

**FEDERAL COMMUNICATIONS  
COMMISSION****47 CFR Part 73**

[MM Docket No. 97-235; RM-9187]

**Radio Broadcasting Services; Pecos  
and Wink, TX**AGENCY: Federal Communications  
Commission.

ACTION: Final rule.

**SUMMARY:** This document denies a petition for rule making filed by Ronald W. Latimer. See 62 FR 65781, December 16, 1997. The petition requested the reallocation of Channel 247C1 from Pecos, Texas, to Wink, Texas, and modification of the construction permit for Station KKLY at Pecos to specify operation on Channel 247C1 at Wink. Retention of the channel in Pecos provides a first full-time aural service to the community while reallocation of the channel would have provided a first local service at Wink. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 97-235, adopted February 3, 1999, and released February 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,***Chief, Allocations Branch, Policy and Rules  
Division, Mass Media Bureau.*

[FR Doc. 99-4931 Filed 2-26-99; 8:45 am]

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**FEDERAL COMMUNICATIONS  
COMMISSION****47 CFR Part 73**[MM Docket No. 98-63, RM-9209, RM-9392,  
RM-9393]**Radio Broadcasting Services;  
Pottsboro and Whitesboro, TX, and  
Madill and Leonard, OK**AGENCY: Federal Communications  
Commission.

ACTION: Final rule.

**SUMMARY:** This document substitutes Channel 273C2 for Channel 273A at Madill, Oklahoma, reallocates Channel 273C2 from Madill, to Whitesboro, Texas, and modifies the license of Station KMAD-FM to specify operation on Channel 273C2 at Whitesboro. Pursuant to a Joint Settlement Agreement, this document also dismisses a proposal filed by Thomas E. Spellman d/b/a Grayson Broadcasting Company for a Channel 273C2 allotment at Pottsboro, Texas, and a proposal by Thomas S. Desmond for a Channel 273A allotment at Leonard, Oklahoma. See 63 FR 27544, published May 19, 1998. The reference coordinates for Channel 273C2 at Whitesboro, Texas, are 33-49-29 and 96-46-44. With this action, the proceeding is terminated.

EFFECTIVE DATE: March 31, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 418-2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order* in MM Docket No. 98-63 adopted February 10, 1999, and released February 12, 1999. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3805, 1231 M Street, NW, Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Whitesboro, Channel 273C2.

3. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 272A at Madill.

Federal Communications Commission.

**John A. Karousos,***Chief, Allocations Branch, Policy and Rules  
Division, Mass Media Bureau.*

[FR Doc. 99-4932 Filed 2-26-99; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs  
Administration****49 CFR Part 171**

[Docket No. RSPA-98-4943 (HM-225B)]

RIN 2137-AD31

**Hazardous Materials: Authorization for  
the Continued Manufacture of Certain  
MC 331 Cargo Tanks**AGENCY: Research and Special Programs  
Administration (RSPA), DOT.

ACTION: Final rule.

**SUMMARY:** This final rule extends from March 1, 1999 to July 1, 1999, the period for continued manufacture of MC 331 cargo tanks without certification and demonstrated performance of the emergency discharge control system. This amendment is necessary to provide for the uninterrupted production of specification MC 331 cargo tanks used in the transportation of propane, anhydrous ammonia and other liquefied compressed gases.

EFFECTIVE DATE: March 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Karim or Susan Gorsky, Office of Hazardous Materials Standards, Research and Special Programs Administration (202) 366-8553.

**SUPPLEMENTARY INFORMATION:** On February 19, 1997, under Docket No. RSPA-97-2133 (HM-225) [62 FR 7638], the Research and Special Programs Administration (RSPA, "we") issued an emergency interim final rule to specify the conditions under which MC 330 and MC 331 cargo tank motor vehicles could continue to operate while RSPA and the industry addressed operational problems related to the cargo tank emergency discharge control system. A final rule extending and revising the provisions of the emergency interim final rule was issued on August 18, 1997 [62 FR 44038]. The August 18 final rule

included a provision permitting continued manufacture of MC 331 cargo tanks without certification and demonstrated performance of the emergency discharge control system until March 1, 1999.

We issued a final rule responding to petitions for reconsideration and clarifying certain provisions of the August 18 final rule on December 10, 1997 [62 FR 65187]. In this final rule, RSPA extends the expiration date of certain provisions of the previous final rule from March 1, 1999 to July 1, 1999. This change was based on a request from Farmland Industries, Inc. and The Fertilizer Institute asking that the agency allow a four-month extension of the expiration date to July 1, 1999, to avoid expiration of the requirements at the beginning of the fertilizer industry's peak delivery season.

A provision in the August 18, 1997 final rule permits, until March 1, 1999, a new cargo tank motor vehicle to be marked and certified as conforming to specification MC 331 without certification and demonstrated performance of the emergency discharge control system. RSPA did not change the date for this provision in the December 10, 1997 final rule because it was not requested by petitioners and we did not anticipate a need to extend the date at that time. RSPA has subsequently established a negotiated rulemaking committee (the Committee) which is developing alternative safety standards for unloading liquefied compressed gases to replace those standards that expire on July 1, 1999.

