

hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270. Once EPA authorizes a State to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved State program.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether EPA or the state administers the RCRA Subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively approves the Indiana program to operate in lieu of the federal program, thereby eliminating duplicative requirements for handlers of hazardous waste in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 29, 1996.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 96-21173 Filed 8-19-96; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 96-166; FCC 96-327]

Implementation of Section 703 of the Communications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By adopting this Order, the Commission implements the self-effectuating additions and revisions made by Section 703 of the Telecommunications Act of 1996 to Section 224 of the Communications Act of 1934, as amended. The pole attachment provisions of Section 224 of the Communications Act of 1934, as

amended, initially only applied to cable television system operators. However, Section 703 of the Telecommunications Act of 1996 expanded the scope of the pole attachment provisions under Section 224 to include telecommunications carriers as well as cable television system operators.

DATES: Effective August 20, 1996.

Written comments by the public on the information collections contained herein are due October 21, 1996.

ADDRESSES: Comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Michael T. McMenamin, Cable Services Bureau, (202) 418-7200. For additional information concerning the information collections contained in this Order contact Dorothy Conway at 202-418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order, CS Docket No. 96-166, adopted August 2, 1996 and released August 6, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street, NW, Washington, D.C. 20554.

Synopsis of the Order

Section 703 of the 1996 Act added and amended several provisions of Section 224 of the Communications Act of 1934, as amended ("Section 224"). Specifically, Section 703 amended Sections 224 (a)(1), (a)(4), (c)(1) and (c)(2)(B), and added new Sections 224 (a)(5), (d)(3), (e), (f), (g), (h) and (i). Many of these additions and revisions to existing federal statutory provisions are self-effectuating. This Order conforms our rules to meet these new statutory requirements. We are revising these rules without providing prior public notice and an opportunity for comment because the rule modifications do not involve discretionary action on the part of the Commission but rather, simply conform our rules to the applicable provisions of the 1996 Act. We find that notice and comment procedures are unnecessary, and that this action falls

within the "good cause" exception of the Administrative Procedure Act. Sections 224(e) is not self-effectuating. We will seek notice and comment regarding implementation of Section 224(e) in a separate proceeding consistent with the two-year period specified by Section 224(e). In addition, the Commission has sought notice and comment regarding the implementation of Sections 224 (f) and (h) in a separate proceeding.¹

Paperwork Reduction Act

This Order contains either proposed or modified information collections. The Commission has requested Office of Management and Budget ("OMB") approval, under the emergency processing provisions of the Paperwork Reduction Act of 1995, of the information contained in this rulemaking. Approval is requested to be effective no later than the date that the summary of the Order appears in the Federal Register. The OMB control number for information collections contained in this rulemaking is 3060-0392. The Commission, as part of its continuing effort to reduce paperwork burdens and to obtain regular OMB approval of the information collections, invites the general public to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995. Public and agency comments are due October 21, 1996. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060-0392.

Title: 47 CFR 1.1401 through 1.1416 Pole Attachment Procedures.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 83.

Estimated Time Per Response: 1-25 hours.

Total Annual Burden: 449 hours. Notices: 36 sets of notices \times 2 hours each = 72 hours. Petitions for Stay: 10 Petitions \times 8 hours each = 80 hours. Complaints, responses and replies: 10 complaint cases (20 parties). 50% of parties will use in-house legal assistance with an average burden of 25 hours per case. 10 parties \times 25 hours = 250 hours. 50% of parties will use outside legal counsel with an average burden of 4 hours to coordinate information with outside legal counsel. 10 parties \times 4 hours = 40 hours. State certifications: 7 certifications \times 1 hour = 7 hours.

Total Annual Cost to Respondents: \$41,100. Notices: 36 sets of notices \times \$100 each for postage and stationery = \$3,600. Complaints, responses and replies: 50% of parties will use outside legal counsel paid at \$150 per hour. 10 parties \times 25 hours per case \times \$150 per hour = \$37,500.

Needs and Uses: Initial pole attachment provisions were mandated by Congress pursuant to Section 224 of the Communications Act of 1934. Among other things, Section 224 initially mandated the following: The Commission was required to establish rules to ensure that the rates, terms and conditions under which cable television system operators attach their hardware to utility poles are just and reasonable. Utilities shall provide a cable television system operator no less than 60 days written notice prior to (1) removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term or condition of a cable television pole attachment agreement, or (2) any increase in pole attachment rates. The Commission was required to establish a Petition for Stay process for the action contained in the notice. The Commission was required to establish a complaint resolution process regarding pole attachments. The Commission was required to establish a certification process for states to use to make notice of their authority to regulate the rates, terms and conditions for pole attachments. The provisions in Section 224 were initially only applicable to cable television system operators. However, Section 703 of the Telecommunications Act of 1996 amends Section 224 to expand the scope of the pole attachment provisions to include telecommunications carriers as well as cable television system operators. The Commission's rules for pole attachment provisions are contained in 47 CFR 1.1401 through 1.1416.

