wireless/Notices/1999/index.html>> under the file name “fcc999txt” in ASCII text and “fcc999.wp” in Word Perfect format.

Synopsis of the Report and Order

1. The Commission has released a *Report and Order* that adopts several amendments to part 90 of the rules concerning the Private Land Mobile

Radio Services. These amendments were proposed in a *Notice of Proposed Rulemaking* contained in 62 FR 46468 (September 3, 1997). The rule changes include: (1) the elimination of frequency coordination requirements for five low-power frequencies in the Industrial/Business Pool; (2) permitting the transmission of alerting signals for a safety warning system operating at 24.10 GHz in the Radiolocation Service; and (3) extending the construction period requirement for private, non-Specialized Mobile Radio systems operating in the 800 and 900 MHz bands from eight months to twelve months.

Administrative Matters*Final Regulatory Flexibility Analysis*

2. As required by the Regulatory Flexibility Act (“RFA”), the Commission has prepared this present Final Regulatory Flexibility Analysis (“FRFA”) which conforms to the RFA.

A. Need for, and Objectives of, the Adopted Rules

3. To reduce regulatory requirements, the Commission has adopted rules to: (1) amend part 90 of its rules to increase the construction period applicable to non-Specialized Mobile Radio, 800 and 900 MHz land mobile radio systems from eight months to one year; (2) delete the frequency coordination requirement before a station can be licensed for mobile operation on five low power frequencies in the 150–174 MHz band; and (3) permit the use of frequencies in the Radiolocation Service 24.05–24.25 GHz band for the transmission of alerting signals to warn motorists of hazardous driving conditions. These rule changes will permit licensees more time to construct their systems, and will promote more flexible use of land mobile spectrum. We believe these changes will encourage growth of land mobile systems and enhance telecommunications offerings for consumers, producers and new entrants.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. No comments were submitted specifically in response to the Initial Regulatory Flexibility Analysis. We expect, however, that our actions will benefit all entities subject to these rule changes, including small businesses.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by

the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

6. The adopted rules apply to businesses and local government entities that operate radio systems for their own internal use in the PLMR services. PLMR systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed nor would it be possible to develop a definition of small businesses specifically applicable to PLMR users. Therefore, for the purpose of determining whether a licensee is a small business as defined by the Small Business Administration (SBA), each licensee would need to be evaluated within its own business area. Therefore, the appropriate definition for PLMR small businesses is SBA's definition for radiotelephone (wireless) companies. That definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.

7. We sought comment on the number of small businesses which could be impacted by the proposed rules. We noted that the Commission's 1994 Annual Report indicates that at the end of fiscal year 1994 there were approximately 292,000 PLMR stations and 5.4 million transmitters operating in the 800, 900 MHz and 24 GHz bands. Further, because any entity engaged in a business activity is eligible to hold a PLMR license, the adopted rules could potentially impact every small business in the U.S. There are far fewer than 292,000 licensees among the 292,000 PLMR stations. We do not have data specifying the number of these licensees that have 1,500 employees or fewer and are not dominant in their field of operation, and thus are unable at this time to estimate with greater precision the number of such entities that might qualify as small business concerns under the SBA's definition. In reality, however, the number of small businesses affected by the change in the construction period rule and the

elimination of the frequency coordination requirement for five VHF low power frequencies, is expected to be very small.

8. As noted, the RFA also includes small governmental entities as a part of the regulatory flexibility analysis. The definition of a small governmental entity is one with a population of less than 50,000. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities, and towns, and of those, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or 81,600 are small entities that may be affected by our adopted rule to permit public safety licensees (local government entities) to use the frequency 24.10 GHz for transmitting traffic safety alerting signals. The decision whether or not to use this frequency would be made by each local governmental agency.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

9. The extension of the construction period from 8 to 12 months for 800 and 900 MHz non-Specialized Mobile Radio licensees will ease the regulatory burden on these licensees. The deletion of the frequency coordination requirement for certain frequencies in the 150-174 MHz band will eliminate the frequency coordination fees that applicants were required to pay before receiving a license from the Commission. No new requirements would be imposed as a result of the actions adopted in this rule making proceeding. Thus, costs to certain applicants for the preparation and filing of license applications would be reduced.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

10. In the IRFA, we indicated that an alternative to our proposed rule to extend the construction period from 8 months to 12 months for 800 and 900 MHz non-SMR licensees would be to permit a longer than 12 month construction period for small entities. We requested comments on whether a longer construction period is necessary for small entities or whether the current

waiver process is sufficient. No comments were submitted in response to our request. No commenters raised any alternatives to any of our proposals. We believe that changing from an eight month to a twelve month construction period will ease the regulatory burden on small businesses by reducing the need for small business to request extensions of the construction period.

