

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21291; RM-27111]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in St. Ignace, Mich., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein substitutes a Class C FM channel for a Class A channel at St. Ignace, Michigan, in response to a petition filed by Mighty-Mac Broadcasting Company. The Class C channel could permit establishment of a station which would provide a first and second FM as well as a first and second nighttime aural service to the area.

EFFECTIVE DATE: February 19, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 4, 1979.

Released: January 12, 1979.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (St. Ignace, Michigan.)

By the Chief, Broadcast Bureau:

1. The Commission has under consideration its Notice of Proposed Rule Making, adopted June 16, 1977, 42 FR 32813, inviting comments on a proposal to substitute Class C FM Channel 275 for Channel 272A at St. Ignace, Michigan. The proceeding was instituted on the basis of a petition filed by Mighty-Mac Broadcasting Company ("petitioner"), licensee of daytime-only AM Station WIDG, St. Ignace, Michigan. There were no oppositions to the proposal.

2. St. Ignace (pop. 2,892), seat of Mackinac County (pop. 9,600),¹ is located at the southeastern tip of Michigan's "Upper Peninsula," between Lakes Michigan and Huron, and is approximately 64 kilometers (40 miles) southwest of the Canadian border. It is served locally by daytime-only AM Station WIDG, licensed to petitioner.

¹Population figures are taken from the 1970 U.S. Census.

Channel 272A is assigned to St. Ignace, but is presently unoccupied and unapplied for.

3. Petitioner asserts that the area's principal business is tourism, with a heavy influx of tourists into the county during the summer and fall, increasing the population well beyond that estimated by the Census. The area around St. Ignace is classified as rural by the Census Bureau.

4. Channel 275 could be assigned to St. Ignace, Michigan, in conformity with the minimum distance separation requirements. One community, Onaway (pop. 1,262), would be precluded as a result of the proposed assignment. However, petitioner has indicated that an alternative Class A channel is available for assignment should the need arise.

5. Petitioner's engineering analysis, using Roanoke Rapids 9 F.C.C. 2d 672 (1967), and Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974), criteria indicates that, if Channel 275 were assigned and Channel 272A were deleted, an FM station operating with 39 kilowatts and antenna height of 70 meters (230 feet), as contemplated by petitioner, would provide a first and second FM and aural nighttime service to 83 persons in a 67 square kilometer (26 square miles) area and 373 persons in a 215 square kilometer (83 square miles) area, respectively.

6. In the Notice we pointed out that in 1966, Channel 272A was assigned to St. Ignace at the request of the petitioner. Although petitioner at that time stated its intent to apply for the channel, it later realized construction of a Class A facility could not be cost-justified. In this proceeding petitioner claims that a wide coverage Class C assignment would be able to obtain enough revenue to make it financially viable. Because of our concern as to whether petitioner would be financially able to construct a station with the proposed facilities, and whether funds exist to sustain construction costs, we requested petitioner to provide a realistic and convincing showing of its commitment, indicating both intent and ability to promptly provide FM service, if authorized. Petitioner has furnished adequate information which persuades us that it is financially able to construct and operate a station if it is ultimately authorized to do so.

7. The proposed Channel 275 assignment would provide for an FM station which could render first and second FM service as well as first and second nighttime aural service to the area. In this light, and since it has been shown that there is an alternate channel available for assignment to the community of Onaway, which is located in the precluded area, we believe the public interest would be served by the proposed assignment.

8. The Canadian Government has given its concurrence to the proposed assignment of Channel 275 to St. Ignace, Michigan.

9. Authority for the action taken herein is contained 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.

10. In view of the foregoing, IT IS ORDERED, That effective February 19, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards St. Ignace, Michigan, IS AMENDED as follows:

City	Channel No.
St. Ignace, Michigan	275

11. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-1771 Filed 1-17-79; 8:45 am]

[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

[Docket No. HM-22; Amdt. Nos. 171-43, 173-1261]

Matter Incorporated by Reference

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

ACTION: Final rule.

SUMMARY: The purpose of these amendments to §§ 171.7(d)(3)(ii) and 173.34(e)(10) of the Hazardous Materials Regulations is to permit the use of the updated edition of the Compressed Gas Association's (CGA) Pamphlet C-6 for visual inspection of compressed gas cylinders. In addition, these amendments correct an inconsistency existing between §§ 173.34(e)(5) and 173.34(e)(10). The intended effect of these amendments is to improve proce-

dures in the visual inspection of compressed gas cylinders and to clarify the time requirements for retention of cylinder reinspection and retest records.

