

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 1,030 feet upstream of confluence with Drain No. 7	*809	<i>Salitrillo Creek:</i> Just upstream of Martinez Creek Dam No. 6-A	*629	UTAH	
<i>Drain No. 9:</i> Just downstream of Miller Road	*797	<i>East Salitrillo Creek:</i> At confluence with Salitrillo Creek	*629	Farmington (City), Davis County (FEMA Docket No. 7145) <i>Farmington Creek:</i> Just upstream of the Denver and Rio Grande Western Railroad *4,231 Just upstream of the north-bound Interstate Highway 15 Bridge *4,255 Just upstream of the 300 North Bridge *4,277 Just upstream of the 600 North Bridge *4,316 Approximately 750 feet upstream of the 600 North Bridge *4,365 <i>Steed Creek:</i> Approximately 450 feet downstream of the 620 South Bridge, at the Interstate Highway 15 Frontage Road *4,252 Approximately 150 feet upstream of the 620 South Bridge *4,254 Just upstream of the 75 West Bridge *4,280 Just upstream of the 200 East Bridge *4,360 Approximately 975 feet upstream of the 200 East Bridge *4,425 Maps are available for inspection at Farmington City Hall, 130 North Main, Farmington, Utah. (Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.") Dated: October 24, 1995. Richard T. Moore, <i>Associate Director for Mitigation.</i> [FR Doc. 95-27082 Filed 10-31-95; 8:45 am] BILLING CODE 6718-04-P	
Approximately 2,270 feet upstream of Miller Road	*865	<i>West Salitrillo Creek:</i> Approximately 3,500 feet upstream of confluence with Salitrillo Creek	*634		
<i>Drain No. 10:</i> Approximately 100 feet upstream of Miller Road	*801	Approximately 1,300 feet upstream of FM 78	*665		
Approximately 50 feet upstream of Forest Bluff	*948	Just downstream of Southern Pacific Railroad	*701		
Approximately 850 feet upstream of Forest Bluff	*875	Maps are available for inspection at City Hall, City of San Antonio, 100 Military Plaza, San Antonio, Texas.			
<i>Drain No. 12:</i> At confluence with West Salitrillo Creek	*838	Selma (City), Bexar County (FEMA Docket No. 7145)			
Approximately 200 feet upstream of Avery Road	*896	<i>Cibolo Creek:</i> Just downstream of confluence of Selma Creek	*738		
<i>Unnamed Tributary of Cibolo Creek:</i> Approximately 330 feet downstream of Breached Dam	*825	Approximately 100 feet downstream of Lookout Road	*760		
Approximately 1,560 feet upstream of Breached Dam	*845	Maps are available for inspection at City Hall, City of Selma, 9375 Corporate Drive, Selma, Texas.			
<i>West Salitrillo Creek:</i> Just upstream of Miller Road ..	*806	Universal City (City), Bexar County (FEMA Docket No. 7145)			
Approximately 200 feet upstream of Avery Road	*889	<i>Cibolo Creek:</i> Just upstream of Aviation Boulevard	*715		
<i>East Salitrillo Creek:</i> Just upstream of Martinez Creek Dam No. 5	*792	Approximately 150 feet downstream of Selma Road	*735		
Approximately 100 feet downstream of Village Oak Drive	*819	<i>East Salitrillo Creek:</i> Approximately 2,675 feet upstream of confluence of East Fork of Salitrillo Creek	*737		
Approximately 200 feet upstream of State Highway 218	*857	Approximately 350 feet downstream of Martinez Creek Dam No. 5	*761		
Approximately 4,100 feet upstream of State Highway 218	*919	Just upstream of Martinez Creek Dam No. 5	*792		
Maps are available for inspection at City Hall, City of Live Oak, 8001 Shin Oak Drive, Live Oak, Texas.		<i>East Branch of Salitrillo Creek:</i> Just upstream of Southern Pacific Railroad	*725		
San Antonio (City), Bexar County (FEMA Docket No. 7145)		Approximately 950 feet upstream of Southern Pacific Railroad	*725		
<i>Leon Creek Overflow:</i> At confluence with Leon Creek	*888	<i>East Fork of East Branch of Salitrillo Creek:</i> Just upstream of confluence of East Branch of Salitrillo Creek	*725		
Approximately 3,600 feet downstream of Babcock Road	*905	At FM 1604	*725		
Just upstream of Babcock Road	*921	Maps are available for inspection at City Hall, City of Universal City, 2150 Universal City Boulevard, Universal City, Texas.			
Approximately 3,750 feet downstream of West Hausman Road	*935				
Just downstream of West Hausman Road	*953				
<i>Cibolo Creek:</i> Approximately 300 feet upstream of Missouri, Kansas, and Texas Railroad	*771				
Approximately 200 feet downstream of Missouri and Pacific Railroad	*781				
				FEDERAL COMMUNICATIONS COMMISSION 47 CFR Parts 73 and 74 [MM Docket No. 94-130; FCC 95-412] Broadcast Station Operator Requirements AGENCY: Federal Communications Commission. ACTION: Final rule. SUMMARY: The Commission amends its broadcast station rules to waive the requirement that broadcast stations be supervised only by FCC-licensed duty	

operators. Also, a number of changes are made in the rules relating to station control to permit licensees to operate their stations in a completely automated, unattended mode, thus allowing licensees significant operational cost savings. This action is necessary to update broadcast operational rules to more accurately reflect the capabilities of current transmitter monitoring and control technology.

