§ 27.5 Frequencies.

* * * * *

(h) *1710–1755 MHz and 2110–2155 MHz bands.* The following frequencies are available for licensing pursuant to this part in the 1710–1755 MHz and 2110–2155 MHz bands:

(1) Three paired channel blocks of 10 megahertz each are available for assignment as follows:

Block A: 1710–1720 MHz and 2110–2120 MHz;

Block B: 1720–1730 MHz and 2120–2130 MHz; and

Block F: 1745–1755 MHz and 2145–2155 MHz.

(2) Three paired channel blocks of 5 megahertz each are available for assignment as follows:

Block C: 1730–1735 MHz and 2130–2135 MHz;

Block D: 1735–1740 MHz and 2135–2140 MHz; and

Block E: 1740–1745 MHz and 2140–2145 MHz.

* * * * *

■ 3. Section 27.6 is amended by revising paragraph (h) to read as follows:

§ 27.6 Service areas.

* * * * *

(h) 1710–1755 and 2110–2155 MHz bands. AWS service areas for the 1710–1755 MHz and 2110–2155 MHz bands are as follows:

(1) Service areas for Block A (1710–1720 MHz and 2110–2120 MHz) are based on cellular markets comprising Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs) as defined by Public Notice Report No. CL–92–40 ''Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties,'' dated January 24, 1992, DA 92–109, 7 FCC Rcd 742 (1992), with the following modifications:

(i) The service areas of cellular markets that border the U.S. coastline of the Gulf of Mexico extend 12 nautical miles from the U.S. Gulf coastline.

(ii) The service area of cellular market 306 that comprises the water area of the Gulf of Mexico extends from 12 nautical miles off the U.S. Gulf coast outward into the Gulf.

(2) Service areas for Blocks B (1720–1730 MHz and 2120–2130 MHz) and C (1730–1735 MHz and 2130–2135 MHz) are based on Economic Areas (EAs) as defined in paragraph (a) of this section.

(3) Service areas for blocks D (1735–1740 MHz and 2135–2140 MHz), E (1740–1745 MHz and 2140–2145 MHz) and F (1745–1755 MHz and 2145–2155 MHz) are based on Regional Economic Area Groupings (REAGs) as defined by paragraph (a) of this section.

■ 4. Section 27.11 is amended by revising section (i) to read as follows:

§ 27.11 Initial authorization.

* * * * *

(i) *1710–1755 MHz and 2110–2155 MHz bands.* Initial authorizations for the 1710–1755 MHz and 2110–2155 MHz bands shall be for 5 or 10 megahertz of spectrum in each band in accordance with § 27.5(h) of this part.

(1) Authorizations for Block A, consisting of two paired channels of 10 megahertz each, will be based on those geographic areas specified in § 27.6(h)(1).

(2) Authorizations for Block B, consisting of two paired channels of 10 megahertz each, will be based on those geographic areas specified in § 27.6(h)(2).

(3) Authorizations for Block C, consisting of two paired channels of 5 megahertz each, will be based on those geographic areas specified in § 27.6(h)(2).

(4) Authorizations for Blocks D, consisting of two paired channels of 5 megahertz each, will be based on those geographic areas specified in § 27.6(h)(3).

(5) Authorizations for Blocks E, consisting of two paired channels of 5 megahertz each, will be based on those geographic areas specified in § 27.6(h)(3).

(6) Authorizations for Block F, consisting of two paired channels of 10 megahertz each, will be based on those geographic areas specified in § 27.6(h)(3).

■ 5. Section 27.50 is amended by revising paragraphs (d) introductory text and (d)(1) to read as follows:

§ 27.50 Power and antenna height limits.

* * * * *

(d) The following power and antenna height requirements apply to stations transmitting in the 1710–1755 MHz and 2110–2155 MHz bands:

(1) The power of each fixed or base station transmitting in the 2110–2155 MHz band and located in any county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, is limited to a peak equivalent isotropically radiated power (EIRP) of 3280 watts. The power of each fixed or base station transmitting in the 2110–2155 MHz band from any other location is limited to a peak EIRP of 1640 watts. A licensee operating a base or fixed station utilizing a power of more than 1640 watts EIRP must coordinate such operations in advance with all Government and non-Government satellite entities in the 2025–2110 MHz band. Operations above 1640 watts EIRP must also be coordinated in advance with the following licensees within 120 kilometers (75 miles) of the base or fixed station: all Broadband Radio Service (BRS) licensees authorized under part 27 in the 2155–2160 MHz band and all AWS licensees in the 2110–2155 MHz band.

* * * * *

[FR Doc. 05–19761 Filed 10–4–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 387

[Docket No. FMCSA–2005–22470]

Regulatory Guidance for Forms Used To Establish Minimum Levels of Financial Responsibility of Motor Carriers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Regulatory guidance.

SUMMARY: This document presents interpretive guidance material for the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA issues new regulatory guidance for Forms MCS–90, MCS–90B, MCS–82, and MCS–82B used to establish minimum levels of financial responsibility of motor carriers. The questions and answers are applicable to motor carrier operations on a national basis. This guidance will provide the motor carrier and financial services industries and Federal, State, and local law enforcement officials with a clearer understanding of the applicability in particular situations of Forms MCS–90, MCS–90B, MCS–82, and MCS–82B contained in the FMCSRs.

EFFECTIVE DATE: October 5, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Joy Dunlap, Chief, Commercial Enforcement Division, Office of Enforcement and Compliance (MC–ECC), Federal Motor Carrier Safety Administration, 400 Seventh Street. SW., Washington, DC 20590. Phone 202–385–2400. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal legal holidays.

SUPPLEMENTARY INFORMATION:

Basis for the Notice

FMCSA received a petition for rulemaking from several insurance companies and the American Insurance Association to amend Form MCS–90, Endorsement for Motor Carrier Policies

of Insurance for Public Liability, to incorporate several changes, most of which were suggested to clarify the meaning of Form MCS–90. The Trucking Industry Defense Association (TIDA) filed a brief in support of the petition. A copy of the petition, amendments to the petition and the TIDA brief are in the docket identified in the heading of this document. The petitioners contended changes were necessary in light of Federal and State court decisions [1] that they claimed misconstrued Form MCS–90 to require insurance companies to pay damages for negligent operation of a vehicle owned by the insured motor carrier but not covered by its insurance policy, even when no judgment had been obtained against the insured motor carrier. The Petitioners' primary concern was to have the agency clarify that the word ''insured'' in the Form MCS–90 means ''named insured.''

FMCSA has denied the petition for rulemaking. However, the agency stated petitioners' concerns could be adequately addressed without rulemaking through formal agency guidance to be published in the **Federal Register.** A copy of the letter denying the petition is in the docket identified in the heading of this document.

FMCSA Authorities Over Motor Carrier Financial Responsibility Requirements

Section 30 of the Motor Carrier Act of 1980 (Pub. L. 96–296, July 1, 1980, 94 Stat. 793, at 820), codified at 49 U.S.C. 31139, established minimum levels of financial responsibility for for-hire motor carriers of property involved in interstate or foreign transportation and for the transportation of hazardous materials in intrastate and interstate commerce.

Section 18 of the Bus Regulatory Reform Act of 1982 (Pub. L. 97–261, September 20, 1982, 96 Stat. 1102), codified at 49 U.S.C. 31138, established minimum levels of financial responsibility covering public liability and property damage for the transportation of passengers by for-hire motor carriers in interstate or foreign commerce.

The financial responsibility provisions of the Motor Carrier Act of 1980 and the Bus Regulatory Reform Act of 1982 were intended to create incentives for the motor carrier industry to focus on the safety aspects of highway transportation and to assure the general public that a motor carrier maintains an adequate level of financial responsibility sufficient to satisfy claims covering public liability, property damage liability and, in the case of transporters of hazardous materials, environmental restoration liability.

The Administrator of FMCSA has been delegated authority, under 49 CFR 1.73(f), to carry out the functions vested in the Secretary of Transportation relating to financial responsibility requirements for motor carriers, brokers and freight forwarders. Such functions include issuing regulations implementing 49 U.S.C. 31138 and 31139 and providing guidance regarding statutory or regulatory requirements.

This document provides regulatory guidance to the petitioners and the public with respect to the proper interpretation of Form MCS–90. FMCSA is including Forms MCS–90B, MCS–82, and MCS–82B in this regulatory guidance as well, because the same issue may arise with respect to these forms. Forms MCS–90, MCS–90B, MCS–82, and MCS–82B are not intended, and do not purport, to require insurance companies or sureties to satisfy a judgment against any party other than the motor carrier named in the endorsement or its fiduciary.

Members of the motor carrier industry and other interested parties may also access the guidance in this document through the FMCSA's Internet site at *http://www.fmcsa.dot.gov.*

Specific questions addressing any of the interpretive material published in this document should be directed to the contact person listed earlier under **FOR FURTHER INFORMATION CONTACT,** or the FMCSA Division Office in each State.

Regulatory Guidance

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Sections Interpreted

Section 387.15 Forms

Question: Does the term ''insured,'' as used on Form MCS–90, Endorsement for Motor Carrier Policies of Insurance for Public Liability, or ''Principal'', as used on Form MCS–82, Motor Carrier Liability Surety Bond, mean the motor carrier named in the endorsement or surety bond?

Guidance: Yes. Under 49 CFR 387.5, ''insured and principal'' is defined as ''the motor carrier named in the policy of insurance, surety bond, endorsement, or notice of cancellation, and also the fiduciary of such motor carrier.'' Form MCS–90 and Form MCS–82 are not intended, and do not purport, to require a motor carrier's insurer or surety to satisfy a judgment against any party other than the carrier named in the endorsement or surety bond or its fiduciary.

Section 387.39 Forms

Question: Does the term ''insured,'' as used on Form MCS–90B, Endorsement for Motor Carrier Policies of Insurance for Public Liability, or ''Principal'', as used on Form MCS–82B, Motor Carrier Public Liability Surety Bond, mean the motor carrier named in the endorsement or surety bond?

Guidance: Yes. Under 49 CFR 387.29, ''insured and principal'' is defined as ''the motor carrier named in the policy of insurance, surety bond, endorsement, or notice of cancellation, and also the fiduciary of such motor carrier.'' Form MCS–90B and Form MCS–82B are not intended, and do not purport, to require a motor carrier's insurer or surety to satisfy a judgment against any party other than the carrier named in the endorsement or surety bond or its fiduciary.

Issued on: September 28, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–19946 Filed 10–4–05; 8:45 am]

BILLING CODE 4910–EX–P

[1] *John Deere Insurance Co.* v. *Nueva,* 229 F.3d 853 (9th Cir. 2000); *Lynch* v. *Yob,* 95 Ohio St. 3d 441, 768 NE. 2d 1158 (2002); *Pierre* v. *Providence Wash. Ins. Co.,* 286 A.D.2d 139, 730 N.Y.S.2d 550 (2001); and *Madere* v. *National Union Fire Ins. Co. of Pittsburgh,* 2000 U.S. Dist. LEXIS 15994 (E.D. La. 2000).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040830250–5062–03; I.D. 093005A]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments

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

ACTION: Inseason adjustments to management measures; request for comments.

SUMMARY: NMFS announces changes to management measures in the commercial and recreational Pacific Coast groundfish fisheries. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), will allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.