

47 CFR Part 73**Waiver of Portions of Pre-Filing and Post-Filing Announcements of Commercial Radio Stations**

AGENCY: Federal Communications Commission.

ACTION: Order waiving specific sections of the commission's rules.

SUMMARY: Action taken herein waives § 73.3580(d)(4)(i) and (ii) to the extent of modifying the language of pre- and post-filing announcements which must be made in conjunction with license renewals. The partial waiver applies to commercial radio licensees and is being granted to conform the text of the announcements with the action taken by the Commission in the matter of deregulation of radio (46 FR 13888, February 24, 1981).

DATE: Effective April 16, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Roger D. Holberg, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 6, 1981.

Released: April 7, 1981.

By the Chief, Broadcast Bureau:

1. On January 14, 1981, the Commission adopted a *Report and Order* in the matter of deregulation of radio.¹ That *Report and Order* was released on February 24, 1981, and the actions taken therein became effective on April 3, 1981. Sections 73.3580(d)(4)(i) and (ii) of the Commission's Rules require that broadcast stations air pre-filing and post-filing announcements relative to their upcoming license renewal. Those announcements contain references to the licensee's programming projections for the coming license period. However, the actions taken by the Commission in the radio deregulation proceeding effectively eliminate the Commission's consideration of such programming proposals and, instead, focus upon a retrospective review of programming with regard to commercial radio stations.

2. While §§ 73.3580(d)(4)(i) and (ii) were amended to reflect this change in our *Report and Order* in BC Docket No. 80-253,² the amendment will not become effective prior to the next scheduled pre-filing announcement required to be made by stations in the States of

Maryland, Virginia and West Virginia, and in the District of Columbia on April 16, 1981.³ To avoid any confusion to the public, the Chief, Broadcast Bureau, acting pursuant to the delegations of authority contained in § 0.281 of the Commission's Rules, will waive §§ 73.3580(d)(4)(i) and (ii) to the extent of eliminating the words: "and projections of our programming during the next three years," from pre- and post-filing announcements commencing with the April 16, 1981, announcements and continuing thereafter for subsequent pre- and post-filing announcements. This waiver will apply to all commercial radio stations whose renewal applications were due on April 1, 1981, (whose post-filing announcements are modified), and will continue with regard to both pre- and post-filing announcements of subsequent renewal groups until such time as the amendment of the text of §§ 73.3580(d)(4)(i) and (ii) of the Commission's Rules becomes effective.

3. Accordingly, *it is ordered*, That §§ 73.3580(d)(4)(i) and (ii) of the Commission's Rules, *Are Waived*, to the extent indicated above for commercial radio stations.

Federal Communications Commission.

Roy J. Stewart,

Acting Chief, Broadcast Bureau.

[FR Doc. 81-11577 Filed 4-15-81; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 171, 173, 177, 178**

[Docket No. HM163E; Amdt. Nos. 171-61, 173-146, 177-54, 178-66]

Withdrawal of Bureau of Explosives Delegations of Authority and Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Department's Hazardous Materials Regulations is to withdraw or cancel the remaining delegations of authority to the Bureau of Explosives (B of E) in Parts 173, 177 and 178 of 49 CFR; add the Bureau of Mines, U.S. Department of the Interior as an authorized testing agency; and

incorporate by reference the Compressed Gas Association Pamphlets S-1.1, C-12 and C-14. These three documents have been approved for incorporation by reference by the Director of the Office of the Federal Register. These amendments will provide for a second test facility for the testing of explosives and blasting agents and eliminate the need for DOT approval of pressure relief devices on cylinders charged with a compressed gas.

EFFECTIVE DATE: This amendment is effective June 15, 1981; however, compliance with the regulations as amended herein is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, (202-472-2726).

SUPPLEMENTARY INFORMATION: On October 20, 1980, the Materials Transportation Bureau (MTB) published a Notice of Proposed Rulemaking, Docket HM-163-E; Notice No. 8 (45 FR 69272) which proposed these amendments. The background and the basis for incorporating these amendments into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of December 5, 1980.

The MTB received eight comments on Notice No. 8. The only significant change made in these amendments that was not included in the notice is in § 173.34(d) where the words "normally charged" cylinder have been added. These words were in the petition for rulemaking submitted by the Compressed Gas Association (CGA), but were omitted from the notice. Also, the reference to the Associate Director for OE has been changed to read Associate Director for HMR.

One commenter recommended that the proposed change to § 173.34(d) include the words "Each pressure relief system shall be approved by the Associate Director for OE." The MTB disagrees. In this case, if pressure relief device(s) comply with the requirements of the referenced CGA Pamphlets, further approval is not necessary.

One commenter objected to the proposed reference to the CGA in § 173.34(d) because the CGA standards referenced are redundant to many existing DOT specifications and in some areas more stringent than existing

¹ FCC 81-17; 46 FR 13888, *et seq.*

² In the Matter of Revision of Applications for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licenses, adopted March 26, 1981.

