

therefore requires incumbent LECs to continue providing unbundled access to switching, enterprise market loops, and dedicated transport under the same rates, terms and conditions that applied under their interconnection agreements as of June 15, 2004. These rates, terms, and conditions shall remain in place until the earlier of the effective date of final unbundling rules promulgated by the Commission or six months after

**Federal Register** publication of the Order, except to the extent that they are or have been superseded by (1) voluntarily negotiated agreements, (2) an intervening Commission order affecting specific unbundling obligations (*e.g.*, an order addressing a pending petition for reconsideration), or (3) (with respect to rates only) a State public utility commission order raising the rates for network elements.

2. *Transition Plan.* As mentioned above, the document also sets forth a transition plan to govern the six months following the initial period described above, in the absence of a Commission ruling that switching, enterprise market loops and/or dedicated transport must be made available pursuant to section 251(c)(3) in any particular case. First, in the absence of a Commission ruling that switching is subject to unbundling, an incumbent LEC shall only be required to lease the switching element to a requesting carrier in combination with shared transport and loops (*i.e.*, as a component of the "UNE platform") at a rate equal to the higher of (1) the rate at which the requesting carrier leased that combination of elements on June 15, 2004, plus one dollar, or (2) the rate the State public utility commission establishes, if any, between June 16, 2004, and six months after **Federal Register** publication of this Order, for this combination of elements, plus one dollar. Second, in the absence of a Commission ruling that enterprise market loops and/or dedicated transport are subject to section 251(c)(3) unbundling in any particular case, an incumbent LEC shall only be required to lease the element at issue to a requesting carrier at a rate equal to the higher of (1) 115% of the rate the requesting carrier paid for that element on June 15, 2004, or (2) 115% of the rate the State public utility commission establishes, if any, between June 16, 2004, and six months after **Federal Register** publication of this Order, for that element. With respect to all elements at issue here, this transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new customers at these rates. As during the interim period, carriers shall remain free to

negotiate alternative arrangements (including rates) superseding our requirements (and State public utility commission rates) during the transition period. Subject to the comments requested in response to the Notice of Proposed Rulemaking, released simultaneously but summarized separately, we intend to incorporate this second phase of the plan into our final rules.

#### **Congressional Review Act**

3. The Commission will not send a copy of this Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). This Order does not promulgate new rules, but rather extends for an interim period the effectiveness of existing contracts between carriers, which are based on vacated Commission rules, until the Commission develops final rules. This Order does not contain a major rule. *See* 5 U.S.C. 804(2).

#### **Paperwork Reduction Act**

4. This Order does not contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

#### **Ordering Clause**

5. Accordingly, it is ordered that the interim requirements set forth in the Order in WC Docket No. 04-313 and CC Docket No. 01-338 shall be effective immediately upon publication in the **Federal Register**.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 04-20466 Filed 9-10-04; 8:45 am]

**BILLING CODE 6712-01-P**

### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Part 73**

[DA 04-1420; MM Docket No. 02-23; RM-10359]

**Radio Broadcasting Services; Keeseville, NY, Hartford and White River Junction, VT**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 231A at Keeseville, New York in response to a counterproposal filed by Hall Communications, Inc. It also denies the initiating proposal filed by Great Northern Radio, LLC, licensee of Station WSSH(FM), Channel 237A, White River Junction, Vermont, and Family Broadcasting, Inc., licensee of WWOD(FM), Channel 282C3, Hartford, Vermont to reallocate Channel 282C3 from Hartford, Vermont to Keeseville, New York and Channel 237A from White River Junction to Hartford, and modify the licenses of Stations WWOD(FM) and WSSH(FM), respectively, to reflect the changes. Channel 231A can be allotted to Keeseville in compliance with the Commission's minimum distance separation requirements at a site 5.0 kilometers (3.1 miles) northwest of the community. The coordinates for Channel 231A at Keeseville are 344-31-45 NL and 73-32-00 WL.

**DATES:** Effective October 12, 2004.

#### **FOR FURTHER INFORMATION CONTACT:**

Victoria M. McCauley, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 02-23, adopted August 25, 2004, and released August 27, 2004. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

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

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended 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 New York, is amended by adding Keeseville, Channel 231A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-20612 Filed 9-10-04; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 171, 172, and 173

[Docket No. RSPA-99-6283 (HM-230)]

RIN 2137-AD40

#### Hazardous Materials Regulations; Compatibility With the Regulations of the International Atomic Energy Agency; Correction; Final Rule

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** RSPA is correcting errors in its final rule in this docket, published in the **Federal Register** on January 26, 2004, that amended requirements in the Hazardous Materials Regulations (HMR) pertaining to the transportation of radioactive materials based on changes contained in the International Atomic Energy Agency (IAEA) publication, entitled "IAEA Safety Standards Series: Regulations for the Safe Transport of Radioactive Material," 1996 Edition, No. TS-R-1.

