

community, such as post office, library, churches, banks, schools and civic and social organizations. The Commission thus believes it would be in the public interest to assign FM Channel 228A to Incline Village, Nevada. A demand has been shown for its use and it would provide the community with a first aural broadcast service. It can be made without affecting any existing assignments and would be consistent with the applicable distance separation requirements.

7. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. In view of the foregoing, it is ordered, that effective September 20, 1979, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with respect to the community listed below, as follows:

City and Channel No.

Incline Village, Nevada, 228A.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission,
Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-25381 Filed 8-15-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amend. No. 79-16]

Organization and Delegation of Power and Duties; Delegation to the General Counsel

AGENCY: Department of Transportation
ACTION: Final rule.

SUMMARY: This change delegates to the General Counsel certain authority that is currently vested in the Assistant Secretary for Administration by regulation. This authority relates to the determination and settlement of all tort claims arising from the activities of the Office of the Secretary and its employees. These powers and duties are delegated to the General Counsel

because this function can be more effectively administered by the General Counsel since the issues to be handled are primarily legal.

EFFECTIVE DATE: This amendment is effective on August 16, 1979.

FOR FURTHER INFORMATION CONTACT: Lynne A. Whitaker, Office of the General Counsel, Office of the Secretary, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, it is excepted from notice and public procedure requirements and it may be made effective in fewer than 30 days after publication in the Federal Register.

Discussion of Delegation

The Secretary derives his/her authority to consider, ascertain, adjust, compromise, determine and settle tort claims arising from actions of OST employees from section 2672 of Title 28 of the U.S. Code, the Federal Tort Claims Act, which establishes the power of heads of agencies to handle employment-related tort claims. Section 1.59(c)(5) of Title 49 of the Code of Federal Regulations contains a delegation of authority from the Secretary to the Assistant Secretary for Administration to consider, ascertain, adjust, determine and settle any tort claims arising from the activities of OST employees for amounts not exceeding \$25,000. For approval of awards and settlements in excess of \$25,000, the Assistant Secretary for Administration is required to request approval of the Attorney General through the Office of the General Counsel.

Under 49 CFR 1.23(c), the General Counsel is to render legal services as the chief legal officer of the Department, legal advisor of the Secretary and the Office of the Secretary, and is the final authority on questions of law.

The functions and duties conferred by this section include the considering, ascertaining, adjusting, determining, compromising and settling of tort claims up to \$25,000. Since these functions and responsibilities primarily require legal expertise and experience, it would be more effective to revoke all functions of the Assistant Secretary for Administration with regard to OST employee tort claims and redelegate those functions to the General Counsel. In addition, to place this section in conformance with the Federal Tort Claims Act, the authority to compromise tort claims has been added to this section.

§-1.59 [Amended]

Accordingly, Part 1 of title 49 of the Code of Federal Regulations is amended by (1) deleting § 1.59(c)(5) and by (2) adding a new paragraph (n) to § 1.56, to read as follows:

§ 1.56 Delegations to the General Counsel.

* * * * *

(n) Consider, ascertain, adjust, determine, compromise and settle for an amount not exceeding \$25,000, any tort claim arising from the activities of any employee of the Office of the Secretary. Request the approval of the Attorney General for any such award, compromise, or settlement in excess of \$25,000 (28 U.S.C. § 2672).

(Section 9(e)(1), Department of Transportation Act. (49 U.S.C. 1657(e)))

Issued in Washington, D.C. on July 19, 1979.

Brock Adams,
Secretary of Transportation.

[FR Doc. 79-25381 Filed 8-15-79; 8:45 am]
BILLING CODE 4910-62-M

Materials Transportation Bureau

49 CFR Part 173

[Docket Nos. HM-160; Amdt. Nos. 172-47, 173-123, 174-33, 175-7, 176-6, 177-44]

Transportation of Asbestos; Additional Revisions of Amendment No. 173-123

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

ACTION: Additional Revisions of Previous Amendment No. 173-123.

SUMMARY: These revisions to Amendment No. 173-123 (44 FR 18673, March 29, 1979) will permit carriage of asbestos: (1) by private carrier in dust and sift-proof bags and other non-rigid packaging without palletizing and unitizing; (2) in dust and sift-proof bags and other non-rigid packagings within fiberboard or wooden boxes when shipped in less than pallet load quantities. This revision also clarifies the authority to ship leaktight hopper cars and leaktight hopper motor vehicles, and provides a grandfather clause for shipments initially shipped and transported prior to August 20, 1979.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Standards Division, Materials Transportation Bureau, Research and Special Programs Administration, DOT, Washington, D.C. 20590, phone 202-426-2075.

SUPPLEMENTARY INFORMATION: On March 29, 1979, the MTB published an amendment to the final rule under docket HM-160 in the Federal Register (44 FR 18673). Since this publication, the MTB has received two petitions for reconsideration in accordance with the provisions of 49 CFR 106.35.