³ Additionally, stations in Pennsylvania and Delaware must air post-filing announcements through July 16, 1981.

regulations. This commenter further stated that to add another set of regulations, and a second rulemaking body into this area of the CFR will result in additional cost and unproductive regulation. The MTB disagrees with this commenter because these amendments actually constitute a form of deregulation by removing a prior-approval requirement.

Two commenters stated that any agency having the authority to examine new explosives and blasting agents for DOT should have the ability to perform all required tests at its own test facilities. One commenter further stated any tests which are problems should immediately be replaced with other tests that would fulfill the requirements. The commenter did not recommend any new test procedures in support of his views. Until receipt of these comments, MTB was not aware of any dissatisfaction on the part of the explosives industry relative to the use of the Bureau of Explosives to test explosives. However, MTB considers the commenter's concerns to be outside the scope of this action. MTB invites future comments concerning selection of other testing facilities for explosives, if the commenters are of the view that the matter should be examined further.

At the present time, the Bureau of Mines does not desire to perform tests on all types of explosives (e.g., fireworks) and the Bureau of Explosives is not able to conduct large-scale testing at its facility. The principal purpose of adding the Bureau of Mines is to avoid duplicate testing in cases where explosives must be tested by that agency with the authority to conduct mining operations.

Two commenters objected to the proposed deletion of § 177.821(e) regarding the repackaging of condemned or leaking dynamite. One commenter stated that they infrequently use § 177.821(e) to provide for the safe disposal of old or abandoned stores of dynamites found in various locations under various conditions of leakage and package degradation. However, it should be noted by this commenter, that this is not the purpose of this paragraph, and if it is so used, it is a violation of the regulations since it only authorizes repackaging of condemned or leaking dynamite which is discovered during transportation. The paragraph does not authorize the shipment of deteriorated explosives for disposal. MTB finds no valid argument in the comments received to justify retaining § 177.821(e) in the regulations.

The Materials Transportation Bureau (MTB) has determined that this regulation is consistent with Section 2 of

Executive Order 12291, and is a non-major rule under the terms of that Order since the effect of the rule is to allow the use of pressure relief devices without prior approval by MTB and to provide for a second test facility for the testing of certain hazardous materials. Pursuant to the Regulatory Flexibility Act, this rule will not result in a significant economic impact on a substantial number of small entities because its effect will be to reduce costs and simplify procedures.

In consideration of the foregoing, 49 CFR parts 171, 173, 177 and 178 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7 paragraph (d)(3) is amended by adding subparagraphs (vi), (vii) and (viii) to read as follows:

§ 171.6. Matter incorporated by reference.

- (d) * * *
- (3) * * *
- (vi) CGA Pamphlet S-1.1 is titled, "Pressure Relief Device Standards Part 1—Cylinders for Compressed Gases," 1979 edition.
- (vii) CGA Pamphlet C-12 is titled, "Qualification Procedure for Acetylene Cylinder Design," 1979 edition.
- (viii) CGA Pamphlet C-14 is titled "Procedures for Fire Testing of DOT Cylinder Pressure Relief Device Systems," 1979 edition.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.34 paragraph (d), the heading and the first sentence are revised to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

(d) *Pressure relief device systems.* No person may offer a cylinder charged with a compressed gas for transportation unless the cylinder is equipped with one or more pressure relief devices sized and selected as to type, location, and quantity and tested in accordance with CGA Pamphlet S-1.1. The pressure relief device system must be capable of preventing rupture of the normally charged cylinder when subjected to a fire test conducted in accordance with CGA Pamphlet C-14, or in the case of an acetylene cylinder, CGA Pamphlet C-12. * * *

3. In § 173.86 paragraph (a)(2), the introductory text of paragraph (b), and

paragraph (c) are revised to read as follows:

§ 173.86 New explosives definitions; approval and notification.

(a) * * *

(2) Has previously produced the explosive compound, mixture or device, but has made a change in the formulation, design, process or production equipment. An explosive compound, mixture or device will not be considered a "new explosive" if an agency listed in paragraph (b) of this section has determined and confirmed in writing to the Associate Director for HMR that there are no significant differences in hazard characteristics from the explosive compound, mixture or device previously approved.

(b) No person may offer a new explosive for transportation unless it has been examined and assigned a recommended shipping description and hazard class by the Bureau of Explosives or the Bureau of Mines, U.S. Department of the Interior and classed and approved by the Associate Director for HMR; or examined, classed, and approved by one of the following agencies: * * *

(c) Each person who offers a new explosive for transportation must file a copy of the approval for the new explosive accompanied by a supporting laboratory report or equivalent data with the Associate Director for HMR before offering the new explosive for transportation, unless the new explosive is—

- (1) Covered under an approval issued by the Associate Director for HMR;
- (2) Being transported under paragraph (d) or (e) of this section; or
- (3) A new DOD explosive covered by a security classification.