**DATES:** *Effective Date:* This final rule is effective on October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dr. Fred D. Ferate II, Office of Hazardous Materials Technology, (202) 366-4545, or Charles E. Betts, Office of Hazardous Materials Standards, (202) 366-8553; Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On January 26, 2004, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket HM-230 (69 FR 3632) amending requirements in the HMR pertaining to the transportation of radioactive materials based on changes contained in the IAEA publication entitled "IAEA Safety Standards Series: Regulations for the Safe Transport of Radioactive Material," 1996 Edition, No. TS-R-1. Specifically, the final rule:

- Adopted the nuclide-specific exemption activity concentrations and

the nuclide-specific exemption consignment activities listed in TS-R-1 to assure continued consistency between domestic and international regulations for the basic definition of radioactive material;

- Provided an exception in the HMR that certain naturally occurring radioactive materials would not be subject to the requirements of the HMR so long as their specific activities do not exceed 10 times the activity concentration exemption values;

- Incorporated the TS-R-1 changes in the A<sub>1</sub> and A<sub>2</sub> values into the HMR;

- Adopted the new proper shipping names and UN identification numbers, except for those referring to Type C packages, for fissile LSA material and for fissile SCOs;

- Required, if customary units are used, that the appropriate quantity and customary units be placed within parentheses positioned after the original quantity expressed in the International System of Units (SI units);

- Adopted the use of the Criticality Safety Index (CSI) to refer to what was formerly the criticality control transport index, and to restrict the use of the concept of transport index (TI) to a number derived purely from the maximum radiation level at one meter from the package;

- Required that the new fissile label be placed on each fissile material package, and that the CSI for that package be noted on the fissile label;

- Adopted the requirement that excepted packages must be marked with the UN identification number, that industrial packagings be marked with the package type, and that Type IP-2 and IP-3 industrial packages and Type A packages be marked with the international vehicle registration code of the country of origin of packaging design;

- Removed former requirements which became redundant upon adoption of the new proper shipping names, such as the requirement that the shipping description contain the words "Radioactive Material" unless those words are included in the proper shipping name;

- Removed plutonium-238 from the definition of fissile material. Removed the reference to Pu-238 in the list of fissile radionuclides for which the weight in grams or kilograms may be listed instead of or in addition to the activity, in the shipping paper or radioactive label description of the radioactive contents of a package;

- Adopted a definition of contamination, and included an authority to transport unpackaged LSA material and SCO, and an authority to

use qualified tank containers, freight containers and metal intermediate bulk containers as industrial packagings, types 2 and 3 (IP-2 and IP-3);

- Adopted a new class of LSA-I material, consisting of radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the activity concentration exemption level, and removed the present category referring to mill tailings, contaminated earth, concrete, rubble, other debris, and activated material that is essentially uniformly distributed, with specific activity not exceeding  $10^{-6}$  A<sub>2</sub>/g.

- Incorporated the TS-R-1 changes for packagings containing more than 0.1 kg of uranium hexafluoride (UF<sub>6</sub>);

- Required UF<sub>6</sub> packagings to meet the pressure, drop and thermal test requirements, prohibited the use of pressure relief devices, and require that packagings be certified in accordance with TS-R-1 requirements;

- Removed the definition of "fissile material controlled shipment;" revised § 173.453 to reflect the NRC "fissile material exemption provisions," and revised §§ 173.457 and 173.459 to remove the references to "fissile material, controlled shipment" and to base requirements for non-exclusive use and exclusive use shipments of fissile material packages on TS-R-1 package and conveyance CSI limits;

- Accepted the IAEA transitional requirements and begin the phase-out of packages satisfying the 1967 IAEA requirements, including DOT specification packages;

- Prohibited the manufacture of all Type B specification packages conforming to Safety Series No. 6 (1967) as of the effective date of this rule; the use of these packages would be allowed for four years after the effective date of this rule; and

- Added a requirement that the active material in an instrument or article intended to be transported in an excepted package be completely enclosed by the non-active components.

This document corrects editorial and technical errors which have come to our attention following publication of the rule.

## II. Section-by-Section Review

### Part 171

#### Section 171.7

In paragraph (a)(3), in the "Table of material incorporated by reference," we are correcting the table heading to read "49 CFR reference."