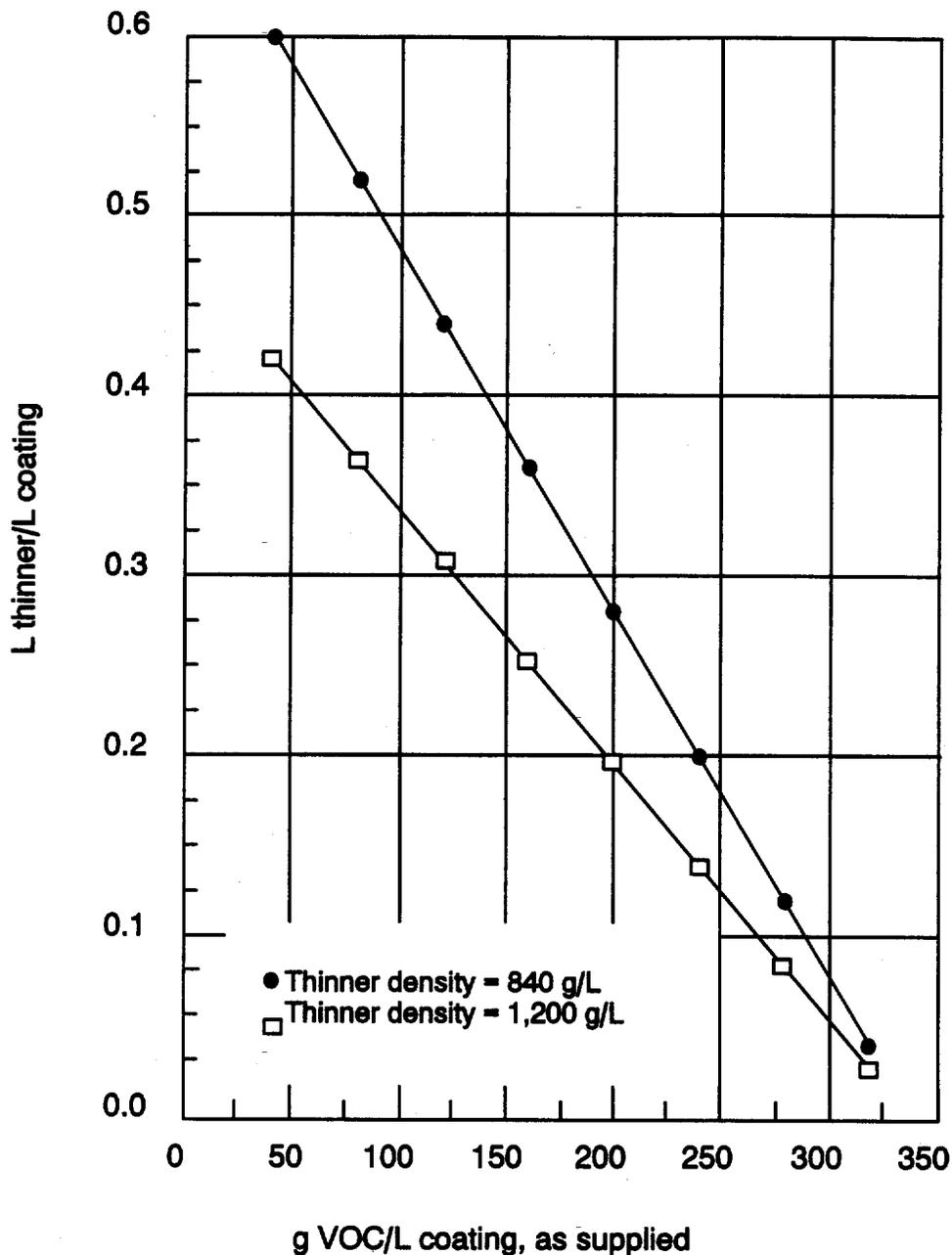


Appendix B To Subpart II of Part 63 -- Maximum Allowable Thinning Rates As A Function Of As Supplied VOC Content And Thinner Density^{a,b}



^a These graphs represent maximum allowable thinning ratios for general use coatings without water or exempt compounds.

^b The average density of the volatiles in the coating was assumed = 840 g solvent/L solvent.

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 1**

[ET Docket No. 94-32; FCC 95-454]

In-Flight Phone Corporation's Pioneer's Preference Request**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: By this *Third Report and Order (Third R&O)*, the Commission denies In-Flight Phone Corporation's (In-Flight's) request for a pioneer's preference in the General Wireless Communications Service (GWCS) at 4660-4685 MHz. The Commission finds that the GWCS service rules are not a reasonable outgrowth of In-Flight's ground-to-air programming service proposal, that In-Flight failed to demonstrate the technical feasibility of its proposal in the 4660-4685 MHz band, and that In-Flight's proposed ground-to-air programming service is not sufficiently innovative to warrant a preference in any band. This action is intended to affirm the Commission's policy of awarding pioneer's preferences only for innovations of some significance.

