

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 01-1734; MM Docket No. 98-162; RM-9263]

#### Radio Broadcasting Services; Sugar Hill and Toccoa, GA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** At the request of Southern Broadcasting of Pensacola, Inc. this document substitutes Channel 291C1 for Channel 291C at Toccoa, Georgia, reallocates Channel 291C1 to Sugar Hill, Georgia, and modifies the license of Station WWNGC to specify operation on Channel 291C1 at Sugar Hill. See 63 FR 4968, published September 17, 1998. The reference coordinates for Channel 291C1 at Sugar Hill, Georgia, are 34-22-40 and 83-39-25.

**DATES:** Effective September 4, 2001.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order* in MM Docket No. 98-162, adopted July 11, 2001, and released July 20, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

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

Radio broadcasting.

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

#### PART 73—RADIO BROADCAST SERVICES

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

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

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Toccoa, Channel 291C.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Sugar Hill, Channel 291C1.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 01-18990 Filed 7-30-01; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 90

[PR Docket No. 92-235, FCC 00-439]

#### Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document is to show rules amended by the Commission when it reconsidered its *Second Memorandum Opinion and Order* which established revised rules for frequency coordination in the Private Land Mobile Radio Service, shall become effective July 31, 2001. These sections, which contained new information collection requirements, were published in the **Federal Register** February 5, 2001, (OMB No. 3060-0984). This is to let the public know the effective date of the rules that contain new information collection requirements.

**EFFECTIVE DATE:** The amendments to 47 CFR Part 90, 47 CFR 90.35(b)(2)(iii) and 90.175(b)(1) published at 66 FR 8899 (February 5, 2001) are effective July 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jim Shaffer, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** On December 14, 2000, the Commission adopted a *Fifth Memorandum Opinion and Order* ("Fifth MO&O") (FCC 00-439) to address seven petitions for reconsideration and one comment, all directed to the rules established by the Commission's Second Report and Order (Second R&O) in this proceeding, a summary of the Fifth MO&O was published in the **Federal Register**. See 66 FR 8899 (February 5, 2001). We stated that the Part 90 of the Commission's rules, 47 CFR Part 90, is amended effective March 7, 2001,

except for §§ 90.35(b)(2)(iii) and 90.175(b)(1) which contains information collections that are not effective until approved by the Office of Management and Budget. We also stated that the Commission will publish a document in the **Federal Register** announcing the effective date for those sections. This statement requires further action by the Commission to establish the effective date, notwithstanding the preceding statement in the summary that the rule change would become effective upon OMB approval. In order to resolve this matter in a manner that most appropriately provides interested parties with proper notice, the rule changes adopted in the Order shall become effective July 31, 2001. The information collection was approved by OMB on July 13, 2001. See OMB No. 3060-0984.

#### List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 01-19067 Filed 7-30-01; 8:45 am]

**BILLING CODE 6712-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 48 CFR Part 1516

[FRL-7020-5]

#### Acquisition Regulation: Type of Contracts

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is issuing this rule to amend the EPA Acquisition Regulation (EPAAR) to provide for the use, in certain circumstances and under certain conditions, of a letter contract known as a Notice to Proceed (NTP), to carry out emergency response actions as authorized under sections 104(a)(1) and (h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986; sections 311(c)(2) and (e)(1)(B) of the Clean Water Act, as amended by the Oil Pollution Act of 1990; and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

**DATES:** An interim rule was issued and became effective on March 1, 2001. This

final rule will become effective July 31, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Larry Wyborski, U.S. Environmental Protection Agency, Office of Acquisition Management, Mail Code 3802R, 1200 Pennsylvania Avenue, NW., Ariel Rios Building, Washington, DC 20460. Telephone: (202) 564-4369.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

An interim rule was published in the **Federal Register** (66 FR 12897-12902) on March 1, 2001, providing for a 60 day comment period. The following is the single comment received and the Agency disposition of the comment:

*Comment:* Are contractors holding contracts that bar them from providing ERRS work also prohibited from performing work in these circumstances as well?

*Response:* Section 1516.603-2(d) of this rule requires that “\* \* \* all actual or potential conflict of interest or other contracting issues are resolved prior to NTP issuance.” Therefore, the same conflict of interest rules would apply to the circumstances outlined in your comment.

**B. Executive Order 12866**

This is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs, within the Office of Management and Budget (OMB).

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

**D. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.**

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's rule on small entities, small entity is defined as: (1) A small business that meets the definition of a small

business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives “which minimize any significant economic impact of the proposed rule on small entities.” 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Based on a review of EPA's historical experience, over the last three fiscal years EPA entered into only two letter contracts for the type of work contemplated by this interim rule, each of less than \$10,000.00. Consequently, because of the emergency nature of an NTP, and the strict conditions on its use, and based on its limited historical utilization, it is believed that the authority provided by this interim rule will be used on a very limited basis so that it will have little, if any, impact on small businesses. This rule, therefore, will have no adverse and no significant impact on small entities.

**E. Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and Tribal governments, and the private sector. This interim rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, the rule is not subject to the

requirements of sections 202 and 205 of the UMRA.

**F. Executive Order 13045**

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

**G. Executive Order 13132**

Executive Order 13132 entitled “Federalism” (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### H. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by Tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian Tribal government "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of

Indian Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

#### I. National Technology Transfer and Advancement Act of 1995

EPA will use voluntary consensus standards, as directed by section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), in its procurement activities. The NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA is not considering use of any voluntary consensus standards. EPA welcomes comments on this aspect of the interim rulemaking, and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

#### J. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rules report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 48 CFR Part 1516

Government procurement.

Therefore, under the authority of 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b, the interim rule published on March 1, 2001 (66 FR 12897) is adopted as final without change.

**Judy S. Davis,**

*Acting Director, Office of Acquisition Management.*

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**BILLING CODE 6560-50-P**