One petitioner requested that the MTB clarify the meaning of the word "airtight" as it is used in § 173.1090(d)(1), and he questioned whether hopper cars would be authorized by the provisions of this same section. For the purposes of this section, the word "airtight" means that there can be no transfer of either air or particles between the packaging and the surrounding atmosphere under ambient conditions. Packaging specified in this section need not be pressure tight packaging. In an effort to eliminate any confusion, the word "airtight" has been deleted from this section, and the word "leaktight" has been substituted. Also, this section has been amended to include a specific reference allowing the use of leaktight hopper cars or hopper motor vehicles for the shipment of asbestos.

A petitioner stated that difficulties arise due to the lack of a provision allowing the shipment of dust and sift-proof bags or other non-rigid packagings in less than pallet load quantities. The petitioner stated that the use of an exclusive use vehicle for shipments of only a few bags of asbestos is extremely uneconomical and that it is also not feasible to maintain supplies to unitize and palletize small quantity shipments of bags of asbestos. This petitioner requested that fiber boxes be allowed as an alternative to the palletizing and unitizing method. The MTB is in basic agreement with this petitioner concerning small quantity shipments of asbestos in bags, therefore, this amendment provides for the shipment of dust and sift-proof bags or other non-rigid packagings when in rigid outside fiberboard or wooden boxes. This option will continue to provide for public safety by providing for equal protection of the bags during shipment but will allow shipment of less than pallet load quantities.

A petitioner objected that the amendment to the final rule as published on March 29, 1979, did not include the provision allowing private highway carriers to transport dust and sift-proof packagings without palletizing and unitizing which appeared in the final rule published on December 4, 1978 (43 FR 56664). The MTB agrees that the provision should be reinstated in view of the closer control exercised by

private carriers over shipments. This provision will allow for private carriage by highway of dust and sift-proof bags and other non-rigid packagings which are not palletized and unitized.

Several questions have been raised concerning the meaning of the words "exclusive use" as used in § 173.1090(d)(3). For the purposes of this section, "exclusive use" means that the consignor has complete use of the transport vehicle and that the loading is carried out by the consignor and unloading is carried out by the consignee or consignees.

A petitioner also cited a need for an extended effective date for packages of asbestos initially entered into transportation prior to August 20, 1979, but which would still be required to be shipped from distributors, warehouses, and the like, after that date. It was stated that many distributors, etc., do not have the ability or facilities to repackage such shipments and, therefore, such stocks would not be able to be reshipped after the effective date of the final rule, thus causing severe hardships. The MTB is in agreement that this situation could pose a serious burden and, therefore, this amendment includes a provision allowing packages of asbestos initially shipped prior to August 20, 1979, to continue to be shipped until December 31, 1979.

In consideration of the foregoing, § 173.1090 as it appeared in the Federal Register published on March 29, 1979 (44 FR 18673) is revised as follows:

In § 173.1090, paragraphs (d) (1), (2), and (3) are revised; paragraphs (d) (4) and (5) are added to read as follows:

§ 173.1090 Asbestos.

* * * * *

(d) * * *

(1) Rigid, leaktight packagings, such as metal or fiber drums, portable tanks, hopper-type rail cars, or hopper-type motor vehicles;

(2) Bags or other non-rigid packagings in closed freight containers, motor vehicles, or rail cars that are loaded by and for the exclusive use of the consignor and unloaded by the consignee;

(3) Bags or other non-rigid packagings which are dust and sift-proof. When transported by other than private carrier by highway, such packagings containing asbestos must be palletized and unitized by methods such as shrink-wrapping in plastic film or wrapping in fiberboard secured by strapping. Pallets need not be used during transportation by vessel for loads with slings that are unitized by methods such as shrink-wrapping, if the slings adequately and evenly support

the loads and the unitizing method prevents shifting of the bags or other non-rigid packagings during conditions normally incident to transportation; or

(4) Bags or other non-rigid packagings which are dust and sift-proof in strong outside fiberboard or wooden boxes.

(5) Notwithstanding the requirements of this section, packages containing asbestos initially shipped and transported prior to August 20, 1979, may continue to be shipped and transported until December 31, 1979. (49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1.)

Note.—The Materials Transportation Bureau has determined that this final rule will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available in the docket.

Issued in Washington, D.C. on August 10, 1979.

L. D. Santman,
Director, Materials Transportation Bureau.
[FR Doc. 79-25237 Filed 8-15-79; 8:45 am]
BILLING CODE 4910-60-M

Federal Highway Administration

49 CFR 393

[BMCS Docket No. MC-56-1; Amendment No. 78-5]

Front Tire Marking Requirements; Technical Amendment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: The Bureau of Motor Carrier Safety (BMCS) is issuing this document in order to amend the citation to the regulation defining commercial zone contained in § 393.75(f)(1)(ii) of the final rule published at 44 FR 25455 (May 1, 1979). The citation to 49 CFR 1048.100 should be corrected to read "Part 1048 of 49 CFR 1000-1199, revised as of October 1, 1975." While the ICC has since extended the boundaries of commercial zones for all municipalities, for purposes of the Federal Motor Carrier Safety Regulations the commercial zone boundaries remain the same as were defined by the ICC in the above mentioned October 1975 publication.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Donnell W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202/428-1700; or Mrs.