

compromise issues relating to the retention, suspension or revocation of ocean freight forwarder licenses. See also §§ 501.5(i) and 501.21.

By the Commission.

**Joseph C. Polking,**

Secretary.

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 13**

[PR Docket No. 94-58; FCC 95-162]

**Temporary Conditional Operating Authority for Commercial Radio Operator License Applicants**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action amends the rules for commercial radio operators to authorize persons who have passed the required examinations and applied for commercial radio operator licenses to perform the functions of a commercial radio operator on a temporary and conditional basis while awaiting their licenses. This amendment was necessary because the rules currently require that after passing the examinations necessary to qualify for certain of these licenses, and submitting an application to the Commission, an applicant must wait for the Commission to process the application. The intended effect of the final rule is to permit people who have passed the necessary examinations to commence work immediately after they receive their Proof-of-Passing Certificates.

**EFFECTIVE DATE:** July 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** William T. Cross, Federal Communications Commission, Wireless Telecommunications Bureau, Private Wireless Division, Washington, D.C. 20554, (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** A summary of the Commission's *Report and Order*, adopted April 17, 1995, and released April 27, 1995, is provided above. The complete text of this action is available for inspection and copying during normal business hours at the FCC, room 239, 1919 M Street, NW, Washington, DC. The complete text of this action, including the rule amendments, may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW, suite 140, Washington, DC 20037.

1. The final rules are set forth at the end of this document.

2. The rules contained herein have been analyzed with respect to the paperwork Reduction Act of 1980, 44 U.S.C. section 3501 *et seq.*, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

3. In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 USC section 605(b), the Commission provides the following Final Regulatory Flexibility Analysis.

*Need and purpose of this action.* This rule making proceeding was needed to obtain comments regarding our proposal to authorize persons who have passed the required examinations and applied for commercial radio operator licenses to perform the functions of a commercial radio operator on a temporary and conditional basis while awaiting their licenses. The purpose of this action is to permit persons who must have the license as a condition of employment to start work immediately. A likely secondary benefit is applicants will receive their Commission-issued licenses sooner due to a reduction in the number of inquiries to the processing staff regarding the status of pending applications.

*Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis.* The commentor agrees that the potential impact of these rule changes is to improve the efficiency in licensing commercial radio operators, thereby making it easier for persons to become licensed commercial radio operators. No other comments were received.

*Significant alternatives considered and rejected.* Alternatives include the Commission continuing to require persons wait until they receive a Commission-issued license document before they can perform the functions of a commercial radio operator. The proposed alternative is adopted to minimize the impact on persons who require this document as a condition of employment. The Secretary shall send a copy of this *Report and Order* including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act. Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. section 601-612 (1981).

4. A copy of this *Report and Order* will be forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

5. This Report and Order is issued under the authority of sections 4(f)(4)(A), (B), and (J), 4(i), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. section 154(f)(4)(A), (B), and (J), 154(i), and 303(r).

**List of Subjects in 47 CFR Part 13**

Radio.

Federal Communications Commission.

**William F. Caton,**

Acting Secretary.

**Rule Changes**

Part 13 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

**PART 13—COMMERCIAL RADIO OPERATORS**

1. The authority citation for Part 13 continues to read as follows:

**Authority:** Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303.

2. Section 13.9 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (f) respectively, and adding a new paragraph (d) to read as follows:

**§ 13.9 Eligibility and application for new license or endorsement.**

\* \* \* \* \*

(d) Provided that a person's commercial radio operator license was not revoked, or suspended, and is not the subject of an ongoing suspension proceeding, a person whose application for a commercial radio operator license has been received by the FCC but which has not yet been acted upon and who holds a PPC(s) indicating that he or she passed the necessary examination(s) within the previous 365 days, is authorized to exercise the rights and privileges of the operator license for which the application was received. This authority is valid for a period of 90 days from the date the application was received. The FCC, in its discretion, may cancel this temporary conditional operating authority without a hearing.

\* \* \* \* \*

3. Section 13.13 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (f) respectively, and adding a new paragraph (d) to read as follows:

**§ 13.13 Application for a renewed or modified license.**

\* \* \* \* \*

(d) Provided that a person's commercial radio operator license was not revoked, or suspended, and is not the subject of an ongoing suspension proceeding, a person holding a General Radiotelephone Operator License,

Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, or GMDSS Radio Maintainer's License, who has an application for another commercial radio operator license which has not yet been acted upon pending at the FCC and who holds a PPC(s) indicating that he or she passed the necessary examination(s) within the previous 365 days, is authorized to exercise the rights and privileges of the license for which the application is filed. This authority is valid for a period of 90 days from the date the application is received. The FCC, in its discretion, may cancel this temporary conditional operating authority without a hearing.

\* \* \* \* \*

4. In § 13.19, paragraphs (b)(3) and (c) are revised to read as follows:

**§ 13.19 Operator's responsibility.**

\* \* \* \* \*

(b) \* \* \*

(3) The class, serial number and expiration date of the license when the FCC has issued the operator a license, or the PPC serial number(s) and date(s) of issue when the operator is awaiting FCC action on an application.

(c) When the operator is on duty and in charge of transmitting systems, or performing service, maintenance or inspection functions, the license or permit document, or a photocopy thereof, or a copy of the application and PPC(s) received by the FCC, must be posted or in the operator's personal possession, and available for inspection upon request by a FCC representative.

\* \* \* \* \*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**49 CFR Part 390**

[FHWA Docket No. MC-93-17]

RIN 2125-AD14

**Federal Motor Carrier Safety Regulations; General; Intermodal Transportation**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule; petitions for reconsideration of effective date; request for comments.

**SUMMARY:** The FHWA published a document on May 16, 1995 at 60 FR

26001 which administratively extended until September 27, 1995, the effective date of its final rule implementing the requirements of the Intermodal Safe Container Transportation Act of 1992. The final rule was published on December 29, 1994, and its original effective date was June 27, 1995. The only purpose of this three-month extension was to provide the FHWA sufficient time to request, receive, and analyze comments, and to publish a final determination, on whether a further extension is warranted. This document requests comments on the major issues raised by petitioners who have requested an extension of the effective date of, and certain exemptions from, the final rule.

**DATES:** Replies to this request for comments must be received on or before June 26, 1995. As indicated in the May 16, 1995 document, the effective date of the final rule published on December 29, 1994 at 59 FR 67544 has been extended to September 27, 1995.

**ADDRESSES:** Submit written, signed comments to FHWA Docket No. MC-93-17, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter C. Chandler, Office of Motor Carrier Research and Standards, HCS-10, (202) 366-5763; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 29, 1994, the FHWA published a final rule which implemented the requirements of the Intermodal Safe Container Transportation Act of 1992 (the Act) [Pub.L. 102-548, 106 Stat. 3646, partly codified at 49 U.S.C. 5901-5907 (formerly 49 U.S.C. 501 and 508)]. The final rule requires any person who presents a container or trailer with a gross cargo weight of more than 4,536 kilograms or 10,000 pounds to an initial carrier for intermodal transportation to provide a certification to such carrier. Motor carriers are prohibited from

accepting a loaded container or trailer prior to receiving a tangible certification. Motor carriers, rail carriers, water carriers, ocean common carriers, and intermediaries that receive a certification in the course of intermodal transportation must forward the certification to a subsequent carrier transporting the loaded container or trailer. The objective of the final rule was to reduce the number of overweight motor vehicles transporting intermodal containers or trailers by improving communication between shippers and motor carriers.

**Issues Raised by Industry Groups**

The FHWA has received letters from several companies and industry groups petitioning the FHWA to extend the effective date of the final rule. Among those requesting an extension are APL Land Transport Services, Inc. (APL); the European Shippers' Councils; "K" Line America, Inc. (KLA); the Intermodal Safe Container Coalition (Coalition); the National Industrial Transportation League; the Steamship Association of Southern California; and, Warren & Associates, a law firm representing two freight conferences. The APL, KLA, and the Coalition were the parties who provided the most information in support of an extension. Copies of these letters are available for review in the docket.

For ease of presentation, the FHWA has grouped the issues raised by the petitioners into four major categories: (1) Electronic data interchange (EDI); (2) the widespread need for education and training, especially for foreign shippers; (3) the cargo weight threshold used in determining the applicability of the final rule; and, (4) the results of the data collection needs study mandated by the Act. The FHWA believes that some of the petitioners' assertions warrant public discussion.

**Electronic Data Interchange**

The KLA wrote that "the complexities of establishing a uniform method for electronic transmission of data between very divergent industries, each with their own unique data requirements, makes compliance by all parties in the intermodal network by the June date difficult to impossible." The KLA explained further that the certification data should ideally be passed as part of an already existing data transmission which would necessitate the various parties sending and receiving the certification information to agree on the data format and the meaning of each field. The development of these specifications, the KLA continued, requires time to allow the users of the