EFFECTIVE DATE: December 15, 1995.

FOR FURTHER INFORMATION CONTACT: Tom Derenge, (202) 418-2451 or Rodney Small, (202) 418-2452, Office of Engineering and Technology, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third R&O* adopted November 1, 1995, and released December 5, 1995. This action will not add to or decrease the public reporting burden. The full text of the Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Third R&O

1. In-Flight originally filed its pioneer's preference request in the narrowband Personal Communications Services proceeding, ET Docket No. 92-100. It sought a preference in the 901-902 MHz and 940-941 MHz bands for a live ground-to-air audio news, information, and entertainment

programming service for airline passengers. However, because the rules adopted in Docket 92-100 were not related to In-Flight's proposal, no action was taken on its pioneer's preference request.

2. In February 1995, the Commission adopted a *First Report and Order and Second Notice of Proposed Rulemaking* in Docket 94-32, 60 FR 13102 (March 10, 1995), reallocating 50 megahertz of Federal Government spectrum at 2390-2400, 2402-2417, and 4660-4685 MHz to non-Government use; and proposing that the 4660-4685 MHz band be used by the General Wireless Communications Service (GWCS).

3. In March 1995, In-Flight filed a Petition for Declaratory Ruling, requesting that its pending pioneer's preference request be considered in the GWCS. In-Flight also stated that it would provide video, as well as audio, services as a GWCS licensee. The Petition was placed on Public Notice on April 28, 1995; however, no comments were filed on the Public Notice.

4. On June 8, 1995, in response to the Commission's *Third Report and Order* in the pioneer's preference review proceeding, ET Docket No. 93-266, 60 Fed. Reg. 32116 (June 20, 1995), In-Flight filed a Supplement to its pioneer's preference request. In its Supplement, In-Flight argued that it was not likely to recover its investment in developing what it now referred to as its "aircraft audio and video programming service" unless it received a pioneer's preference, and also requested that its preference request be placed on public notice. On June 16, 1995, In-Flight's preference request, including the Supplement, was placed on Public Notice and assigned file number PP-88 in Docket 94-32.

5. On July 3, 1995, Claircom Licensee Corporation filed an opposition to PP-88, in which it stated that In-Flight's programming service is not innovative. On July 13, 1995, In-Flight filed a reply to Claircom's opposition. On July 31, 1995, the Commission adopted a *Second Report and Order* in Docket 94-32, 60 Fed. Reg. 40712 (August 9, 1995), allocating the 4660-4685 MHz band for the GWCS and adopting service rules.

6. In the *Third R&O*, the Commission found that—inconsistent with the pioneer's preference rules—the GWCS service rules are not a reasonable outgrowth of In-Flight's ground-to-air programming service proposal. Additionally, the Commission found that In-Flight failed to demonstrate the technical feasibility of its proposal in the 4660-4685 MHz band. The Commission stated that In-Flight's technical achievements in developing

and testing equipment in the 901-902 MHz and 940-941 MHz bands are not directly relevant to the 4660-4685 MHz band, due to differences in propagation. Finally, the Commission found that In-Flight's proposed ground-to-air programming service is not sufficiently innovative to warrant a preference in any band. The Commission concluded that In-Flight did not demonstrate that its technological developments are innovative given the state-of-the-art technologies used in providing 800 MHz air-ground radiotelephone service.

7. Accordingly, *it is ordered*, That the pioneer's preference request (PP-88) filed by In-Flight Phone Corporation in this proceeding is denied. *It is further ordered*, That the request for pioneer's preference filed by In-Flight Phone Corporation in ET Docket No. 92-100 is *dismissed as moot*. *It is further ordered*, That the petition for declaratory ruling filed by In-Flight Phone Corporation is granted in part and denied in part.

List of Subjects in 47 CFR Part 1

Pioneer's preference, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-30550 Filed 12-14-95; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 73

[MM Docket No. 88-40; RM-6035, RM-6349, RM-6350]

Radio Broadcasting Services; Jacksonville, Pine Knoll Shores, and Harkers Island, NC**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: This document grants a Petition for Reconsideration filed by Down East Radio to the extent of deleting Channel 272A from Pine Knoll Shores, North Carolina. See 57 FR 19809, May 8, 1992. With this action, the proceeding is terminated.

EFFECTIVE DATE: January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 776-1654.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 88-40, adopted November 9, 1995, and released December 8, 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,