

compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3 (a) and 3 (b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions

Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We prepared an “Environmental Assessment” in accordance with Commandant Instruction M16475.1C, and determined that this rule will not significantly affect the quality of the human environment. The “Environmental Assessment” and “Finding of No Significant Impact” is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 49 CFR 1.46.

2. From 11 a.m. on June 29 to 6 p.m. on June 30, add a temporary § 100.35–T05–013 to read as follows:

#### § 100.35–T05–013, Nanticoke River, Sharptown, Maryland.

(a) Definitions.

*Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

*Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(b) *Regulated area*. Includes all waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 Bridge and the Nanticoke River Light 43 (LLN–24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32′46″ N, longitude 075°43′14″ W; to latitude 38°32′42″ N, longitude 75°43′09″ W;

thence northeasterly to latitude 38°33′04″ N, longitude 075°42′39″ W; thence northwesterly to latitude 38°33′09″ N, longitude 75°42′44″ W; thence southwesterly to latitude 38°32′46″ N, longitude 75°43′14″ W. All coordinates reference Datum NAD 1983.

(c) Special local regulations.

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign; and

(ii) Proceed as directed by any Official Patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(d) *Enforcement period*. This section will be enforced from 11 a.m. to 6 p.m. local time on June 29 and 30, 2002.

Dated: April 16, 2002.

**Thad W. Allen,**

*Vice Admiral, Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 02–10933 Filed 5–1–02; 8:45 am]

**BILLING CODE 4910–15–U**

#### POSTAL SERVICE

#### 39 CFR Part 501

#### Authorization To Manufacture and Distribute Postage Meters

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule amends the regulations for checking postage meters out of service and for handling faulty meters.

**DATES:** The Postal Service must receive your comments on or before June 3, 2002.

**ADDRESSES:** Mail or deliver written comments to Manager, Postage Technology Management, 1735 N Lynn Street, Room 5011, Arlington, VA 22209–6050. You can view and copy all written comments at the same address between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Wayne Wilkerson at 703–292–3704 or by fax at 703–292–4050.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service is seeking to improve the secure handling of faulty postage meters by the approved postage meter providers and to enhance the accuracy of determinations by the

postage meter providers of the proper amounts of postage to be refunded from faulty postage meters. We are proposing to amend the regulations for checking postage meters out of service and for handling faulty meters to address these concerns and to align the regulations with changes to the *Domestic Mail Manual* (DMM) regarding postage meters published in the **Federal Register** (66 FR 56432–56447) on November 8, 2001. Additionally, we deleted references to mechanical meters from the amended section since all mechanical postage meters have been decertified since 1999 and should no longer be in service. We will amend the remaining sections of CFR part 501 in the near future so that they all reflect the changes in the postage meter population and changes in the DMM.

#### List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

#### Notice and Comment

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the *Code of Federal Regulations* (CFR). For the reasons set out in this document, the Postal Service is proposing to amend 39 CFR part 501 as follows:

#### PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

1. The authority citation for part 501 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Public Law 95–452, as amended), 5 U.S.C. App. 3.

2. Revise paragraphs (g) and (h) of §501.23 to read as follows:

##### § 501.23 Distribution controls.

\* \* \* \* \*

(g) Check a nonfaulty meter out of service in accordance with the procedures that the Postal Service has approved for that meter when the meter is to be removed from service for any reason. Ensure that a Postal Service employee certifies the register readings and clears the descending register when the meter is checked out of service, unless the Postal Service has approved other procedures for the specific meter model. Complete the check-out process in a timely manner and transmit the required data to the appropriate Postal

Service information systems. Ensure that no employee of the meter manufacturer or any third party changes, interferes with, or performs any element of the postal employee's established check-out and withdrawal process for any meter, unless approval for the change in procedures is granted in writing by the Postal Service.

(h) Handle faulty meters, including those that are misregistering, are defective, show any evidence of tampering, or are defective in any other way, as follows:

(1) Ensure that all functions required to handle faulty meters are completed in a timely manner and in accordance with Postal Service regulations and procedures.

(2) Ensure that faulty meters are not presented to the licensing Post Office for checkout or withdrawal.

(3) Begin the process to retrieve any faulty meter within 2 business days of being notified of a problem.

(4) Complete PS Form 3601–C, *Postage Meter Activity Report*, in the presence of the licensee and obtain the licensee's signature on the form confirming that the information is accurate.

(i) When the registers can be read, the manufacturer or the manufacturer's agent must include the register information on the form.

(ii) When the register values cannot be read, the manufacturer or the manufacturer's agent must print the system report, if available for the meter, and must attach the report to PS Form 3601–C.

(iii) When the register values cannot be read, the licensee must provide any original daily usage logs with PS Form 3601–C for refund calculation.

(5) Identify and tag the meter as faulty as soon as the manufacturer or the manufacturer's agent receives it from the customer. Keep the identification tag and the PS Form 3601–C completed under paragraph (h)(4) of this section with the faulty meter until processing is completed and the meter is returned to service or is scrapped.

(6) Secure all faulty meters and maintain the integrity of the meter and of the information residing on the meter.

(7) When there is evidence or suspicion of tampering, secure the meter and maintain it in its original state until it is returned for processing under paragraph (h)(10) of this section.

(8) Maintain a record of the faulty meter and all changes in its custody, state, and condition (including availability of register information) from the time the meter is reported as faulty until processing is completed under paragraphs (h)(13), (14), or (15) of this

section. Make the record available to the Postal Service for its review upon request.

(9) Maintain a dedicated secure facility, approved by the Postal Service, for handling faulty meters.