EFFECTIVE DATE: Upon publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street S.W., Washington, D.C. 20590; 202/426-2075.

SUPPLEMENTARY INFORMATION: On January 9, 1978, the Materials Transportation Bureau (MTB) published a notice of proposed rulemaking, Docket HM-22, Notice 78-1 (43 FR 1369). The proposals contained in Notice 78-1 were based on petitions for rulemaking submitted by the CGA. One petition requested an update to § 171.7(d)(3)(ii), which incorporates by reference CGA Pamphlet C-6 setting out the standards for visual inspection of compressed gas cylinders, from the referenced 1968 edition to the 1975 edition. The CGA periodically reviews its standards and publishes revisions when clarification, improvement, or additions are necessary. The revisions made by CGA in the 1975 pamphlet were coordinated with the MTB and it was mutually agreed that each of the changes was necessary. The notice proposed to update the reference from the 1968 edition of the pamphlet to the 1975 edition.

The CGA also petitioned to amend § 173.34(e)(10) to eliminate an inconsistency between that paragraph and paragraph (e)(5) with respect to the length of time cylinder reinspection and retest records are to be retained. Currently, § 173.34(e)(10) requires inspection results to be kept as a permanent record, while paragraph (e)(5) requires the owner or his authorized agent to keep the records until expiration of the retest period or until the cylinder is reinspected or retested, whichever occurs first. The notice proposed to amend § 173.34(e)(10) to refer to the retesting requirements of paragraph (e)(5).

One commenter objected to the proposed amendment to § 171.7(d)(3)(ii) on the grounds that paragraph 5.3.9.2 of CGA Pamphlet C-6 contains a visual inspection procedure for high pressure cylinders which the commenter considers inadequate and unsafe. The commenter was advised that the objectionable paragraph in Pamphlet C-6 is not applicable to § 173.24(e)(10), the paragraph in which the pamphlet is referenced and, therefore, the objection is not germane to the proposed rulemaking. The commenter subsequently withdrew his ob-

jection. Other comments submitted were in support of the proposals.

In consideration of the foregoing, Parts 171 and 173 of Title 49, Code of Federal Regulations, are amended as follows:

1. In § 171.7 paragraph (d)(3)(ii) is amended by changing "1968" to read "1975."

2. In § 173.34 paragraph (e)(10) is amended by revising the fourth sentence to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

(e) * * *

(10) * * * Inspections shall be made only by competent persons and the results shall be recorded on a suitable data sheet, the completed copies which shall be kept in accordance with the requirements of paragraph (e)(5) of this section. * * *

AUTHORITY: (49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e)).

NOTE.—The Materials Transportation Bureau has determined that this final amendment will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on January 5, 1979.

L. D. SANTMAN,
Director, Materials,
Transportation Bureau.

[FR Doc. 79-1482 Filed 1-17-79; 8:45 am]

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. LVM 77-05; Notice 3]

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Exemption From Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final decision to grant exemption from average fuel economy standards.

SUMMARY: This notice exempting Excalibur Automobile Corp. (Excalibur) from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles and estab-

lishing an alternative standard is issued in response to a petition by Excalibur. The alternative standard is 11.5 mpg.

DATE: The exemption and alternative standard apply in the 1978 model year.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) is exempting Excalibur from the generally applicable passenger automobile average fuel economy standard for the 1978 model year and establishing an alternative standard.

This exemption is issued under the authority of section 502(c) of Title V of the Act. Section 502(c) provides that a manufacturer of passenger automobiles that manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard if that generally applicable standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the manufacturer's maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the Act requires the NHTSA to consider:

- (1) Technological feasibility;
- (2) Economic practicability;
- (3) The effect of other Federal motor vehicle standards on fuel economy; and
- (4) The need of the Nation to conserve energy.

This final rule was preceded by a notice announcing the receipt of a petition for exemption from the 1978 standard (43 FR 19311; May 4, 1978) and a proposed decision to grant an exemption to Excalibur for the 1978 model year (43 FR 33268; July 31, 1978).

No comments were submitted in response to the notice of receipt of the petition.

Three comments were submitted in response to the proposed decision. One of these comments was submitted by a private citizen, who supported the proposed exemption, because he believed that Excalibur produced an excellent product. The other two comments, both of which opposed the proposed exemption, were submitted by public interest groups. The objections centered primarily on the suggestion that the proposed exemption for Excalibur was contrary to the Congressional