EFFECTIVE DATE: December 1, 1995.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Engineering Policy Branch, (202) 776-1671.

SUPPLEMENTARY INFORMATION:

OMB Information Collection Notification

At the time the *Notice of Proposed Rule Making* ("Notice") in the above-entitled matter was released (59 FR 64378, December 4, 1994), authority was sought from the Office of Management and Budget ("OMB") pursuant to Section 3504(h) of the Paperwork Reduction Act, for the collection of information requested by the following existing or proposed rule sections: 73.62, 73.691, 73.1230, 73.1300, 73.1350, 73.1570, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965 and 74.1265. OMB approval for the collection of the indicated information has been obtained. It should be noted that most of this information has been requested as a matter of longstanding policy. Thus, much of the Commission's solicitation to OMB was retroactive in nature. However, in the case of proposed Section 73.1300, the Commission elects not to request information pertaining to contact persons responsible for broadcast stations operating in the unattended mode. Therefore, the OMB approval in connection with that section is moot.

This is a synopsis of the Commission's *Report and Order* in MM Docket No. 94-130 adopted October 2, 1995, and released on October 23, 1995. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St., N.W., Washington, D.C., and may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 211 M St., N.W., Suite 140, Washington, D.C. 20037.

Synopsis of Report and Order

1. This proceeding was initiated to determine, in light of the advances in automated transmission system

equipment, whether and under what circumstances the commission should waive the requirement that a broadcast station must have a licensed radio operator on duty in charge of the transmitter during all periods of broadcast operation. This action was taken in response to the Telecommunications Authorization Act of 1992, Pub. L. No. 102-538, 106 Stat. 3533 ("Law"), which among other things amended the Communications Act of 1934 ("Act") to permit the Commission to consider this option.

2. Specifically, Section 205(1) of the Law amended Section 318 of the Act, which requires that each AM, FM or TV station must be operated by a licensed transmitter duty operator ("duty operator") holding a commercial radio operator license or permit of any class. Pursuant to Section 318, the Commission may waive or modify the operator requirement for all but specifically enumerated types of stations. The Law removed from the waiver/modification prohibition "(3) stations engaged in broadcasting * * *

3. Thus, on the basis of the revised text of Section 318 and on the basis of the comments filed in this proceeding, the Commission waives the requirement that broadcast stations be operated by licensed duty operators, thereby permitting the unattended operation of broadcast stations. Additionally, where duty operators continue to be employed on an option basis, the requirement that they possess a radiotelephone license (usually the Restricted Radio Telephone Operator Permit or "RP") also is waived. Secondly, the Commission updates various transmitter control requirements to make them more relevant to unattended operation and to be responsive to commonly asked questions concerning their interpretation. The principal matters at issue in this proceeding are summarized below under the appropriate topical headings.

Requirements Pertaining to Unattended Operation

4. The Notice requested comments on potential impediments to the unattended operation of broadcast stations. Specifically, it asked whether certain types of stations should be excluded (such as International Broadcast Stations, certain types of Broadcast Auxiliary Stations and AM stations without approved antenna sampling systems) from consideration for unattended operation, and whether automated station monitoring and control ("AMC") or Automatic Transmission System ("ATS")

equipment should be required for unattended operation. On the basis of the comments, the Commission determined that all types of broadcast stations may operate unattended and that the decision to employ the use of AMC equipment should be left to the discretion of licensees.

Unattended Operation and the Emergency Alert System

5. The Commission has had under development of several years a new Emergency Alert System ("EAS") which is intended to replace the current Emergency Broadcast System ("EBS"). The EAS is specifically designed to be automated whereas the EBS is not. The Notice asked whether unattended operation of broadcast stations should be deferred pending implementation of the EAS. The comments reflected some differences of opinion on this issue. However, because various difficulties in implementing the EAS have arisen, the Commission determined that it would permit unattended operation in advance of implementation of the EAS, provided licensees implement some effective method of meeting their current EBS responsibilities.

Maximum Time Period for Non-Compliance Correction

6. The Notice discussed various types of broadcast out-of-tolerance operation, their probable interference impact, and the response time in which malfunctions should be corrected. The proposal that drew the most attention was to replace the imprecise word "immediate" with the specific time of three minutes currently used in connection with ATS-operated stations. Generally, the proposed three-minute response time was viewed as inappropriate, especially in the case of unattended stations. However, a number of the comments supported retention of the three-minute response time in the case of malfunctions with severe interference potential, but with several hours permitted in the case of lesser malfunctions.

7. The Commission noted that historically, it has required licensees to react more or less immediately to transmission system malfunctions capable of causing interference; but that this requirement was based largely on the fact that such a response time was practical (rather than necessary), as transmitter duty operators were always in attendance. It further noted that while technical malfunctions do adversely affect telecommunications and must be corrected, comparatively few are so disruptive as to require immediate correction or immediate

termination of broadcasting. Thus, the Commission agreed that the three-minute response time was unrealistic for a general standard. Instead, it adopted a three hour response time as the general rule, with a further requirement that a licensee be able to terminate station operation within three minutes if specifically requested to do so by the Commission, to react to serious malfunctions causing harmful or catastrophic loss of telecommunications service.

Monitoring, Measurement and Calibration Requirements

8. The Notice further explored what broadcast station technical parameters were in need of monitoring. It suggested, as a minimum, that transmitter power, modulation level and tower lighting status should be monitored, as well as daytime/nighttime mode changes and antenna relative phases and amplitudes at directional AM stations. Transmitter operating frequency was also mentioned for consideration. The Notice further proposed that action taken to remedy technical malfunctions be logged, and attempted to clarify how various station operating parameters should be measured.

