

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined

that this rule is not "significant" and is therefore not subject to OMB review.

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

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

Dated: March 3, 1995.

Stephen L. Johnson,
Director, Registration Division, 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 and 371.

2. In § 180.449, by revising paragraph (b), to read as follows:

§ 180.449 Avermectin B₁ and its delta-8,9-isomer; tolerances for residues.

* * * * *

(b) Tolerances are established for the combined residues of the insecticide avermectin B₁ and its delta-8,9-isomer [a mixture of avermectin containing greater than 80 percent avermectin B_{1a} (5-O-demethyl avermectin A_{1a}) and less than 20 percent avermectin B_{1b} (5-O-demethyl-25-di(1-methylpropyl)-25-(1-methylethyl) avermectin A_{1a})] in or on the following commodities:

Commodity	Parts per million
Celery	0.05
Lettuce, head	0.05
Strawberry	0.02
Tomatoes, fresh	0.01

[FR Doc. 95-6416 Filed 3-14-95; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7124

[NM-930-1430-01; NMMN 88049]

Public Land Order No. 7067, Correction; Withdrawal of National Forest System Land for Guadalupe Canyon Zoological Botanical Area; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will correct an error in the land description in Public Land Order No. 7067.

EFFECTIVE DATE: March 15, 1995.

FOR FURTHER INFORMATION CONTACT: Jeanette Espinosa, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502, 505-438-7597.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

The land description in Public Land Order 7067, 59 FR 35859, July 14, 1994, is hereby corrected as follows:

The third column, line 3, which reads "sec. 24, NE¹/₄NW¹/₄ and S¹/₂SE¹/₄;" is hereby corrected to read "sec. 24, NE¹/₄SE¹/₄ and S¹/₂SE¹/₄;"

Dated: March 2, 1995.

Bob Armstrong,
Assistant Secretary of the Interior.
[FR Doc. 95-6279 Filed 3-14-95; 8:45 am]

BILLING CODE 4310-FB-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 24

[GEN Docket No. 90-314, ET Docket No. 92-100, FCC 95-92]

Personal Communications Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: On March 3, 1995, the Commission released a Memorandum Opinion and Order revising certain sections of its Rules governing the Personal Communications Services (PCS). The action in the instant Order responds to petitions for reconsideration filed by Morgan Stanley Partnerships on September 6 and October 7, 1994 in the Commission's broadband and

narrowband PCS proceedings. The Order refines and clarifies the Commission's Rules concerning the ownership attribution of licenses in view of the Commission's decisions to use a multiplier when assessing indirect ownership interests. The rule amendments are intended to encourage investment in PCS, particularly by institutional investors, and promote the rapid deployment of such new services in the public interest.

EFFECTIVE DATE: March 15, 1995.

FOR FURTHER INFORMATION CONTACT: Jackie Chorney, Wireless Telecommunications Bureau, (202) 418-0600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order in GEN Docket No. 90-314, ET Docket No. 92-100m, FCC 95-92, adopted March 2, 1995, and released March 3, 1995. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of Order

1. The Commission's PCS proceedings are designed to promote four primary goals: competitive delivery, a diverse array of services, rapid deployment, and wide-area coverage. The Commission notes that the ability of PCS entrants to attract capital is essential to achieving these goals. In essence, Morgan Stanley Partnerships argues in its petitions for reconsideration that the Commission's PCS attribution rules do not promote this ability sufficiently. The Commission states that while promoting PCS investment is an important public interest component of its PCS policies, its attribution rules are designed principally to operate in conjunction with ownership limits to maintain a competitive PCS industry. The Commission expresses that the real question, therefore, is whether treating institutional investors differently under its PCS attribution rules will improve investment incentives without undercutting those rules' primary goal of serving as anticompetitive safeguards. The Commission answers that question affirmatively.

