§ 90.816 Criteria for comparative 900 MHz SMR renewal proceedings.

(a) *Ultimate issue.* The ultimate issue in comparative renewal proceedings will be to determine, in light of the evidence adduced in the proceeding, what disposition of the applications would best serve the public interest, convenience and necessity.

(b) *Renewal expectancies.* The most important comparative factor to be considered in a comparative 900 MHz SMR renewal proceeding is a major preference, commonly referred to as a ''renewal expectancy''.

(1) The 900 MHz SMR renewal applicant involved in a comparative renewal proceeding will receive a renewal expectancy, if its past record for the relevant license period demonstrates that:

(i) The renewal applicant has provided ''substantial'' service during its past license term. ''Substantial'' service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal; and

(ii) The renewal applicant has substantially complied with applicable FCC rules, policies and the Communications Act of 1934, as amended.

(2) In order to establish its right to a renewal expectancy, a 900 MHz renewal applicant involved in a comparative renewal proceeding must submit a showing explaining why it should receive a renewal expectancy. At a minimum, this showing must include:

(i) A description of its current service in terms of geographic coverage and population served;

(ii) An explanation of its record of expansion, including a timetable of the construction of new base sites to meet changes in demand for SMR service;

(iii) A description of its investments in its 900 MHz SMR system; and

(iv) Copies of all FCC orders finding the licensee to have violated the Communications Act or any FCC rule or policy; and a list of any pending proceedings that relate to any matter described in paragraph (b)(2) of this section.

(3) In making its showing of entitlement to a renewal expectancy, a renewal applicant may claim credit for any system modification applications that were pending on the date it filed its renewal application. Such credit will not be allowed if the modification application is dismissed or denied.

[FR Doc. 95–26748 Filed 10–31–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 97

[DA 95–2106]

Use of CLOVER, G–TOR, and PacTOR Digital Codes

AGENCY: Federal Communications Commission.

ACTION: Final rule; interpretation.

SUMMARY: On October 2, 1995, the Chief, Wireless Telecommunications Bureau adopted an *Order* that clarified that amateur stations may use any digital code that has its technical characteristics publicly documented. The amendments were necessary because some amateur operators have expressed concern about the propriety of using the CLOVER, G–TOR, and PacTOR codes on the High Frequency amateur service bands.

EFFECTIVE DATE: November 1, 1995.

FOR FURTHER INFORMATION CONTACT: William T. Cross of the Wireless Telecommunications Bureau at (202) 418–0680.

SUPPLEMENTARY INFORMATION:

Order

Adopted: October 2, 1995
Released: October 11, 1995

By the Chief, Wireless Telecommunications Bureau:

1. This Order amends Section 97.309(a) of the Commission's Rules, 47 CFR 97.309(a), to clarify that amateur stations may use any digital code that has its technical characteristics publicly documented. This action was initiated by a letter from the American Radio Relay League, Inc. (ARRL).

2. The ARRL states that some amateur operators have expressed concern about the propriety of using the CLOVER, G–TOR, and PacTOR codes on the High Frequency (HF) amateur service bands. [CLOVER, G–TOR, and PacTOR are different techniques currently used by many amateur operators to increase the efficiency of digital communications transmitted on the HF portion of the radio spectrum.] This is due to the fact that Section 97.309(a) appears to authorize only the Baudot, AMTOR, and ASCII codes on the HF bands. [On the Very High Frequency and shorter wavelength bands, the rules authorize the use of any unspecified digital code provided the emission does not exceed a specified bandwidth. *See* Sections 97.307(f) (5)–(7) of the Commission's Rules, 47 CFR §§ 97.307(f) (5)–(7).] The ARRL states that it has worked with the developers of CLOVER, G–TOR, and PacTOR to document the technical characteristics of these codes. It requests, therefore, that we amend Section 97.309(a) of the Commission's Rules to specifically authorize CLOVER, G–TOR, and PacTOR to remove any doubt about the permissibility of their use.

3. The primary purpose of CLOVER, G–TOR, and PacTOR is to facilitate communications using already-authorized digital codes, emission types, and frequency bands. The technical characteristics of CLOVER, G–TOR, and PacTOR have been documented publicly for use by amateur operators, and commercial products are readily available that facilitate the transmission and reception of communications incorporating these codes. [*See Technical Descriptions CLOVER, G–TOR, PACTOR,* published by the American Radio Relay League, Inc. (1995).] Including CLOVER, G–TOR, and PacTOR in the rules will not conflict with our objective of preventing the use of codes or ciphers intended to obscure the meaning of the communication. [The HF bands are widely used for international communications. Number 2732 § 2.(1) of Article 32 Section I of the International Telecommunications Union *Radio Regulations* requires that transmissions between amateur stations of different countries by made in plain language. Section 97.113(a)(4) of the Commission's Rules, 47 CFR § 97.113(a)(4), therefore, prohibits amateur stations from transmitting messages in codes or ciphers intended to obscure the meaning thereof.] We agree, therefore, that it would be helpful to the amateur service community for the rules to specifically authorize amateur stations to transmit messages and data using these and similar digital codes. Accordingly, we are amending Section 97.309(a) to clarify the rules as requested by the ARRL.

4. Because the rule amendment adopted herein is interpretative in nature, and clarifies the existing amateur service rules, the notice and comment provisions of Section 553(b) of the Administrative Procedure Act, 5 U.S.C. § 553(b), do not apply, and it is not subject to the publication or service requirements of Section 553(d) of the Administrative Procedure Act, 5 U.S.C. § 553(d).

5. We certify that the Regulatory Flexibility Act of 1980 does not apply to the amended rule because there will not be any significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The amateur service may not be used to transmit communications for compensation, for the pecuniary benefit of the station control operator or the

station control operator's employer, or for communications, on a regular basis, which could reasonably be furnished through other radio services. *See* 47 CFR § 97.113. The Secretary shall send a copy of this *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. No. 96–354, 94 Stat. 1164, 5 U.S.C. §§ 601–612 (1981).

6. Accordingly, IT IS ORDERED that effective upon publication in the Federal Register, Part 97 of the Commission's Rules, 47 CFR Part 97, IS AMENDED as set forth below. This action is taken under the authority delegated to the Chief, Wireless Telecommunications Bureau, in section 0.331(a)(1) of the Commission's Rules, 47 CFR § 0.331(a)(1).

List of Subjects in 47 CFR Part 97

Radio.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

Rule Changes

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.309 is amended by adding paragraph (a)(4) to read as follows:

§ 97.309 RTTY and data emission codes.

(a) * * *

(4) An amateur station transmitting a RTTY or data emission using a digital code specified in this paragraph may use any technique whose technical characteristics have been documented publicly, such as CLOVER, G–TOR, or PacTOR, for the purpose of facilitating communications.

* * * * *

[FR Doc. 95–27044 Filed 10–31–95; 8:45 am]

BILLING CODE 6712–01–M