(10) Have faulty meters returned directly to the dedicated secure facility described in paragraph (h)(9) of this section for processing. Have all faulty meters shipped via registered mail, Express Mail® service, or Priority Mail® service with Delivery Confirmation™ service.

(11) Ensure that registers on a faulty meter are not cleared and no funds are refunded or transferred until after the meter is returned to the dedicated secure facility described in paragraph (h)(9) of this section and approved procedures are followed.

(12) Examine each meter withdrawn for faulty operation to determine if the registers can be read and if there is any evidence of tampering.

(13) If there is no evidence of tampering and the registers can be read or a summary report of the appropriate redundant electronic register memory readouts is available using Postal Service approved methods:

(i) Check out the meter and withdraw it from service under paragraph (g) of this section.

(ii) Submit a report to the Postal Service by the 15th of each month listing all faulty meters with readable displays received in the prior month, identifying the meter and including an explanation of the meter malfunction.

(14) If there is no evidence of tampering, if the meter registers cannot be read, and if a summary report of the appropriate redundant electronic register memory readouts cannot be retrieved:

(i) Develop other data to support the request for Postal Service approval of a postage adjustment amount, such as a manual calculation of the estimated value of the descending register based on estimated highest average daily usage, or applicable system-generated register documentation. Include the original daily usage logs maintained by the customer, if any, with the supporting data.

(ii) Furnish a report explaining the malfunction to the Postal Service within 5 days of receiving the meter. Accompany the report with a recommendation of the postage adjustment amount that includes all data developed to support the recommendation.

(iii) Maintain control of those meters that have unreadable registers and hold them in the manufacturer's dedicated secure facility described in paragraph

(h)(9) of this section until a representative of the Postal Service approves the postage adjustment amount or verifies the condition of the meter before proceeding with the meter repair or destruction.

(iv) Ensure that under no circumstance is a refund issued or funds transferred for any postage value said to remain in a meter that has unreadable registers until the Postal Service has reviewed and analyzed the manufacturer's report and determined the appropriate postage adjustment, if any.

(15) If there is evidence or suspicion of tampering:

(i) Maintain control of the meter and place it in a secure area.

(ii) Ensure that the meter is handled in a secure manner and maintained in its original state until the Postal Service or its agent can be present during the examination.

(iii) Ensure that under no circumstance is a refund issued or funds transferred for any postage value said to remain in a meter that shows evidence of tampering until the Postal Service has reviewed and analyzed the manufacturer's report and determined the appropriate postage adjustment, if any.

(iv) After examination, if approved by the Postal Service or its agent, process the meter under paragraphs (h)(13) or (14) of this section.

(16) In some instances, even though the registers can be read, there is information or other indication that the meter has some mechanical or electrical malfunction that affects the accuracy of the registers or the accuracy of the value printed. Such a meter must be handled under paragraph (h)(14) of this section.

(17) Issue the refund of any postage value said to remain in a faulty meter, after Postal Service approval of the amount of the refund, when the Postal Service requires it. Request reimbursement from the Postal Service for these refunds by periodically submitting a reimbursement request letter to the Postal Service. The letter must be accompanied by listings and support documentation for each refund and must indicate the cause of failure for each incident.

\* \* \* \* \*

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 02-10783 Filed 5-1-02; 8:45 am]

**BILLING CODE 7710-12-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 02-919; MB Docket No. 02-79, RM-10424]

#### Radio Broadcasting Services; Park City and Miles City, MT, and Powell and Byron, WY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes four changes in the FM Table of Allotments in Park City and Miles City, MT and Powell and Byron, WY. The Commission requests comment on a petition filed by Chaparral Broadcasting, Inc., licensee of Station KLZY(FM), Powell, Wyoming, proposing the reallocation of Channel 223C from Powell to Park City, Montana, as potentially Park City's first local aural broadcast service, and downgrade of the channel allotment to 223C0. In order to facilitate that reallocation, petitioner proposes to substitute Channel 222C for Channel 223C at Miles City, Montana. Channel 222C can be allotted to Miles City in compliance with the Commission's minimum distance separation requirements at the current site location for Station KKRY(FM), now operating on Channel 223C at reference coordinates of 46-24-04 North Latitude and 105-39-06 West Longitude; accordingly, the licensee of KKRY was ordered to show cause why its license should not be changed to specify operation on Channel 222C in lieu of Channel 223C. With that substitution, Channel 223C0 can be allotted to Park City in compliance with the Commission's minimum distance separation requirements with a site restriction of 23.8 km (14.8 miles) southeast of Park City at reference coordinates of 45-32-24 North Latitude and 108-38-34 West Longitude. Petitioner also proposes the allotment of Channel 221C to Byron, Wyoming, as a first local aural service. Channel 221C could be allotted to Byron in compliance with the Commission's minimum distance separation requirements with a site restriction of 44.7 km (27.7 miles) southwest of Byron at reference coordinates of 44-38-08 North Latitude and 109-01-20 West Longitude.

**DATES:** Comments must be filed on or before June 10, 2002, and reply comments on or before June 25, 2002.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In

addition to filing comments with the FCC, interested parties should serve the petitioner as follows: David Tillotson, Law Offices of David Tillotson, 4606 Charleston Terrace, NW, Washington, DC 20007-1911.

**FOR FURTHER INFORMATION CONTACT:** Deborah A. Dupont, Media Bureau (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MB Docket No. 02-79; adopted April 10, 2002 and released April 19, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone (202) 863-2893.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

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

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

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

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

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Park City, Channel 223C0, by removing Channel 223C at Miles City and adding Channel 222C at Miles City.

3. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Byron, Channel 221C, and by removing Channel 233C at Powell.