9. The commenters responding to these questions unanimously expressed the belief that monitoring transmitter frequency was unnecessary. The proposed logging requirements were rejected as being unnecessary and unduly regulatory. Concern was also expressed about the measurement procedures described in the Notice. The claim was made that they constituted a *de facto* tightening of current operating tolerances.

10. On the basis of the comments, the Commission concluded that the measurement of transmitter frequency and the proposed logging requirements were unnecessary. The Commission clarified how the proposed rule on measurement tolerances was to be interpreted so as not to imply any tightening of operating tolerances.

Antenna Tower Light Monitoring

11. The Notice suggested that antenna tower light monitoring could be automated (as part of configuring a station for unattended operation) and that such ongoing monitoring might provide for better aviation safety than the once-a-day check currently required by the rules as a minimal monitoring activity. The comments generally supported this conclusion but raised some question as to who should be notified in the event of a lighting failure—the licensee, the Federal

Aviation Administration (“FAA”), or both. The Commission concluded that its current rules adequately regulate automated tower light monitoring and indicated that the automated equipment should notify the licensee about any malfunction in order to ensure prompt remedial action. However, it said that equipment that notifies the licensee and the FAA simultaneously of tower lighting failure could be employed optionally.

Contact Person

12. The Notice solicited comment on the idea that the Commission should develop a contact person database in the case of unattended stations, so that it could contact some responsible person in the event of a serious technical malfunction. Alternatively, it proposed that contact information be posted at a station’s transmitter site.

13. Comments on the proposed contact person database were ambivalent about its probable efficacy and they raised a number of collateral concerns such as privacy and reliability of maintenance. Similar reservations were expressed about any expansion in transmitter site posting requirements.

14. The Commission concluded that informal procedures long-used by its enforcement personnel were sufficient in view of the additional burdens that would be imposed by constructing and maintaining a more formal contact person database. The Commission also decided that no changes in current transmitter site posting requirements (which apply only to LPTV, TV translator and TV booster stations) were required.

Transmitter and Antenna System Adjustment

15. The Notice proposed that broadcast transmission system adjustments should only be done by the chief operator or by some other technically competent person designated by the licensee. This proposal received some support, but one commenter also questioned the value of the chief operator. The commenter noted that the chief operator (like the duty operator) only need hold the RP and is not required to have any special training or skill, thus rendering the position meaningless. The need for a competent on-call operator in the event of a station malfunction was stressed.

16. The Commission determined that while chief operators will no longer be required to hold any type of license or permit issued by the Commission, such personnel are responsible for the proper operation of broadcast stations and are expected to be technically competent for

the task. Eliminating such a position would appear to go outside the scope of this proceeding, which has been oriented largely toward the roles of license duty operators. After reviewing the current and proposed regulations regarding technical personnel, the Commission concluded that no new rule is needed.

Permissible Methods for Remote Transmitter Control

17. Also emphasized in the Notice was the need for licensees to have prompt access to metering and control of their transmitters, particularly the ability to turn the transmitter off in the event of a malfunction (see ¶6, *supra*). The Commission proposed to permit a three minute delay in achieving such control, regardless of the kind of control circuit utilized. This question was raised largely due to uncertainty in the past over the reliability of non-dedicated, switched telephone circuits (such as those used for ordinary voice communication).

18. The Commission agreed with those in favor of relying on the PSTN for transmitter control. There is no doubt that the reliability of the PSTN is very high, and evidence that dedicated leased lines received higher priority from the local telephone companies has not been provided. Moreover, the Commission was not persuaded by arguments that dedicated switched lines should be used for purposes other than transmitter control, even if such use is expected to be small. Therefore, the rules are being amended to permit the use of a dedicated, switched telephone line (or number) for transmitter control purposes, in lieu of a dedicated, continual use leased line.

Radiotelephone Operator Permit (“RP”)

19. The Notice questioned whether in cases where licensees elect to continue attended station operation, duty operators should continue to be required to hold the RP. The comments were nearly unanimous in expressing the opinion that the RP serves no useful purpose and represents an unnecessary expense. Several commenters noted that the station licensee is the one responsible for a station’s proper operation, not the holder of an RP. However, one commenter expressed the belief that requiring an operator license, even if only with the minimal requirements necessary to obtain the RP, would encourage a greater sense of responsibility, remove doubts that training for such duties is necessary and provide a means to prevent recurrent violators from operating broadcast stations. Another commenter reiterated

the last-mentioned point, indicating that while the RP is a card that requires no knowledge to obtain, it does at least hold people accountable to the FCC for their actions. They can be fined for their infractions and in cases of gross neglect, lose the permit.

20. The Commission was unpersuaded that the \$35 cost of an RP and its potential for revocation constitute much of an incentive to operate a station responsibly. The vast majority of the commenters expressed the opinion that the RP is completely useless. As an incentive for responsible operation, possession of the RP would appear to be less effective than the damage to or severance of an employment relationship that should be expected in cases of negligent operation.

21. But the fact that broadcast licensees are held primarily responsible for the operation of their stations is the best argument for the elimination of the RP. The Commission believes that most licensees do attempt to procure competent technical personnel and that having the RP is viewed as irrelevant to that process. Therefore, the rules are being amended to delete the requirement that a station operator possess the RP.