Report to Congress: The Commission will send a copy of this *Report and Order*, WT Docket No. 97-153, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order*, WT Docket No. 97-153, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A summary of the *Report and Order*, WT Docket No. 97-153, including the FRFA, will also be published in the **Federal Register**.

Ordering Clauses

11. Accordingly, *it is ordered* that, pursuant to the authority of Sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 332(a)(2), part 90 of the Commission's Rules, 47 CFR part 90 is amended as set forth in the attached *Rule Changes*.

12. *It is further ordered* that the rule changes adopted herein will become effective April 5, 1999.

13. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Report and Order*, WT Docket No. 97-153, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.
Federal Communications Commission.
Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

Authority: Sections 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.20 is amended by revising paragraph (f)(4) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(f) * * *

(4) A licensee of a radio station in this service may operate radio units for the purpose of determining distance, direction, speed, or position by means of a radiolocation device on any frequency available for radiolocation purposes without additional authorization from the Commission, provided type accepted equipment or equipment authorized pursuant to §§ 90.203(b)(4) and (b)(5) of this part is used, and all other rule provisions are satisfied. A licensee in this service may also operate, subject to all of the foregoing conditions and on a secondary basis, radio units at fixed locations and in emergency vehicles that transmit on the frequency 24.10 GHz, both unmodulated continuous wave radio signals and modulated FM digital signals for the purpose of alerting motorists to hazardous driving conditions or the presence of an emergency vehicle. Unattended and continuous operation of such transmitters will be permitted.

3. Section 90.35 is amended by adding paragraph (d)(7) to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(d) * * *

(7) A railroad licensee, i.e., a licensee eligible for frequencies listed in § 90.35(b)(3) of this section that are coordinated by the railroad coordinator (LR), may operate radio units at fixed locations and in moving railroad locomotives/cars that transmit on the frequency 24.10 GHz, both unmodulated continuous wave radio signals and modulated FM digital signals for the purpose of alerting motorists to the presence of an approaching train. Unattended and continuous operation of such transmitters will be permitted without additional authorization from the Commission, provided type accepted equipment or equipment authorized pursuant to §§ 90.203(b)(4) and (b)(5) of this part is used, and all other rule provisions are satisfied.

4. Section 90.103 is amended by revising paragraph (c)(22) to read as follows:

§ 90.103 Radiolocation Service.

* * * * *

(c) * * *

(22) For frequencies 2455 MHz, 10,525 MHz, and 24,125 MHz, only

unmodulated, continuous wave (NON) emission shall be employed. The frequency 24.10 GHz, and frequencies in the 24.20–24.25 GHz band may use NON emission along with an ancillary FM digital emission. The frequency 24.10 GHz will be used for the purpose of alerting motorists of hazardous driving conditions and the presence of emergency vehicles. Equipment operating on 24.10 GHz must keep the deviation of the FM digital signal within ± 5 MHz. Equipment operating on this frequency must have a frequency stability of at least 2000 ppm and is exempt from the requirements of §§ 90.403(c), 90.403(f), and 90.429 of this part.

* * * * *

5. Section 90.175 is amended by revising paragraph (i)(5) to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(i) * * *

(5) Applications in the Industrial/Business Pool requesting a frequency designated for itinerant operations, and applications requesting operation on 154.570 MHz, 154.600 MHz, 151.820 MHz, 151.880 MHz, and 151.940 MHz.

* * * * *

6. Section 90.633 is amended by revising paragraphs (c) and (d) to read as follows:

§ 90.633 Conventional systems loading requirements.

* * * * *

(c) Except as provided in § 90.629 of this part, licensees of conventional systems must place their authorized stations in operation not later than one year after the date of grant of the system license.

(d) If a station is not placed in operation within one year, except as provided in Section 90.629 of this part, the license cancels automatically. For purposes of this section, a base station is not considered to be in operation unless at least one associated mobile station is also in operation.

* * * * *

7. Section 90.651 is amended by revising paragraph (c) to read as follows:

§ 90.651 Supplemental reports required of licensees authorized under this subpart.

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(c) Licensees of conventional systems must report the number of mobile units placed in operation within twelve months of the date of the grant of their

license. Such reports shall be filed within 30 days from that date.

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[FR Doc. 99–5216 Filed 3–3–99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981222313–8320–02; I.D. 022699C]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/“Other Flatfish” Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/“other flatfish” fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/“other flatfish” fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 26, 1999, until 1200 hrs, A.l.t., March 30, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at Subpart H of 50 CFR part 600 and 50 CFR part 679.

The Interim 1999 Harvest Specifications of Groundfish (64 FR 50, January 4, 1999) established the first seasonal apportionment of halibut bycatch mortality specified for the BSAI trawl rock sole/flathead sole/“other flatfish” fishery category, which is defined at § 679.21(e)(3)(iv)(B)(2), as 184 metric tons.