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#### 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 Nebraska, is amended by removing Channel 252C3 and by adding Channel 237C2 at Broken Bow, by adding Maxwell, Channel 253C1 and by removing Channel 253C1 at McCook. Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05-11376 Filed 6-7-05; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 05-1478; MB Docket No. 05-35; RM-11134]

#### Radio Broadcasting Services; Charlotte and Jackson, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In response to a *Notice of Proposed Rule Making*, 70 FR 8332 (February 18, 2005), this *Report and Order* reallocates Channel 291B, Station WJXQ(FM) ("WJXQ"), Jackson, Michigan, to Charlotte, Michigan, and modifies Station WJXQ's license accordingly. The coordinates for Channel 291B at Charlotte, Michigan are 42-23-28 NL and 84-37-22 WL, with a site restriction of 30 kilometers (16.1 miles) southeast of Charlotte.

**DATES:** Effective July 11, 2005.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05-35, adopted May 25, 2005, and released May 27, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, 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 Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Channel 283A has been inadvertently listed in 47 CFR 73.202(b), FM Table of Allotments under Jackson, Michigan, since October 1, 1995. We have no record that such an allotment has actually been made. Accordingly, the *Report and Order* deletes Channel 283A from 47 CFR 73.202(b) under Jackson, Michigan.

#### 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 reads 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 Michigan, is amended by removing Channel 291B and Channel 283A at Jackson and by adding Channel 291B at Charlotte.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05-11377 Filed 6-7-05; 8:45 am]

**BILLING CODE 6712-01-P**

#### DEPARTMENT OF TRANSPORTATION

#### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 171

[Docket No. RSPA-03-16370 (HM-233)]

RIN 2137-AD84

#### Hazardous Materials: Incorporation of Exemptions Into Regulations; Notice of Information Collection Approval

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule notice announces Office of Management and Budget (OMB) approval of information collection request (ICR) OMB No. 2137-0620, "Inspection and Testing of Meter Provers." This information collection has been approved by OMB until May 31, 2008. This notice also makes appropriate revisions to regulations concerning the Paperwork Reduction Act to incorporate this new information collection approval under OMB Control No. 2137-0620.

**DATES:** The effective date of this final rule is March 25, 2005. This ICR expires on May 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH-11), Pipeline and Hazardous Materials Safety Administration, Room 8422, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

**ADDRESSES:** Requests for a copy of an information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH-11), Pipeline and Hazardous Materials Safety Administration, Room 8422, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On January 24, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA, we) published a final rule to enhance the safety of hazardous materials transported in commerce (70 FR 3302). In this final rule, we incorporated into the regulations the provisions of certain widely-used exemptions that have an established safety history and that may be converted into regulations for general use. We also made minor revisions to the requirements for use of packagings authorized under exemptions. The

revisions provide wider access to the benefits of the provisions granted in these exemptions and eliminate the need for the current exemption holders to reapply for renewal of the exemption, thus reducing paperwork burdens and facilitating commerce while maintaining an acceptable level of safety. The effective date of this final rule is March 25, 2005.

On May 5, 2005, OMB approved an information collection for the inspection and testing of meter provers, OMB No. 2137-0620, "Inspection and Testing of Meter Provers," until May 31, 2008. Because OMB approved the information collection after publication of the January 24, 2005 final rule, we are announcing the OMB approval and incorporating this new information collection approval into § 171.6, "Control numbers under the Paperwork Reduction Act," under OMB Control No. 2137-0620.

OMB regulations (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(s)) and specify that no person is required to respond to an information collection unless it displays a valid OMB control number. In accordance with the Paperwork Reduction Act of 1995, PHMSA has received OMB approval of the following ICR and § 171.6(b)(2) is revised by incorporating the following information collection:

*OMB Control Number:* 2137-0620.

*Title:* Inspection and Testing of Meter Provers.

This information collection approval expires on May 31, 2008. This information collection request was approved by OMB on May 5, 2005.

## II. Summary of Regulatory Changes

### Section 171.6

We are revising the table in paragraph (b)(2) to incorporate a new information collection, OMB No. 2137-0620, "Inspection and Testing of Meter Provers."

## III. Regulatory Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) and was not reviewed by the Office of Management and Budget (OMB). This final rule is not considered

a significant rule under the Regulatory Policies and Procedures order issued by the Department of Transportation [44 FR 11034]. The costs and benefits of this final rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or a regulatory evaluation. The provisions of this final rule provide a relaxation of the regulations and, as such, impose little or no additional costs to affected industry.

### B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 ("Federalism"). This final rule does not propose any regulation that: (1) Has substantial direct effects on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. PHMSA is not aware of any State, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

### C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

### D. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for

small units of government, businesses or other organizations.

### E. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$120.7 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

### F. Paperwork Reduction Act

There are no new information collection requirements in this final rule. This final rule announces the approval of information collection OMB No. 2137-0620 "Inspection and Testing of Meter Provers," and incorporates this new OMB Control Number, Title, and Affected Sections into the Section 171.6 (b)(2) table in the HMR.

### G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

### List of Subjects in 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

## PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

**Authority:** 49 U.S.C. 5101-5127, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101-410 section 4 (28 U.S.C. 2461 note); Pub. L. 104-134 section 31001.

■ 2. In § 171.6, the table in paragraph (b)(2) is amended to add a new entry "OMB No. 2137-0620" in numeric order, to read as follows:

### § 171.6 Control numbers under the Paperwork Reduction Act.

*	*	*	*	*
(b)	*	*	*	*
(2)	*	*	*	*

Current OMB Control No.	Title	Title 49 CFR part or section where identified and described
2137-0620	Inspection and Testing of Meter Provers	Part 173, Subpart A, § 173.5a.

Issued in Washington, DC, on June 2, 2005.  
**Susan Gorsky**,  
*Acting Director, Office of Hazardous Materials Standards.*  
 [FR Doc. 05-11399 Filed 6-7-05; 8:45 am]  
**BILLING CODE 4910-60-P**

**DEPARTMENT OF TRANSPORTATION**  
**Federal Railroad Administration**

**49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244**

[Docket No. FRA-2004-17529; Notice No. 3]  
**RIN 2130-AB66**

**Inflation Adjustment of Ordinary Maximum Civil Monetary Penalty for a Violation of a Federal Railroad Safety Law or Federal Railroad Administration Safety Regulation**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).  
**ACTION:** Final rule.

**SUMMARY:** To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA is adjusting the ordinary maximum penalty that it will apply when assessing a civil penalty for a violation of railroad safety statutes and regulations under its authority. In particular, FRA is increasing the ordinary maximum civil penalty from \$11,000 to \$15,000.

**DATES:** Effective July 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Carolina Mirabal, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590 (telephone 202-493-6043), *carolina.mirabal@fra.dot.gov*.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Act) requires that an agency adjust by regulation each maximum civil monetary penalty (CMP), or range of minimum and maximum CMPs, within that agency's jurisdiction by October 23, 1996 and adjust those penalty amounts once every four years thereafter to reflect inflation. Public Law 101-410,

104 Stat. 890, 28 U.S.C. 2461, note, as amended by Section 31001(s)(1) of the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-373, April 26, 1996. Congress recognized the important role that CMPs play in deterring violations of Federal law and regulations and realized that inflation has diminished the impact of these penalties. In the Inflation Act, Congress found a way to counter the effect that inflation has had on the CMPs by having the agencies charged with enforcement responsibility administratively adjust the CMPs.

**Calculation of the Adjustment**

Under the Inflation Act, the inflation adjustment is to be calculated by increasing the maximum CMP, or the range of minimum and maximum CMPs, by the percentage that the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment (here, June 2004) exceeds the CPI for the month of June of the last calendar year in which the amount of such penalty was last set or adjusted (here, June 1998 for the ordinary maximum). The Inflation Act also specifies that the amount of the adjustment must be rounded to the nearest multiple of \$100 for a penalty between \$100 and \$1,000, or to the nearest multiple of \$5,000 for a penalty of more than \$10,000 and less than or equal to \$100,000. The first adjustment may not exceed an increase of ten percent. FRA utilized Bureau of Labor Statistics data to calculate adjusted CMP amounts.

FRA is authorized as the delegate of the Secretary of Transportation to enforce the Federal railroad safety statutes and regulations, including the civil penalty provisions at 49 U.S.C. ch. 213. 49 CFR 1.49; 49 U.S.C. ch. 201-213. FRA currently has 27 regulations that contain provisions that reference its authority to impose civil penalties if a person violates any requirement in the pertinent portion of a statute or the Code of Federal Regulations. In this final rule, FRA is amending each of those separate regulatory provisions and the corresponding footnotes in each Schedule of Civil Penalties to raise the ordinary maximum CMP to \$15,000.

With the exception of the penalties relating to the hours of service laws (49 U.S.C. ch. 211), the ordinary maximum

CMP for a violation of the rail safety laws and regulations was established by the Rail Safety Improvement Act of 1988, which set a \$10,000 limit for a CMP imposed for any ordinary violation, and a \$20,000 limit for a grossly negligent violation ("grossly negligent violation") or a pattern of repeated violations that has created an imminent hazard of death or injury or caused death or injury. In 1998, after applying the adjustment calculation in the Inflation Act, FRA determined that the ordinary maximum CMP for any single violation needed to be increased to \$11,000 and that the maximum CMP for grossly negligent violations needed to be increased to \$22,000. FRA amended each of its regulations by final rule to reflect the increased CMPs. 63 FR 11618.

The Rail Safety Enforcement and Review Act (RSERA) in 1992 increased the range of the minimum and maximum civil penalty from \$1,000 to \$10,000 and \$20,000, respectively, for a violation of the hours of service laws, making these minimum and maximum penalty amounts uniform with those of FRA's other regulatory provisions. By applying the same adjustment calculation using the 1992 CPI, the maximum penalties for violations of the hours of service laws were raised to equal those of the other rail safety laws and regulations: \$11,000 and \$22,000.

RSERA also increased the minimum CMP for all of the rail safety statutes and regulations from \$250 to \$500. In 1998, FRA had applied the adjustment calculation in the Inflation Act to the minimum CMP and had determined that it would not need to be increased. In 2004, FRA by applying the adjustment calculation using the June 2003 CPI determined that the minimum CMP should be increased from \$500 to \$550. As required, FRA recently reevaluated the minimum CMP and concluded that it should remain at \$550, as the next calculations show. The June 2004 CPI of 568.2 divided by 568.2 (since the last update was in 2004) equals an inflation factor of 1; \$550 times 1 equals \$550, or an increase of zero. 69 FR 30591.

FRA also reevaluated the CMP for a grossly negligent violation and determined that it should remain at \$27,000, as the following calculations show. The June 2004 CPI of 568.2 divided by 568.2 (since the last update