

systems, and other participants. Script content may be in the primary language of the broadcast station. These monthly tests must be transmitted within 15 minutes of receipt by broadcast stations and cable systems and wireless cable systems in an EAS Local Area or State. Class D non-commercial educational FM and LPTV stations are required to transmit only the test script.

(2) * * *

(ii) * * *

(B) Effective December 31, 1998, cable systems with 10,000 or more subscribers per headend must conduct tests of the EAS header and EOM codes at least once a week at random days and times on all programmed channels:

(C) Effective October 1, 2002, cable systems serving fewer than 5,000 subscribers per headend must conduct tests of the EAS header and EOM codes at least once a week at random days and times on at least one programmed channel.

(D) Effective October 1, 2002, the following cable systems and wireless cable systems must conduct tests of the EAS header and EOM codes at least once a week at random days and times on all programmed channels:

(1) Cable systems serving 5,000 or more, but less than 10,000 subscribers per headend; and,

(2) Wireless cable systems with 5,000 or more subscribers.

(E) Effective October 1, 2002, the following cable systems and wireless cable systems must conduct tests of the EAS header and EOM codes at least once a week at random days and times on at least one programmed channel:

(1) Cable systems with fewer than 5,000 subscribers per headend; and,
(2) Wireless cable systems with fewer than 5,000 subscribers. * * *

(v) TV stations, cable television systems and wireless cable systems are not required to transmit a video message when transmitting the required weekly test.

* * * * *

(6) EAS activations and special tests. The EAS may be activated for emergencies or special tests at the State or Local Area level by a broadcast station, cable system or wireless cable system instead of the monthly or weekly tests required by this section. To substitute for a monthly test, activation must include transmission of the EAS header codes, Attention Signal, emergency message and EOM code and comply with the visual message requirements in § 11.51. To substitute for a weekly test of the Attention Signal in paragraph (a)(2)(i) of this section, activation must include transmission of

the Attention Signal and emergency message. To substitute for the weekly test of the EAS header codes and EOM codes in paragraph (a)(2)(ii) of this section, activation must include transmission of the EAS header and EOM codes. Television stations and cable systems and wireless cable systems shall comply with the aural and visual message requirements in § 11.51. Special EAS tests at the State and Local Area levels may be conducted on daily basis following procedures in State and Local Area EAS plans.

(b) Entries shall be made in broadcast station and cable system and wireless cable system records as specified in § 11.54(b)(14) concerning EAS tests received and transmitted.

PART 76—CABLE TELEVISION SERVICE

18. The Authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 552, 554, 556, 558, 560, 561, 571, 572, 573.

19. Section 76.5 is amended by revising paragraph (qq) to read as follows:

§ 76.5 Definitions.

* * * * *

(qq) Emergency Alert System (EAS). The EAS is composed of broadcast networks; cable networks and program suppliers; AM, FM and TV broadcast stations; Low Power TV (LPTV) stations; cable systems and wireless cable systems; and other entities and industries operating on an organized basis during emergencies at the National, State, or local levels.

[FR Doc. 98-13462 Filed 5-29-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[CC Docket No. 86-179; FCC 98-70]

Multipoint Distribution Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Consistent with previous determinations by the Federal Communications Commission and judicial decisions, this *Second Report and Order* continues to classify subscription Multipoint Distribution Service ("MDS") as a non-broadcast

service. The order defers the classification of non-subscription MDS, and requires prior notification and Commission approval before MDS service can be offered on a non-subscription basis.

EFFECTIVE DATE: August 10, 1998, following approval by the Office of Management and Budget, unless a notice is published in the **Federal Register** stating otherwise.

FOR FURTHER INFORMATION CONTACT: Charles Dziedzic or Jerianne Timmerman at (202) 418-1600.

SUPPLEMENTARY INFORMATION: A summary of the *Second Report and Order* follows. The complete text is available for inspection and copying during normal business hours in the MDS public reference room, Room 207, at the Federal Communications Commission, 2033 M Street, N.W., Washington, D.C., and it may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800.

1. *Synopsis of Second Report and Order.* Following the remand of petitions to review by the United States Court of Appeals for the District of Columbia Circuit, the Federal Communications Commission, in this *Second Report and Order*, reaffirmed its previous determination to classify subscription Multipoint Distribution Service ("MDS") as a non-broadcast service. Consistent with judicial precedent, the *Second Report and Order* defers the regulatory classification of non-subscription MDS, and requires prior notification and Commission approval before MDS can be offered on a non-subscription basis.

2. *Final Regulatory Flexibility Act Certification.* Pursuant to the Regulatory Flexibility Act of 1980, as amended ("RFA"),¹ it is hereby certified that the notification requirement for non-subscription MDS service adopted herein will not have a significant economic impact on a substantial number of small entities. As indicated above in ¶¶ 6-8, we are not aware of any instances in which MDS service has been offered on a non-subscription basis. Thus, the only impact of the notification requirement will be the submission of data concerning non-subscription MDS service from the limited number (if any) of MDS

¹ See 5 U.S.C. § 605(b). The RFA, see 5 U.S.C. 601 *et seq.*, was amended by the Contract With America Advancement Act of 1996, Pub.L. No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996.

applicants and licensees that may one day choose to develop and provide such service.

3. The Commission will send a copy of this final certification, along with this *Second Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A), and to the Chief Counsel for Advocacy of the Small Business Administration, 5 U.S.C. 605(b). A copy of this certification will also be published in the **Federal Register**.

4. *Ordering Clauses*. Accordingly, it is ordered, that pursuant to the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 393(r), this *Second Report and Order* is adopted, and Part 21 of the Commission's Rules are amended.

5. It is further ordered, that the rule amendment will become effective August 10, 1998, following approval by the Office of Management and Budget, unless a notice is published in the **Federal Register** stating otherwise.

6. It is further ordered, that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Second Report and Order*, including the Final Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

7. It is further ordered, that CC Docket No. 86-179 is terminated.

List of Subjects in 47 CFR Part 21

Communications common carriers, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

Part 21 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201-205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 410, 602; 48 Stat. 1064, 1066, 1070-1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102, as amended; 47 U.S.C. 151, 154, 201-205, 208, 215, 218, 303, 307, 313, 314, 403, 602; 47 U.S.C. 552, 554.

2. Section 21.940 is added to read as follows:

§ 21.940 Non-subscription MDS service.

The Commission must be notified, and prior Commission approval obtained, before Multipoint Distribution Service or Multichannel Multipoint Distribution Service may be provided on a non-subscription basis.

[FR Doc. 98-14376 Filed 5-29-98; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-171; RM-8846, RM-9145]

Radio Broadcasting Services; Indian Springs, NV, Mountain Pass, CA, Kingman, AZ, St. George, UT

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of final rule.

SUMMARY: The Commission, on its own motion, pursuant to section 1.113(a) of the Commission's Rules, withdraws the final rule in this proceeding, DA 98-689, published at 63 FR 23226, April 28, 1998. That document substituted Channel 257C for Channel 257A at Indian Springs, Nevada, modified the construction permit of Station KPXC to specify the higher powered channel, substituted Channel 259B for Channel 258B at Mountain Pass, California, modified the license of Station KHYZ to specify the alternate Class B channel, substituted Channel 261C2 for Channel 260C2 at Kingman, Arizona, modified the license of Station KGMN to specify the alternate Class C2 channel, substituted Channel 260C for Channel 259C at St. George, Utah, modified the license of Station KZEEZ to specify the alternate Class C channel, and allotted Channel 272C to Indian Springs, Nevada, as a new allotment.

DATES: This withdrawal is effective May 27, 1998.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order, DA No. 98-1003, adopted May 22, 1998, and released May 27, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-

3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

The final rule amending § 73.202 published on April 28, 1998, at 63 FR 23226, is withdrawn.

[FR Doc. 98-14471 Filed 5-29-98; 8:45 am]
BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Notice No. 98-5]

Hazardous Materials Ticketing Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notification continuing the ticketing program.

SUMMARY: On May 15, 1996, RSPA initiated a pilot program for issuing tickets for certain hazardous materials transportation violations. The goal of the program has been to streamline administrative procedures, cut costs, and reduce regulatory burdens on persons subject to Federal hazardous materials transportation law. Tickets have been issued for violations that had little or no direct impact on safety. Penalties have been substantially reduced for persons who paid the amounts assessed in the tickets.

This program is consistent with the recommendation in the National Performance Review to streamline the enforcement process by implementing pilot programs to offer greater flexibility in enforcement methods. RSPA's ticketing program has successfully cut costs, simplified the processing of violations, and achieved compliance through more efficient and effective processes. RSPA has decided to make ticketing a permanent part of its compliance program.

EFFECTIVE DATE: May 15, 1998.

FOR FURTHER INFORMATION CONTACT: John J. O'Connell, Jr., Director, Office of Hazardous Materials Enforcement, (202) 366-4700; or Donna L. O'Berry, Office of the Chief Counsel, (202) 366-4400, Research and Special Programs Administration, U.S. Department of