4. In § 173.114a paragraph (d)(3) is revised to read as follows:

§ 173.114a Blasting agents.

(d) * * *

(3) No person may offer a blasting agent for transportation unless it has been examined by the Bureau of Explosives or Bureau of Mines, U.S. Department of the Interior and classed and approved by the Associate Director for HMR; or examined, classed, and approved by one of the following agencies:

- (i) U.S. Department of Energy (DOE) for blasting agents made by, or under the direction or supervision of DOE; or
- (ii) U.S. Army Materiel Development and Readiness Command (DRCSF), Naval Sea Systems Command (NAVSEA 04H) or HQUSAF (IGD/SEV)

for blasting agents made by, or under the direction or supervision of the DOD.

* * * * *

5. In § 173.303 the introductory text of paragraph (a) is revised to read as follows:

§ 173.303 Charging of cylinders with compressed gas in solution (acetylene).

(a) *Cylinder, filler and solvent requirements.* (Refer to applicable parts of Specification 8 and 8AL). Acetylene gas must be shipped in Specification 8 or 8AL (§ 178.59 or § 178.60 of this subchapter) cylinders. The cylinders shall consist of metal shells filled with a porous material, and this material must be charged with a suitable solvent. The cylinders containing the porous material and solvent, shall be tested with satisfactory results in accordance with CGA Pamphlet C-12. Representative samples of cylinders charged with acetylene shall be tested with satisfactory results in accordance with CGA Pamphlet C-12.

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PART 177—CARRIAGE BY PUBLIC HIGHWAY

6. In § 177.821 paragraph (e) is removed as follows:

§ 177.821 Hazardous materials forbidden or limited for transportation.

* * * * *

(e) [Reserved]

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PART 178—SHIPPING CONTAINER SPECIFICATIONS

7. In § 178.59-16 paragraphs (a) and (b) are revised to read as follows:

§ 178.59 Specification 8; steel cylinders with approved porous filling for acetylene.

§ 178.59-16 Porous filling.

(a) Cylinders must be filled with a porous material in accordance with the following:

(1) The porous material may not disintegrate or sag when wet with

solvent or when subjected to normal service;

(2) The porous filling material shall be uniform in quality and free of voids, except that a well drilled into the filling material beneath the valve is authorized if the well is filled with a material of such type that the functions of the filling material are not impaired;

(3) Overall shrinkage of the filling material is authorized if the total clearance between the cylinder shell and filling material, after solvent has been added, does not exceed 1/2 of 1 percent of the respective diameter or length, but not to exceed 1/8 inch, measured diametrically and longitudinally;

(4) The clearance may not impair the functions of the filling material;

(5) The installed filling material must meet the requirements of CGA Pamphlet C-12; and

(6) Porosity of filling material may not exceed 80 percent except that filling material with a porosity of up to 92 percent may be used when tested with satisfactory results in accordance with CGA Pamphlet C-12.

(b) When the porosity of each cylinder is not known, a cylinder taken at random from a lot of 200 or less must be tested for porosity. If the test cylinder fails, each cylinder in the lot may be tested individually and those cylinders that pass the test are acceptable.

* * * * *

8. In § 178.60-20 paragraphs (a) and (b) are amended to read as follows:

§ 178.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 178.60-20 Porous filling.

(a) Cylinders must be filled with a porous material in accordance with the following:

(1) The porous material may not disintegrate or sag when wet with solvent or when subjected to normal service;

(2) The filling material shall be uniform in quality and free of voids, except that a well drilled into the filling

material beneath the valve is authorized if the well is filled with a material of such type that the functions of the filling material are not impaired;

(3) Overall shrinkage of the filling material is authorized if the total clearance between the cylinder shell and filling material, after solvent has been added, does not exceed 1/2 of 1 percent of the respective diameter or length but not to exceed 1/8 inch, measured diametrically and longitudinally;

(4) The clearance may not impair the functions of the filling material;

(5) The installed filling material must meet the requirements of CGA Pamphlet C-12; and

(6) Porosity of filling material may not exceed 80 percent except that filling material with a porosity of up to 92 percent may be used when tested with satisfactory results in accordance with CGA Pamphlet C-12.

(b) When the porosity of each cylinder is not known, a cylinder taken at random from a lot of 200 or less must be tested for porosity. If the test cylinder fails, each cylinder in the lot may be tested individually and those cylinders that pass the test are acceptable.

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(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1.)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major rule under the terms of Executive Order 12291 and DOT regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). Modification is not necessary to the previously prepared regulatory evaluation and environmental assessment prepared for the Notice of Proposed Rulemaking and they are available for review in the docket.

Issued at Washington, DC., on April 10, 1981.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 81-11604 Filed 4-15-81; 8:45 am]

BILLING CODE 4910-60-M