2. The Commission states that it has long recognized a distinction between institutional investors and other investors, and that this results, in part, because the term "institutional

investors" identifies a category of investors that may be defined with some precision. The Commission agrees with Morgan Stanley Partnerships that institutional investors' market activities generally do not raise the type of "control" issues that led the Commission to adopt "bright line" PCS attribution rules. Indeed, the Commission observes that it recently amended its rules in this regard to further clarify the definition of institutional investor under the PCS rules and to promote such investors' opportunities to serve as an important source of funding for designated entity PCS companies. The Commission finds that modifying the narrowband and broadband PCS attribution rules in light of the request of Morgan Stanley Partnerships is consistent with the Commission's traditional policy and recent action regarding institutional investors. Moreover, the Commission believes that these modifications will serve as an important means for encouraging increased passive investment in PCS. Accordingly, the Commission states that it is amending its PCS rules to: (1) exempt from attribution insulated limited partnership interests held by institutional investors, subject to those investors certifying to the Commission that they are not materially involved directly or indirectly in the management or operation of the carrier activities of the partnership; and (2) increase from five to ten percent the level at which institutional investors' PCS license ownership interests will be attributed. Consistent with this change, the Commission is clarifying that for purposes of the reporting requirements of section 24.813 of its rules, institutional investors are not considered attributable investors in an applicant unless they hold an ownership interest of 10 percent or more in the applicant. The Commission is amending section 24.813(a)(2) to require applicants to report ownership interests held by institutional investors only if such ownership interests are 10 percent or more.

3. The Commission declines, however, to adopt the single majority shareholder exception requested by Morgan Stanley. The Commission believes that such an exception is unnecessary to address the issues raised by Morgan Stanley regarding the application of the multiplier to indirect institutional investments and to enable PCS applicants to attract capital from institutional investors given the above-described modifications to its attribution rules.

4. In addition, the Commission concludes that institutional investors who held limited partnership interests prior to the adoption date of this order shall be granted one year from that date to amend their limited partnership agreements to comply with the insulation rules. During this transition period, affected licensees shall certify to the Commission that the limited partners are not materially involved, directly or indirectly, in the management or operation of a PCS licensee.

5. The Commission notes that it decided previously not to apply the multiplier rule to nationwide narrowband PCS licenses granted under its pioneer preference rules prior to August 16, 1994, or to nationwide narrowband PCS licenses auctioned before August 16, 1994 (the date on which it adopted the narrowband PCS multiplier rule). The Commission continues to believe that it would not be equitable to apply the multiplier rule to those licensees. In keeping with that rationale, however, the Commission clarifies that this exemption will expire with respect to a particular interest in a license if in the future that exempt interest is transferred or assigned to another entity.

Ordering Clauses

6. It is Further Ordered That the petitions for reconsideration filed by Morgan Stanley on September 6 and October 7, 1994, in our broadband and narrowband PCS proceedings, respectively, Are Granted to the extent discussed above.

7. Accordingly, It is Ordered that Part 24 of the Commission's Rules Is Amended as specified below, And Will Become Effective immediately upon publication in the **Federal Register**.

8. This action is taken pursuant to sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r).

List of Subjects in 47 CFR Part 24

Communication common carriers, Radio, Reporting and recordkeeping requirements.

47 CFR Part is amended as follows:

PART 24—PERSONNEL COMMUNICATIONS SERVICE

1. The authority citation for Part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332, unless otherwise noted.

2. Section 24.101 is revised to read as follows:

§ 24.101 Multiple ownership restrictions.

(a) Narrowband PCS licensees shall not have an ownership interest in more than three of the 26 channels listed in § 24.129 in any geographic area. For purposes of this restriction, a narrowband PCS licensee is:

(1) Any institutional investor, as defined in § 24.720(h), with an ownership interest of ten or more percent in a narrowband PCS license; and

(2) Any other person or entity with an ownership interest of five or more percent in a narrowband PCS license.

(b) In cases where a party had indirect ownership, through an interest in an intervening entity (or entities) that has ownership in the narrowband license, that indirect ownership shall be attributable if the percentages of ownership at each level, multiplied together, equal five or more percent ownership of the narrowband PCS license, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest.

Example: Party X has a non-controlling ownership interest of 25 percent in Company Y, which in turn has a non-controlling ownership interest of 10 percent in Company Z, the narrowband PCS licensee. Party X's effective ownership interest in Company Z is Party X's ownership interest in Company Y (25 percent) times Company Y's ownership interest in Company Z (10 percent). Therefore, Party X's effective ownership interest in Company Z is 2.5 percent, and is not attributable.

(c) Notwithstanding paragraph (b) of this section, the following interests shall not constitute attributable ownership interests for purposes of paragraph (a) of this section:

(1) A limited partnership interest held by an institutional investor (as defined § 24.720(h)) where the limited partner is not materially involved, directly or indirectly, in the management or operation of the PCS holdings of the partnership, and the licensee so certifies. The criteria which would assure adequate insulation for the purposes of this certification require:

(i) Prohibiting limited partners from acting as employees of the limited partnership if responsibilities relate to the carrier activities of the licensee;

(ii) Barring the limited partners from serving as independent contractors;

(iii) Restricting communication among limited partners and the general partner regarding day-to-day activities of the licensee;

(iv) Empowering the general partner to veto admissions of new general partners;

(v) Restricting the circumstances in which the limited partners can remove the general partner;

(vi) Prohibiting the limited partners from providing services to the partnership relating to the PCS holdings of the licensee; and

(vii) Stating that the limited partners may not become involved in the management or operation of the licensee. See 47 CFR 73.3555 Note 2(g)(2); Memorandum of Opinion and Order in MM Docket 83-46, FCC 85-252 (released June 24, 1985), as modified on reconsideration in the Memorandum of Opinion and Order in MM Docket No. 83-46, FCC 86-410 (released November 28, 1986).

(2) Institutional investors who held limited partnership interests prior to March 2, 1995 shall be granted one year from that date to amend their limited partnership agreements to comply with the insulation rules and so certify to the Commission. During this transition period, the licensee in which an institutional investor holds an interest shall also certify to the Commission that the institutional investor limited partner(s) are not materially involved, directly or indirectly, in the management or operation of the licensee.

3. In § 24.204, paragraph (d)(2)(viii) is redesignated as paragraph (d)(2)(viii)(A) and new paragraph (d)(2)(viii)(B) is added to read as follows:

§ 24.204 Cellular eligibility.

* * * * *

(d) * * *

(2) * * *

(viii) * * *

(B) Notwithstanding paragraph (d)(2)(viii)(A) of this section, the following interests shall not constitute attributable ownership interests for purposes of § 24.229(c):

(1) A limited partnership interest held by an institutional investor (as defined Section 24.720(h)) where the limited partner is not materially involved, directly or indirectly, in the management or operation of the PCS holdings of the partnership, and the licensee so certifies. The criteria which would assure adequate insulation for the purposes of this certification require:

(i) Prohibiting limited partners from acting as employees of the limited partnership if responsibilities relate to the carrier activities of the licensee;

(ii) Barring the limited partners from serving as independent contractors;

(iii) Restricting communication among limited partners and the general partner

regarding day-to-day activities of the licensee;

(iv) Empowering the general partner to veto admissions of new general partners;

(v) Restricting the circumstances in which the limited partners can remove the general partner;

(vi) Prohibiting the limited partners from providing services to the partnership relating to the PCS holdings of the licensee; and

(vii) Stating that the limited partners may not become involved in the management or operation of the licensee. See 47 CFR 73.3555 Note 2(g)(2); Memorandum of Opinion and Order in MM Docket 83-46, FCC 85-252 (released June 24, 1985), as modified on reconsideration in the Memorandum of Opinion and Order in MM Docket No. 83-46, FCC 86-410 (released November 28, 1986).

(2) Institutional investors who held limited partnership interests prior to March 2, 1995 shall be granted one year from that date to amend their limited partnership agreements to comply with the insulation rules and so certify to the Commission. During this transition period, the licensee in which an institutional investor holds an interest shall also certify to the Commission that the institutional investor limited partner(s) are not materially involved, directly or indirectly, in the management or operation of the licensee.

* * * * *

4. Section 24.229 is amended by revising paragraph (c) to read as follows:

§ 24.229 Frequencies.

* * * * *

(c) PCS licenses shall not have an ownership interest in frequency blocks that total more than 40 MHz and serve the same geographic area. For purposes of this section, PCS licensees are:

(1) Any institutional investor, as defined in Section 24.720(h), with an ownership interest of 10 or more percent in a broadband PCS license; and

(2) Any other entities having an ownership interest of 5 or more percent or other attributable ownership interest, as defined in Section 24.204(d), in a PCS license.

* * * * *

5. Section 24.813 is amended by revising paragraph (a)(2) to read as follows:

§ 24.813 General application requirements.

(a) * * *

(2) A list of any party which holds a five percent or more interest (or a ten percent or more interest for institutional investors as defined in § 24.720(h)) in

the applicant, or any entity in which a five percent or more interest (or a ten percent or more interest for institutional investors as defined in § 24.720(h)) is held by another party which holds a five percent or more interest (or a ten percent or more interest for institutional investors as defined in Section 24.720(h)) in the applicant. (e.g., If company A owns 5% of Company B (the applicant) and 5% of Company C then Companies A and C must be listed on Company B's application.

* * * * *

Federal Communications Commission.

William F. Caton,
Acting Secretary.

[FR Doc. 95-6488 Filed 3-14-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-257, RM-6299]

Radio Broadcasting Services; Kingsville and Ingleside, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule; waiver of automatic stay.

SUMMARY: This document grants a motion for waiver of automatic stay filed by Kingsville Radio Company on the effect of the substitution of Channel 224C2 for Channel 224A at Kingsville, TX and the modification of its license for Station KNGV(FM) accordingly. See *Report and Order* 57 FR 3952 (February 3, 1992). This action is granted by the Commission without prejudice to any further action the Commission may take regarding the application for review in MM Docket No. 88-257.

EFFECTIVE DATE: March 15, 1995.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 776-1660.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order, *Memorandum Opinion and Order*, MM Docket No. 88-257, adopted March 3, 1995 and released March 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-6335 Filed 3-14-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 94-72; RM-8479]

Radio Broadcasting Services; Odessa and Los Ybanez, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ruben Velasquez, substitutes Channel 300C1 for Channel 299C2 at Odessa, Texas, and modifies the construction permit of Station KADM(FM) to specify operation on the higher powered channel. To accommodate the upgrade at Odessa, the Commission also substitutes Channel 253C2 for Channel 300C2 at Los Ybanez, Texas, and modifies the license of Station KYMI(FM) to specify the alternate Class C2 channel. See 59 FR 35893, July 14, 1994, and Supplemental Information, *infra*. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 27, 1995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94-72, adopted March 1, 1995, and released March 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Both channels can be allotted to the noted communities in compliance with the Commission's minimum distance separation requirements. Channel 300C1 can be allotted to Odessa without the imposition of a site restriction. The coordinates for Channel 300C1 at Odessa, Texas, are North Latitude 31-51-30 and West Longitude 102-22-30. Channel 253C2 can be allotted to Los Ybanez at the transmitter site specified in Station KYMI(FM)'s license. The coordinates for Channel 253C2 at Los Ybanez are North Latitude 32-43-22

and West Longitude 102-01-50. Mexican concurrence in each of the allotments has been received because Odessa and Los Ybanez are located within 320 kilometers (199 miles) of the U.S.-Mexican border.

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: 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 Texas, is amended by removing Channel 299C2 and adding Channel 300C1 at Odessa and by removing Channel 300C2 and adding Channel 253C2 at Los Ybanez.

Federal Communications Commission.

John A Karousos,

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

[FR Doc. 95-6338 Filed 3-14-95; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

[Docket No. 950203034-5034-01; I.D. 092794B]

RIN 0648-AG23

Stone Crab Fishery of the Gulf of Mexico; Amendment 5

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 5 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP). This rule establishes a temporary moratorium, ending not later than June 30, 1998, on the Federal registration of stone crab vessels. In addition, NMFS changes the regulations that implement the FMP to correct and clarify them, conform them to current agency standards, and enhance enforcement.

EFFECTIVE DATE: April 14, 1995. The incorporation by reference of certain sections of the Florida Administrative Code is approved by the Director of the Office of the Federal Register as of April 14, 1995.