Accordingly, It is ordered that pursuant to Section 703 of the Telecommunications Act of 1996

(Section 224 of the Communications Act of 1934, as amended, 47 U.S.C. 224), and to Sections 4(i) and 303(r) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i), 303(r), Subpart J of Part 1 of the Commission's Rules is amended as set forth below. The rule changes will become effective August 20, 1996.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Investigations, Lawyers, Penalties, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rules Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 303 and 309(j) unless otherwise noted.

Subpart J—Pole Attachment Complaint Procedures

2. Section 1.1401 is revised to read as follows:

§ 1.1401 Purpose.

The rules and regulations contained in this subpart J provide complaint and enforcement procedures to ensure that the rates, terms and conditions for pole attachments of cable television systems and telecommunications carriers are just and reasonable.

3. Section 1.1402 is amended by revising paragraphs (a), (b), (d), (e), and (f) and adding a new paragraph (h) to read as follows:

§ 1.1402 Definitions.

(a) The term *utility* means any person that is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person that is cooperatively organized, or any person owned by the Federal Government or any State.

(b) The term *pole attachment* means any attachment by a cable television system or provider of telecommunications service to a pole,

¹ The Commission has issued a Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC 96-182, 61 FR 18311, par. 220-225 (April 25, 1996), to implement the Interconnection provisions of Section 251.

duct, conduit, or right-of-way owned or controlled by a utility.

* * * * *

(d) The term *complaint* means a filing by a cable television system operator, a cable television system association, a utility, an association of utilities, a telecommunications carrier, or an association of telecommunications carriers alleging that a rate, term, or condition for a pole attachment is not just and reasonable.

(e) The term *complainant* means a cable television system operator, a cable television system association, a utility, an association of utilities, a telecommunications carrier, or an association of telecommunications carriers who files a complaint.

(f) The term *respondent* means a cable television system operator, a utility, or a telecommunications carrier against whom a complaint is filed.

* * * * *

(h) For purposes of this subpart, the term *telecommunications carrier* means any provider of telecommunications services, except that the term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226) or incumbent local exchange carriers (as defined in 47 U.S.C. 251(h)).

4. Section 1.1403 is revised to read as follows:

§ 1.1403 Notice of removal and petition for temporary stay.

(a) A utility shall provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to:

(1) Removal of facilities or termination of any service to those facilities, such removal or termination arising out of a rate, term, or condition of the cable television system operator's or telecommunications carrier's pole attachment agreement; or

(2) Any increase in pole attachment rates.

(b) A cable television system operator or telecommunications carrier may file a "Petition for Temporary Stay" of the action contained in a notice received pursuant to paragraph (a) of this section within 15 days of receipt of such notice. Such submission shall not be considered unless it includes, in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service or telecommunication service, a copy of the notice, and certification of service as required by § 1.1404(b). The named respondent may file an answer within 7 days of the date the Petition for Temporary Stay was filed. No further

filings under this section will be considered unless requested or authorized by the Commission and no extensions of time will be granted unless justified pursuant to § 1.46.

5. Section 1.1404 is amended by revising paragraphs (a), (d) introductory text and (d) (2) to read as follows:

§ 1.1404 Complaint.

(a) The complaint shall contain the name and address of the complainant, name and address of the respondent, and shall contain a verification (in the form in § 1.721(b)), signed by the complainant or officer thereof if complainant is a corporation, showing complainant's direct interest in the matter complained of. Counsel for the complainant may sign the complaint. Complainants may join together to file a joint complaint. Complaints filed by associations shall specifically identify each utility, cable television system operator, or telecommunications carrier who is a party to the complaint and shall be accompanied by a document from each identified member certifying that the complaint is being filed on its behalf.

* * * * *

(d) The complaint shall be accompanied by a copy of the pole attachment agreement, if any, between the cable system operator or telecommunications carrier and the utility. If there is no present pole attachment agreement, the complaint shall contain:

* * * * *

(2) A statement that the cable television system operator or telecommunications carrier currently has attachments on the poles, ducts, conduits, or rights-of-way.

* * * * *

6. Section 1.1409 is amended by adding a new paragraph (e) to read as follows:

§ 1.1409 Commission consideration of the complaint.

* * * * *

(e) Section 1.1404 shall apply to the rate for any pole attachment used by a cable system operator solely to provide cable service. Until 47 U.S.C. 224(e) is implemented, § 1.1404 shall also apply to the rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service.

7. A new Section 1.1416 is added to subpart J to read as follows:

§ 1.1416 Access provisions for telecommunication carriers and cable systems.

(a) A utility that engages in the provision of telecommunications services or cable services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable under this section.

(b) An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, duct, conduit, or right-of-way).

[FR Doc. 96-20901 Filed 8-19-96; 8:45 am]

BILLING CODE 6712-01-U

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: August 20, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted July 19, 1996, and released July 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision