§ 410.34 Mammography services: Conditions for and limitations on coverage.

(a) *Definitions.* As used in this section, the following definitions apply:

(1) *Diagnostic mammography* means a radiologic procedure furnished to a symptomatic man or woman for the purpose of detecting breast disease and includes a physician's interpretation of the results of the procedure.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: March 7, 1995.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 95–6501 Filed 3–15–95; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 93–154; FCC 95–69]

Aural Broadcast Station Auxiliary Facilities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules to permit certain unapproved transmitters to be retained and used for backup operations in the band 944–952 MHz at aural broadcast stations' auxiliary facilities. The rule will permit broadcast licensees to temporarily use their outmoded equipment, which has been displaced from full time operation by approved equipment, for backup operations at auxiliary facilities.

EFFECTIVE DATE: April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau, (202) 418–2190.

SUPPLEMENTARY INFORMATION: Adopted: February 24, 1995; Released: March 7, 1995 By the Commission:

Introduction

1. We herein amend Sections 74.550 of our rules to permit certain unapproved transmitters in the band 944–952 MHz which have been displaced by approved equipment for primary use to be retained for backup purposes at Aural Broadcast Auxiliary Stations.

Background

2. In 1985, the Commission adopted a *Report and Order* in MM Docket No. 85–36, 50 FR 48596, January 26, 1985, which required all new transmitters for aural studio transmitter-link/intercity relay (STL/ICR) operation in the 944–952 MHz frequency band to be approved prior to marketing. Continued use of existing non-approved equipment was allowed for a period ending on July 1, 1990, which was later extended to July 1, 1993, 55 FR 3062, January 30, 1990.

3. In June of 1993, the Notice of Proposed Rule Making in MM Docket No. 93–154, 58 FR 33923, June 22, 1993, (''NPRM'') in the above-entitled matter was issued in response to informal suggestions from various parties that the Commission should permit the retention and use of existing unapproved aural broadcast auxiliary transmitters for backup purposes. This proposal would permit broadcasters to retain and use their existing unapproved primary equipment as backup equipment after it was displaced from primary service by approved equipment under the requirements of our rules. The proposal was intended to avoid burdening licensees with additional expenditures to replace infrequently used backup transmitters with approved equipment, and to permit the installation of backup facilities in situations which have not previously been practicable. Backup auxiliary service facilities are used by many broadcast station licensees to avoid undue disruption in programming should the regular auxiliary transmitter fail or require servicing. Thus, the Commission concluded that limited short-term backup use of unapproved equipment could be permitted. The Commission, therefore, proposed to allow all transmitters removed from primary service to be retained for backup purposes, provided no interference is caused and that such transmitters are not used for more than 720 cumulative hours per year without explicit Commission authority.[1] In addition, the *NPRM* stated that the Commission would allow licensees to retain unapproved equipment for backup purposes until final action is taken in this proceeding, and thereafter if the proposed rule is adopted.

Comments

4. Comments supporting adoption of the proposed amendments of Section 74.550 were received from the National Association of Broadcasters (''NAB'') and National Public Radio (''NPR''). No opposing comments were received.

5. NAB states that many stations have purchased new equipment to comply with the current requirements of Section 74.550 of the Commission's rules. NAB notes that given the current financial conditions prevailing in the broadcast industry, most licensees cannot justify purchasing additional equipment for backup facilities. However, while their old equipment does not meet the new more stringent standards, NAB and NPR suggest the old equipment is fully functional and is more than adequate for backup purposes.

Discussion

6. We have reviewed the comments and conclude for the reasons advanced in the NPRM that adoption of the proposal would serve the public interest. We further agree with NPR that there should not be any significant adverse consequences from continued use of unapproved STL/ICR equipment under the conditions proposed in the NPRM. These backup transmitters can maintain the broadcast station's ability to provide continued service in the event of primary equipment failure without undue risk of harmful interference. However, we caution licensees that the unapproved equipment has wider channel bandwidth, and thus, may be prone to cause interference, especially in congested spectrum-use areas. Licensees must not use the unapproved equipment on a regular or primary basis and stations using such equipment should be prepared to demonstrate that it normally uses approved equipment. A licensee is not permitted to obtain unapproved equipment from other licensees or other sources for backup use. Our action here is intended only to permit the retention and continued use, in a backup role of equipment that a licensee already possesses.

Procedural Matters

7. *Regulatory Flexibility Act.* We certify that the regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because there will to be a significant negative economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. Pub. L. No. 96–354.94 Stat.1164.5 U.S.C. Section 601 et seq (1981).

8. Therefore, it is ordered that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that effective April 17, 1995. Part 74 of the Commission's Rules and Regulations is amended as set forth below. It is further ordered that this proceeding is terminated.

9. Further information may be obtained from Bernard Gorden, Mass

[1] Within the allowed 720 cumulative hours of operation, there are no limits on the amount of permitted consecutive hours or number of separate uses of unapproved equipment.

Media Bureau, Engineering Policy Branch, (202) 418–2190.

List of Subjects in 40 CFR Part 74

Auxiliary facilities, Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Change

Part 74 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 74—EXPERIMENTAL, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. The authority citation for part 74 continues to read as follows:

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

2. Section 74.550 is revised to read as follows:

§ 74.550 Equipment authorization.

Each authorization for aural broadcast STL, ICR, and booster stations shall require the use of notified or type accepted equipment. Equipment which has not been type approved under the equipment authorization program and which was in service prior to July 1, 1993, may be retained solely for temporary uses necessary to restore or maintain regular service provided by approved equipment, because the main or primary unit has failed or requires servicing. Such temporary uses may not interfere with or impede the establishment of other aural broadcast auxiliary links and may not occur during more than 720 cumulative hours per year. Should interference occur, the licensee must take all steps necessary to eliminate it, up to and including cessation of operation of the auxiliary transmitter. All unapproved equipment retained for temporary use must have been in the possession of the licensee prior to July 1, 1993, and may not be obtained from other sources. Requirements for obtaining a grant of equipment authorization are contained in subpart J of part 2 of the Rules. Equipment designed exclusively for fixed operation shall be authorized under notification procedures (see § 2.904(d) of this chapter).

Note: Consistent with the note to § 74.502(a), grandfathered equipment in the 942–944 MHz band and STL/ICR users of these frequencies in Puerto Rico are also required to come into compliance by July 1, 1993. The backup provisions described above apply to these stations also.

[FR Doc. 95–6489 Filed 3–15–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No.1; Amdt. I–268]

Organization and Delegation of Powers and Duties; Delegation to All Administrators

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule contains a delegation of authority to all Administrators of the Department of Transportation's (DOT) operating administrations to enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of state or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 and related legislation. This rule is necessary to reflect the delegation in the Code of Federal Regulations.

This rule also makes a minor amendment to the regulation that details the structure and responsibilities of the Office of the Secretary by adding a new office, the Office of Aviation International Economics, within the Office of the Assistant Secretary for Aviation and International Affairs.

EFFECTIVE DATE: This rule becomes effective March 16, 1995.

FOR FURTHER INFORMATION CONTACT: Terence W. Carlson, Office of the Assistant General Counsel for Environmental, Civil Rights and General Law at (202) 366–9161, Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Department of Transportation and Related Agencies Appropriations Act, 1995, Pub. L. No. 103–331, section 329A, 108 Stat. 2471, 2493 (September 30, 1994), grants the Secretary of Transportation specific authority to enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of state or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project (TRP) authorized under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, Pub. L. No. 102–484, 106 Stat. 2658 (October 23, 1992), and related legislation. TRP is a statutory interagency project lead by the Department of Defense (DOD) through its Advanced Research Projects Agency, which uses DOD funds to support the cost-shared application of defense-related technologies to the commercial sector. Therefore, it is necessary to amend the relevant part of the CFR to delegate this authority to the Administrators of the DOT operating administrations.

49 CFR part 1 describes the organization of DOT and provides for the performance of duties imposed upon, and the exercise of powers vested in, the Secretary of Transportation by law. Section 1.45 delegates certain authorities of the Secretary to all Administrators of the DOT operating administrations. This rulemaking amends § 1.45(a) to add a new subparagraph (18), which delegates to the Administrators the authority to enter into grants, cooperative agreements, and other transactions with any entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 and related legislation. This rulemaking also amends § 1.22, which details the structure and responsibilities of the Office of the Secretary. It makes a minor revision to § 1.22(c) to add a fourth office within the Office of the Assistant Secretary for Aviation and International Affairs, the Office of Aviation International Economics.

Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Therefore, this rule is effective on the date of its publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, and under the authority of 49 U.S.C. 332, part 1 of title 49 Code of Federal Regulations is amended as follows:

PART I—[AMENDED]

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