On January 12, 1999, for consistency with the work of the Committee and the expiration date of the final rule, RSPA published a notice of proposed rulemaking (NPRM) under Docket No. RSPA-98-4943 (64 FR 1789). This notice proposed to extend from March 1, 1999 to July 1, 1999 the period for continued manufacture of MC 331 cargo tanks without certification and demonstrated performance of the emergency discharge control system. The comment period ended on February 11, 1999, and no comments were received to the proposed change. Therefore, in this final rule, the expiration date is changed from March 1, 1999 to July 1, 1999 for the continued production of specification MC 331 cargo tanks used in the transportation of propane, anhydrous ammonia and other liquefied compressed gases.

### Regulatory Analyses and Notices

#### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034).

RSPA did not prepare a regulatory evaluation for this rule. However, a final regulatory evaluation was prepared in support of the December 10, 1997 final rule. The final regulatory evaluation is available for review in that public docket.

#### *Executive Order 12612*

This rule has been analyzed according to the principles and criteria contained in Executive Order 12612 ("Federalism"). The Federal hazardous materials transportation law (49 U.S.C. 5101—5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (A) The designation, description, and classification of hazardous materials;
- (B) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (C) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements relating to the number, content, and placement of such documents;
- (D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or
- (E) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

This final rule concerns the manufacturing of a container used in the transportation of a hazardous material.

This final rule would preempt any State, local, or Indian tribe requirements concerning the above mentioned subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d)) as the Federal requirements.

Title 49 U.S.C. 5125(b)(2) provides that DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the

final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements will be June 1, 1999 under this document. RSPA has determined that this rule does not have sufficient Federalism impacts to warrant the preparation of a federalism assessment.

#### *Executive Order 13084*

This rule will not significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order ("Consultation and Coordination with Indian Tribal Government"). Therefore, the funding and consultation requirements of this Executive Order would not apply.

#### *Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), RSPA must consider whether a rule would have a significant economic impact on a substantial number of small entities. This rule extends the expiration date of the current rule from March 1, 1999 to July 1, 1999. Therefore, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. This rule does not propose any new information collection requirements.

#### *Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### *Unfunded Mandates Reform Act*

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

### *Impact on Business Processes and Computer Systems*

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize "double zero" not as 2000 but as 1900. This glitch, the Year 2000 problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, Federal agencies are reaching out to increase awareness of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 problem.

This rule does not impose business process changes or require modifications to computer systems. Because this rule does not affect organizations' ability to respond to the Year 2000 problem, we do not intend to delay the effectiveness of the requirements in this rule.

#### **List of Subjects in 49 CFR Part 171**

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 171 is amended as follows:

#### **PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

1. The authority citation for Part 171 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

##### **§ 171.5 [Amended]**

2. In § 171.5, in paragraph (a)(3), the date "March 1, 1999" is revised to read July 1, 1999".

Issued in Washington, DC, on February 24, 1999, under authority delegated in 49 CFR Part 1.

**Kelley S. Coyner,**  
Administrator.

[FR Doc. 99–5093 Filed 2–26–99; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 216**

[Docket No. 980629162–9033–02; I.D. 093097E]

RIN 0648–AK42

#### **Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS, upon application from the 30th Space Wing, U.S. Air Force, issues regulations to govern the unintentional take of a small number of marine mammals incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg Air Force Base, CA (Vandenberg). Issuance of regulations governing unintentional incidental takes in connection with particular activities is required by the Marine Mammal Protection Act (MMPA) when the Secretary of Commerce (Secretary), after notice and opportunity for comment, finds, as here, that such takes will have a negligible impact on the species and stocks of marine mammals and will not have an unmitigable adverse impact on the availability of them for subsistence uses. These regulations do not authorize the Air Force's activity as such authorization is not within the jurisdiction of the Secretary. Rather, these regulations authorize the unintentional incidental take of marine mammals in connection with such activities and prescribe methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses.

**DATES:** Effective March 1, 1999, until December 31, 2003.

**ADDRESSES:** A copy of the application and Environmental Assessment (EA) may be obtained by writing to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226, or by telephoning one of the persons listed under **FOR FURTHER INFORMATION CONTACT** section.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to

the Chief, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, Office of Protected Resources, NMFS, telephone (301) 713–2055, or Irma Lagomarsino, Southwest Regional Office, NMFS, telephone (562) 980–4016.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of up to 5 years if the Secretary finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

##### **Description of Request**

On September 30, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from the 30th Space Wing, Vandenberg, to take marine mammals incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg.

Vandenberg is located on the southern coast of California. The base covers approximately 98,000 acres in western Santa Barbara County. The primary missions of the Air Force at Vandenberg are to launch and track satellites in space, test and evaluate the United State's intercontinental ballistic missile systems, and support aircraft operations. As a nonmilitary facet of operations, Vandenberg is also committed to promoting commercial space launch ventures.

##### **Description of Activities**

Vandenberg anticipates a total of 10 launches annually for Minuteman and