Other Rule Changes Recommended in the Comments

22. Several commenters recommended changes to rules either not discussed in the Notice or not included in its Appendix. In some cases, the rules were not included in the Appendix due to oversight, but are logical outgrowths of this proceeding or are clerical in nature. Thus, the Commission eliminates Section 73.757(b), which requires that a licensed operator be in control whenever auxiliary transmitters are placed in operation, and Section 73.1230(c), which concerns the posting of operator licenses. Still other rule changes were suggested that go beyond the scope of this proceeding. These included revision of Section 73.45 to eliminate the requirement of notifying the Commission about changes in antenna resistance, common point impedance and the use of direct reading power meters, revision of Section 73.1560 (a)(1) and (b) to increase the upper power limit of AM and FM stations from 5% to 10% of the value authorized and deletion of Section 73.1570(a) which relates to minimum modulation.

23. Amendment of Sections 73.757 (which requires that a licensed operator be present when an auxiliary transmitter is placed in operation) and 73.1230 (which concerns the posting of operator licenses) will be made as requested, as

they were omitted in the Notice due to oversight, are editorial in nature and are clearly within the scope of this proceeding. Further, the Commission agreed that omission of the substance of current Section 73.62(b) in the proposed revision constitutes an omission that unnecessarily reduces current operational flexibility. Therefore, Section 73.62 as adopted will retain the former flexibility concerning operation during inclement weather.

24. The suggested amendment of Section 73.45 may be worthwhile, but as no other parties commented on the proposal in reply comments, the Commission concluded that the amendment should be deferred for the present. Furthermore, the subject is expected to be discussed in another rulemaking preceding (*Notice of Proposed Rule Making* in MM Docket No. 93-177, An Inquiry into Commission Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification, 8 FCC Rcd 4345, (1993), 58 Fed. Reg 36184, July 6, 1993.). The recommended increase in power tolerance for AM and FM stations appears to be unnecessary, as the Commission has no complaints on record that the current tolerance is too stringent. Moreover, no reply comments supported the suggestion. The comment regarding main studio location is outside the scope of this proceeding, as more than simply technical factors would be at issue, and they would require further analysis in a more appropriate forum. Therefore, the Commission concluded that no revision to Sections 73.45, 73.1125, 73.1560 and 73.1570(a) should be made at this time.

25. Final Regulatory Flexibility Act Analysis

I. Reason for Action

A revision in the Communications Act of 1934 has given the Commission authority to waive the requirement that broadcast stations be operated by licensed transmitter duty operators. A waiver of this requirement would permit such stations to be operated unattended for the first time. This *Report and Order* specifies the conditions relating to such operation.

II. Objectives

The action taken herein is intended to update the rules to provide for unattended broadcast station operation and to clarify the technical responsibilities of broadcast licensees, particularly those operating unattended stations.

III. Legal Basis

The action taken is authorized by Sections 4 (i) and (j), 302, 303 and 403 of the Communications Act of 1934, as amended.

IV. Description, Potential Impact and Number of Small Entities Affected

The action taken in this proceeding is expected to benefit smaller broadcast licensees by eliminating the need for a transmitter duty operator. This is expected to result in a significant operational cost savings. However, taking advantage of the flexibility provided by the proposed new rules is entirely optional. Licensees may continue to operate as they currently do if they so desire.

V. Recording, Record Keeping and Other Compliance Requirements

Comments directed toward the Initial Regulatory Flexibility Analysis contained in the *Notice of Proposed Rule Making* ("Notice") were filed by Ted Miller, who complained about new recordkeeping and other requirements proposed the Notice when the Initial Regulatory Flexibility Analysis indicated that there were none. Strictly speaking, Mr. Miller's assertions are correct. However, the Commission concludes that the new recordkeeping requirements proposed in the Notice were insignificant compared to the many other deregulatory aspects of this proceeding. However, all of Mr. Miller's complaints and recommendations have been accommodated and are addressed either in the text of the attached *Report and Order* or in the rule appendix, so that there is in fact no adverse regulatory impact whatsoever on smaller broadcast licensees.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Rule

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objectives

None.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Reporting and recordkeeping requirements, Television broadcasting.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Parts 73 and 74 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.53 is amended by revising paragraph (b)(9) to read as follows:

§ 73.53 Requirements for authorization of antenna monitors.

* * * * *

(b) * * *

(9) The monitor, if intended for use by stations operating directional antenna systems by remote control, shall be designed so that the switching functions required by paragraph (b)(7) of this section may be performed from a point external to the monitor, and phase and amplitude indications be provided by external meters. The indications of external meters furnished by the manufacturer shall meet the specifications for accuracy and repeatability of the monitor itself, and the connection of these meters to the monitor, or of other indicating instruments with electrical characteristics meeting the specifications of the monitor manufacturer shall not affect adversely the performance of the monitor in any respect.

* * * * *

3. Section 73.57 is amended by revising paragraph (d) to read as follows:

§ 73.57 Remote reading antenna and common point ammeters.

* * * * *

(d) Each remote reading ammeter shall be accurate to within 2 percent of the value read on its corresponding regular ammeter.

* * * * *

4. Section 73.62 is amended by revising paragraphs (b) and (c) to read as follows:

§ 73.62 Directional antenna system tolerances.

* * * * *

(b) Whenever the operating parameters of a directional antenna cannot be maintained within the tolerances specified in paragraph (a) of this section, the following procedures will apply:

(1) The licensee shall measure and log every monitoring point at least once for each mode of directional operation. Subsequent variations in operating parameters will require the remeasuring and logging of every monitoring point to assure that the authorized monitoring point limits are not being exceeded.

(2) Provided each monitoring point is within its specified limit, operation may continue for a period up to 30 days before a request for Special Temporary Authority (STA) must be filed, pursuant to paragraph (b)(4) of this section, to operate with parameters at variance from the provisions of paragraph (a) of this section.

(3) If any monitoring point exceeds its specified limit, the licensee must either terminate operation within 3 hours or reduce power in accordance with the applicable provisions of § 73.1350(d), in order to eliminate any possibility of interference or excessive radiation in any direction.

(4) If operation pursuant to paragraph (b)(3) of this section is necessary, or before the 30 day period specified in paragraph (b)(2) of this section expires, the licensee must request a Special Temporary Authority (STA) in accordance with § 73.1635 to continue operation with parameters at variance and/or with reduced power along with a statement certifying that all monitoring points will be continuously maintained within their specified limits.

(5) The licensee will be permitted 24 hours to accomplish the actions specified in paragraph (b)(1) of this section; *provided that*, the date and time of the failure to maintain proper operating parameters has been recorded in the station log.

(c) In any other situation in which it might reasonably be anticipated that the operating parameters might vary out of tolerance (such as planned array repairs or adjustment and proofing procedures), the licensee shall, *before such activity is undertaken*, obtain an STA in accordance with § 73.1635 in order to operate with parameters at variance and/or with reduced power as required to maintain all monitoring points within their specified limits.

5. Section 73.69 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 73.69 Antenna monitors.

(a) * * *

(1) Normally, the antenna monitor is to be installed immediately adjacent to the transmitter and antenna phasing equipment. However, the monitor may be located elsewhere provided that its environment is maintained at all times within those limits under which the monitor was type-approved.

(2) The antenna monitor installed at a station operating a directional antenna by remote control or when the monitor is installed in the antenna field at a distance from the transmitter, must be designed and authorized for such use in

accordance with the provisions of § 73.53(b)(9).

* * * * *

6. Section 73.691 is revised to read as follows:

§ 73.691 Visual modulation monitoring.

(a) Each TV station must have measuring equipment for determining that the transmitted visual signal conforms to the provisions of this subpart. The licensee shall decide the monitoring and measurement methods or procedures for indicating and controlling the visual signal.

(b) In the event technical problems make it impossible to operate in accordance with the timing and carrier level tolerance requirements of § 73.682 (a)(9)(i), (a)(9)(ii), (a)(12), (a)(13), and (a)(17), a TV broadcast station may operate at variance for a period of not more than 30 days without specific authority from the FCC: *provided that*, the date and time of the initial out-of-tolerance condition has been entered in the station log. If the operation at variance will exceed 10 consecutive days, a notification must be sent to the FCC in Washington, D.C., not later than the 10th day of such operation. In the event normal operation is resumed prior to the end of the 30 day period, the licensee must notify the FCC upon restoration of normal operation. If causes beyond the control of the licensee prevent restoration of normal operation within 30 days, a written request must be made to the FCC in Washington, D.C., no later than the 30th day for such additional time as may be necessary.

§ 73.75 [Amended]

7. Section 73.757 is amended by removing and reserving paragraph (b).

§ 73.764 [Removed]

8. Section 73.764 is removed.

§ 73.1010 [Amended]

9. Section 73.1010 is amended by removing and reserving paragraph (c).

10. Section 73.1230 is revised to read as follows:

§ 73.1230 Posting of station license.

(a) The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter.

(b) Posting of the station license and any other instruments of authorization shall be done by affixing them to the wall at the posting location, or by enclosing them in a binder or folder

which is retained at the posting location so that the documents will be readily available and easily accessible.

11. A new § 73.1300 is added to read as follows:

§ 73.1300 Unattended station operation.

Broadcast stations may be operated as either attended (where a designated person is responsible for the proper operation of the transmitting apparatus either at the transmitter site, a remote control point or an ATS control point) or unattended (where highly stable equipment or automated monitoring of station operating parameters is employed). No prior FCC approval is required to operate a station in the unattended mode. Regardless of which method of station operation is employed, licensees must employ procedures which will ensure compliance with Part 11 of this chapter, the rules governing the Emergency Alert System (EAS).

12. A new § 73.1350 is added to read as follows:

§ 73.1350 Transmission system operation.

(a) Each licensee is responsible for maintaining and operating its broadcast station in a manner which complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization.

(b) The licensee must designate a chief operator in accordance with § 73.1870. The licensee may designate one or more technically competent persons to adjust the transmitter operating parameters for compliance with the technical rules and the station authorization.

(1) Persons so authorized by the licensee may make such adjustments directly at the transmitter site or by using control equipment at an off-site location.

(2) The transmitter control personnel must have the capability to turn the transmitter off at all times. If the personnel are at a remote location, the control system must provide this capability continuously or must include an alternate method of acquiring control that can satisfy the requirement of paragraph (d) of this section that operation be terminated within 3 minutes.

(c) The licensee must establish monitoring procedures and schedules for the station and the indicating instruments employed must comply with § 73.1215.

(1) Monitoring procedures and schedules must enable the licensee to determine compliance with § 73.1560 regarding operating power and AM

station mode of operation, § 73.1570 regarding modulation levels, and, where applicable, § 73.1213 regarding antenna tower lighting, and § 73.69 regarding the parameters of an AM directional antenna system.

(2) Monitoring equipment must be periodically calibrated so as to provide reliable indications of transmitter operating parameters with a known degree of accuracy. Errors inherent in monitoring equipment and the calibration procedure must be taken into account when adjusting operating parameters to ensure that the limits imposed by the technical rules and the station authorization are not exceeded.

(d) In the event that a broadcast station is operating in a manner that is not in compliance with the technical rules set forth elsewhere in this part or the terms of the station authorization, and the condition is not listed in paragraph (e) of this section, broadcast operation must be terminated within three hours.

(1) Examples of conditions that require termination of operation include excessive power or excessive modulation.

(2) Additional examples for AM stations are any mode of operation not specified by the station license for the pertinent time of day or hours of operation and any condition of antenna parameters or monitoring points out of the tolerances specified elsewhere in this part or by the station's instrument of authorization. For these conditions, operation must be terminated within three minutes unless antenna input power is reduced sufficiently to eliminate any excess radiation.

(3) For AM stations using directional arrays, additional procedures apply when array operating parameters are at variance, monitoring points exceed specified limits, or authorized directional mode capability is lost. See § 73.62, Directional antenna system tolerances; § 73.158, Directional antenna monitoring points; and § 73.1680(b), Emergency antennas.

(e) If a broadcast station is operating in a manner that is not in compliance with one of the following technical rules, operation may continue if the station complies with relevant alternative provisions in the specified rule section.

(1) AM directional antenna system tolerances, see § 73.62;

(2) AM directional antenna monitoring points, see § 73.158;

(3) TV visual waveform, see § 73.691(b);

(4) Reduced power operation, see § 73.1560(d);

(5) Reduced modulation level, see § 73.1570(a);

(6) Emergency antennas, see § 73.1680.

(f) The transmission system must be maintained and inspected in accordance with § 73.1580.

(g) Whenever a transmission system control point is established at a location other than at the main studio or transmitter, notification of that location must be sent to the FCC in Washington, D.C. within 3 days of the initial use of that point. This notification is not required if responsible station personnel can be contacted at the transmitter or studio site during hours of operation.

(h) The licensee must ensure that the station is operated in compliance with Part 11 of this chapter, the rules governing the Emergency Alert System (EAS).

13. Section 73.1400 is revised to read as follows:

§ 73.1400 Transmission system monitoring and control.

The licensee of an AM, FM or TV station is responsible for assuring that at all times the station operates within tolerances specified by applicable technical rules contained in this part and in accordance with the terms of the station authorization. Any method of complying with applicable tolerances is permissible. The following are typical methods of transmission system operation:

(a) *Attended operation.* (1) Attended operation consists of ongoing supervision of the transmission facilities by a station employee or other person designated by the licensee. Such supervision may be accomplished by either:

(i) Direct supervision and control of transmission system parameters by a person at the transmitter site; or

(ii) Remote control of the transmission system by a person at the main studio or other location. The remote control system must provide sufficient transmission system monitoring and control capability so as to ensure compliance with § 73.1350.

(2) A station may also be monitored and controlled by an automatic transmission system (ATS) that is configured to contact a person designated by the licensee in the event of a technical malfunction. An automatic transmission system consists of monitoring devices, control and alarm circuitry, arranged so that they interact automatically to operate the station's transmitter and maintain technical parameters within licensed values.

(3) A hybrid system containing some remote control and some ATS features is also permissible.

(4) In the case of remote control or ATS operation, not every station parameter need be monitored or controlled if the licensee has good reason to believe that its stability is so great that its monitoring and control are unnecessary.

(b) *Unattended operation.* Unattended operation is either the absence of human supervision or the substitution of automated supervision of a station's transmission system for human supervision. In the former case, equipment is employed which is expected to operate within assigned tolerances for extended periods of time. The latter consists of the use of a self-monitoring or ATS-monitored and controlled transmission system that, in lieu of contacting a person designated by the licensee, automatically takes the station off the air within three hours of any technical malfunction which is capable of causing interference.

§§ 73.1410, 73.1500, 73.1550 [Removed]

14. Sections 73.1410, 73.1500 and 73.1550 are removed.

15. Section 73.1580 is revised to read as follows:

§ 73.1580 Transmission system inspections.

Each AM, FM, and TV station licensee or permittee must conduct periodic complete inspections of the transmitting system and all required monitors to ensure proper station operation.

16. Section 73.1635 is amended by revising paragraph (a)(5) to read as follows:

§ 73.1635 Special temporary authorizations (STA).

(a) * * *

(5) Certain rules specify special considerations and procedures in situations requiring an STA or permit temporary operation at variance without prior authorization from the FCC when notification is filed as prescribed in the particular rules. See § 73.62, Directional antenna system tolerances; § 73.157, Antenna testing during daytime; § 73.158, Directional antenna monitoring points; § 73.691, Visual modulation monitoring; § 73.1250, Broadcasting emergency information; § 73.1350, Transmission system operation; § 73.1560, Operating power and mode tolerances; § 73.1570, Modulation levels: AM, FM, and TV aural; § 73.1615, Operation during modification of facilities; § 73.1680, Emergency antennas; and § 73.1740, Minimum operating schedule.

* * * * *

17. Section 73.1820 is amended by revising paragraphs (a) introductory text, (a)(2)(iii), by removing paragraphs (b)(4), (b)(5) and (b)(6), redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(4) and (b)(5), respectively and revising newly redesignated paragraph (b)(4) to read as follows:

§ 73.1820 Station log.

(a) Entries must be made in the station log either manually by a person designated by the licensee who is in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this section. Indications of operating parameters that are required to be logged must be logged prior to any adjustment of the equipment. Where adjustments are made to restore parameters to their proper operating values, the corrected indications must be logged and accompanied, if any parameter deviation was beyond a prescribed tolerance, by a notation describing the nature of the corrective action. Indications of all parameters whose values are affected by the modulation of the carrier must be read without modulation. The actual time of observation must be included in each log entry. The following information must be entered:

* * * * *

(2) * * *

(iii) Entries of the results of calibration of automatic logging devices (see paragraph (b) of this section) or indicating instruments (see § 73.67), whenever performed.

(b) * * *

(4) In the event of failure or malfunctioning of the automatic equipment, the person designated by the licensee as being responsible for the log shall make the required entries in the log manually at that time;

* * * * *

§ 73.1860 [Removed]

18. Section 73.1860 is removed.

19. Section 73.1870 is amended by revising paragraphs (a) and (b)(3) to read as follows:

§ 73.1870 Chief operators.

(a) The licensee of each AM, FM, or TV broadcast station must designate a person to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another person as the acting chief operator on a temporary basis.

(b) * * *

(3) The designation of the chief operator must be in writing with a copy

of the designation posted with the station license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

20. The authority citation for Part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, 554.

§ 74.5 [Amended]

21. Section 74.5 is amended by removing and reserving paragraph (c).

22. Section 74.18 is revised to read as follows:

§ 74.18 Transmitter control and operation.

Except where unattended operation is specifically permitted, the licensee of each station authorized under the provisions of this part shall designate a person or persons to activate and control its transmitter. At the discretion of the station licensee, persons so designated may be employed for other duties and for operation of other transmitting stations if such other duties will not interfere with the proper operation of the station transmission systems.

23. Section 74.165 is revised to read as follows:

§ 74.165 Posting of station license.

The instrument of authorization or a clearly legible photocopy thereof shall be available at the transmitter site.

24. Section 74.432 is amended by revising paragraph (e)(1) to read as follows:

§ 74.432 Licensing requirements and procedures.

* * * * *

(e) * * *

(1) The station must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

* * * * *

25. Section 74.434 is amended by revising paragraph (b) to read as follows:

§ 74.434 Remote control operation.

* * * * *

(b) A remote control system must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

* * * * *

26. Section 74.436 is amended by revising paragraph (a) to read as follows:

§ 74.436 Special requirements for automatic relay stations.

(a) An automatic relay station must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

* * * * *

27. Section 74.533 is amended by revising paragraph (a)(2) to read as follows:

§ 74.533 Remote control and unattended operation.

(a) * * *
(2) The remote control system must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

* * * * *

28. Section 74.564 is amended by revising the section heading and paragraph (a) to read as follows:

§ 74.564 Posting of station license.

(a) The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation of the station shall be posted in the room in which the transmitter is located, provided that if the station is operated by remote control pursuant to § 74.533, the station license shall be posted at the operating position.

* * * * *

29. Section 74.634 is amended by revising paragraph (a)(1) to read as follows:

§ 74.634 Remote control operation.

(a) * * *
(1) The remote control system must be designed, installed, and protected so that the transmitter can only be activated or controlled by persons authorized by the licensee.

* * * * *

30. Section 74.703 is amended by revising paragraph (c) to read as follows:

§ 74.703 Interference.

* * * * *

(c) It shall be the responsibility of the licensee of a low power TV, TV translator, or TV booster station to correct any condition of interference which results from the radiation of radio frequency energy outside its assigned channel. Upon notice by the Commission to the station licensee that such interference is caused by spurious emissions of the station, operation of the station shall be suspended within three minutes and not resumed until the

interference has been eliminated. However, short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

* * * * *

31. Section 74.734 is amended by revising paragraph (a) introductory text and removing paragraph (a)(6) to read as follows:

§ 74.734 Attended and unattended operation.

(a) Low power TV, TV translator, and TV booster stations may be operated without a designated person in attendance if the following requirements are met:

* * * * *

32. Section 74.750 is amended by revising paragraph (g) to read as follows:

§ 74.750 Transmission system facilities.

* * * * *

(g) Low power TV, TV translator, or TV booster stations installing new type accepted transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment in existing low power TV, TV translator, or TV booster station transmitting apparatus must have a qualified person examine the transmitting system after installation. This person must certify in the application for the station license that the transmitting equipment meets the requirements of paragraph (d)(1) of this section. A report of the methods, measurements, and results must be kept in the station records. However, stations installing modulating equipment solely for the limited local origination of signals permitted by § 74.731 need not comply with the requirements of this paragraph.

§ 74.765 [Amended]

33. Section 74.765 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

34. Section 74.769 is revised to read as follows:

§ 74.769 Copies of rules.

The licensee or permittee of a station authorized under this subpart shall have a current copy of Volume I and Volume III of the Commission's Rules. Each such licensee or permittee shall be familiar with those rules relating to stations authorized under this subpart. Copies of the Commission's rules may be obtained from the Superintendent of Documents,

Government Printing Office, Washington, DC 20402.

35. Section 74.901 is amended by revising the definitions for "Attended operation", "Remote control" and "Unattended operation" to read as follows:

§ 74.901 Definitions.

Attended operation. Operation of a station by a designated person on duty at the place where the transmitting apparatus is located with the transmitter in the person's plain view.

* * * * *

Remote control. Operation of a station by a designated person at a control position from which the transmitter is not visible but where suitable control and telemetering circuits are provided which allow the performance of the essential functions that could be performed at the transmitter.

* * * * *

Unattended operation. Operation of a station by automatic means whereby the transmitter is turned on and off and performs its functions without attention by a designated person.

36. Section 74.939 is amended by revising paragraph (i) to read as follows:

§ 74.939 Special rules governing ITFS response stations.

* * * * *

(i) The transmitter of an ITFS response station may be operated unattended. The overall performance of the ITFS response station transmitter shall be checked as often as necessary to ensure that it is functioning in accordance with the requirements of the Commission's rules. The licensee of an ITFS response station is responsible for the proper operation of the transmitter at all times. The transmitter shall be installed and protected in such manner as to prevent tampering or operation by unauthorized persons.

* * * * *

37. Section 74.969 is revised to read as follows:

§ 74.969 Copies of rules.

The licensee of an instructional television fixed station shall have a current copy of Parts 73 and 74 of this chapter. In cases where aeronautical hazard marking of antennas is required, such licensee shall also have a current copy of Part 17 of this chapter. Each licensee is expected to be familiar with the pertinent rules governing instructional television fixed stations.

38. Section 74.1203 is amended by revising paragraph (e) to read as follows:

§ 74.1203 Interference.

* * * * *

(e) It shall be the responsibility of the licensee of an FM translator or FM booster station to correct any condition of interference which results from the radiation of radio frequency energy by its equipment on any frequency outside the assigned channel. Upon notice by the Commission to the station licensee that such interference is being caused, the operation of the FM translator or FM booster station shall be suspended within three minutes and shall not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions by the FM translator or FM booster station; *provided, however,* that short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

39. Section 74.1234 is amended by revising paragraph (a) introductory text and removing paragraph (c) to read as follows:

§ 74.1234 Unattended operation.

(a) A station authorized under this subpart may be operated without a designated person in attendance if the following requirements are met:

* * * * *

[FR Doc. 95-26699 Filed 10-3-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 89-553, GN Docket No. 93-252; FCC 95-429]

SMR Systems in the 900 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, adopted a *Third Order on Reconsideration*, reconsidering the coverage requirement for the 900 MHz Specialized Mobile Radio (SMR) service. In addition, the *Third Order on Reconsideration* also amended the Part 90 rules to include a renewal expectancy for 900 MHz Major Trading Area (MTA) licensees. The intended effect of this action is to clarify the service rules for the 900 MHz SMR service.

EFFECTIVE DATE: December 1, 1995.

FOR FURTHER INFORMATION CONTACT: Diane Law, (202) 418-0660, Wireless Communications Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Third Order on Reconsideration*, released October 20, 1995. The complete text of this *Third*

Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 239, 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of the Third Order on Reconsideration

Adopted: October 20, 1995
Released: October 20, 1995

I. Background

The Commission adopted the service and auction rules for the 900 MHz SMR auction in the *Second Order on Reconsideration & Seventh Report & Order*, 60 FR 48913 (Sept. 21, 1995). In that *Order*, The Commission stated that it would auction 1,020 MTA licenses for the 900 MHz SMR service in a simultaneous multi-round auction. The Commission also adopted coverage requirements for MTA licensees. 900 MHz MTA licensees must provide coverage to one-third of the population of their service area within three years of initial license grant and to two-thirds of the population of their service area within five years, or, at the five year mark, submit a showing of substantial service.

II. Third Order on Reconsideration

A. Coverage Requirement

Substantial Service. The Commission clarifies that the "substantial service" showing is a mechanism designed for specialized users who may not be able to meet the two-thirds coverage requirement due to individualized circumstances. Two possible examples of individualized circumstances which could warrant a showing of "substantial service" are licensees who provide a "niche service" to businesses or who focus on serving populations outside of areas currently served by incumbent licensees. The coverage requirement is not intended to act a deterrent to seeking MTA licenses, and the Commission believes that with the "substantial service" mechanism it has provided sufficient flexibility for new entrants to provide new services or to serve now unserved populations in all of the licenses.

Resale. The Commission also clarifies that 900 MHz MTA licensees may engage in resale agreements for use of others' facilities to enhance the quality of service to the population of their service areas, but these resale agreements may not act as a substitute for meeting the coverage requirements

by building facilities. 900 MHz MTA licensees may resell their service. However the licensee must remain in control of its spectrum and remains responsible for insuring that the coverage requirements are met. The Commission declines to require that a specific number of channels be deployed to implement the coverage rule, however, it reserves judgment on whether such a requirement may be necessary in other services.

B. Renewal Expectancy.

In the Commercial Mobile Radio Service (CMRS) *Third Report and Order*, 59 FR 59945 (Nov. 21 1994), the Commission stated that the applicable sections of Part 22 governing renewal expectancies would be incorporated into Part 90 of the Commission's rules for CMRS providers. In this *Third Order on Reconsideration*, the Commission amends the Part 90 rules to include a renewal expectancy for 900 MHz MTA licensees. Following the end of their ten year license term, 900 MHz MTA licensees will be afforded a renewal expectancy provided they are able to demonstrate that they: (1) Provided "substantial" service during the license term; and (2) complied with applicable Commission rules and policies, and the Communications Act.

IV. Procedural Matters and Ordering Clauses

Ordering Clauses. Accordingly, it is ordered that, pursuant to the authority of Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 309(j), this *Third Order on Reconsideration* is adopted and Part 90 of the Commission's Rules is amended as set forth below.

It is further ordered that the rule amendments set forth below will become effective December 1, 1995.

List of Subjects in 47 CFR Part 90
Radio.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Amendatory Text

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 is revised to read as follows:

Authority: 47 U.S.C. 154, 303, 309 and 332.

2. A new Section 90.816 is added to read as follows: