

September 19, 2003, a document which removed Channel 295C and added Channel 295C0 at Birmingham, Alabama. See 68 FR 54855. This document amends 47 CFR 73.202(b), the Table of FM Allotments under Alabama, by removing Channel 295C0 at Birmingham, Alabama because Channel 295C was reallocated to Homewood, Alabama in an earlier rulemaking proceeding, MM Docket No. 01-104. See 68 FR 33654, published June 5, 2003.

DATES: Effective on September 28, 2004.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION:

Background

The Federal Communications Commission published a document in the **Federal Register** of September 19, 2003, (68 FR 54855), which amended § 73.202(b), the FM Table of Allotments under Alabama by removing Channel 295C and adding Channel 295C0 at Birmingham. However, Channel 295C at Birmingham was reallocated to Homewood, Alabama in a prior rulemaking proceeding. See 68 FR 33654, published June 5, 2003.

Need for Correction

Part 73 of title 47 of the Code of Federal Regulations currently contains under § 73.202(b), the FM Table of Allotments under Alabama Channel 295C0 at Birmingham, therefore Channel 295C0 at Birmingham needs to be removed from the Code of Federal Regulations.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Accordingly, 47 CFR part 73 is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation of part 73 continues to read as follows:

Authority: 47 U.S.C. 54, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 295C0 at Birmingham.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04-2907]

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 *Amendment of the Commission's Rules to permit FM Channel and Class Modifications by Applications*, 8 FCC Rcd 4735 (1993).

DATES: Effective September 28, 2004.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted September 15, 2004 and released September 17, 2004. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will not send a copy of the *Report & Order* in this proceeding pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

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 BROADCASTING 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 Arizona, is amended by removing Channel 240C1 and adding Channel 240C0 at Cottonwood.

■ 3. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 265A and adding Channel 265C3 at Arkadelphia.

■ 4. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 279C1 and adding Channel 279C0 at Garberville.

■ 5. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 288C2 and adding Channel 288C1 at Timnath.

■ 6. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 271C2 and adding Channel 271C1 at Rock Harbor.

■ 7. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 264C1 and adding Channel 264C0 at Brunswick; by removing Channel 297C and adding Channel 297C0 at Columbus; by removing Channel 240C1 and adding Channel 240C0 at Dublin; and by removing Channel 298A and adding Channel 298C3 at Wrightsville.

■ 8. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by removing Channel 286C2 and adding Channel 287C2 at Keaau.

■ 9. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 222A and Channel 282A and by adding Channel 222C2 and 279C1 at Victor.

■ 10. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 227C1 and adding Channel 227C0 at Des Moines.

■ 11. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 229A and adding Channel 230C2 at Newberry.

■ 12. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel *258A and adding Channel *258C3 at Roswell.

■ 13. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 285C3 and adding Channel 285C2 at Calabash.

■ 14. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 239C and adding Channel 240C1 at Delta.

■ 15. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 285C3 and adding Channel 285C2 at Roanoke.

■ 16. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 256C1 and adding Channel 256C2 at Walla Walla.

■ 17. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by removing Channel 292C3 and adding Channel 292A at Cheyenne.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04-21727 Filed 9-27-04; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA-04-17571; Notice 2]

RIN 2127-AJ32

Civil Penalties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends NHTSA's regulation on civil penalties by increasing the maximum aggregate civil penalties for violations of statutes and regulations administered by NHTSA pertaining to motor vehicle safety, bumper standards, and consumer information. This action is taken pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, which requires us to review and, as warranted, adjust penalties based on inflation at least every four years.

DATES: This rule is effective on October 28, 2004. If you wish to submit a petition for reconsideration of this rule, your petition must be received by November 12, 2004.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, with a copy to the docket.

FOR FURTHER INFORMATION CONTACT: Michael Kido, Office of Chief Counsel, NHTSA, telephone (202) 366-5263, facsimile (202) 366-3820, 400 Seventh Street, SW., Washington, DC 20590.

Anyone is able to search the electronic form of all comments received into any of our dockets by the

name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, consumer group, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477-78), or you may visit <http://dms.dot.gov>.

SUPPLEMENTARY INFORMATION:

Background

In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (28 U.S.C. 2461 Notes, Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104-134 (referred to collectively as the "Adjustment Act" or, in context, the "Act"), requires us and other Federal agencies to regularly adjust civil penalties for inflation. Under the Adjustment Act, following an initial adjustment that was capped by the Act, these agencies must make further adjustments, as warranted, to the amounts of penalties in statutes they administer at least once every four years.

NHTSA's initial adjustment of civil penalties under the Adjustment Act was published on February 4, 1997. 62 FR 5167. At that time, we codified the adjustments in 49 CFR part 578, Civil Penalties. On July 14, 1999, we further adjusted certain penalties involving odometer requirements and disclosure, consumer information, motor vehicle safety, and bumper standards. 64 FR 37876. On August 7, 2001, we also adjusted certain penalty amounts pertaining to odometer requirements and disclosure and vehicle theft prevention. 66 FR 41149. In addition to increases in authorized penalties under the Adjustment Act, the Transportation Recall Enhancement, Accountability, and Documentation ("TREAD") Act increased penalties under the National Traffic and Motor Vehicle Safety Act as amended (sometimes referred to as the "Motor Vehicle Safety Act"). We codified those amendments in a notice published on November 14, 2000. 65 FR 68108.

On June 14, 2004, based on our review of the amounts of civil penalties authorized in part 578, we proposed to adjust those penalties where warranted under the Adjustment Act. 69 FR 32963. Our proposal addressed violations pertaining to motor vehicle safety, bumper standards, and consumer information regarding crashworthiness and damage susceptibility.

Method of Calculation

Under the Adjustment Act, we determine the inflation adjustment for each applicable civil penalty by increasing the maximum civil penalty amount per violation by a cost-of-living adjustment, and then applying a rounding factor. Section 5(b) of the Adjustment Act defines the "cost-of-living" adjustment as:

The percentage (if any) for each civil monetary penalty by which—

(1) The Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds

(2) The Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Since the adjustment will be effective before December 31, 2004, the "Consumer Price Index [CPI] for the month of June of the calendar year preceding the adjustment" is the CPI for June 2003. This figure, based on the Adjustment Act's requirement of using the CPI "for all-urban consumers published by the Department of Labor" is 550.4.¹ The penalty amounts that NHTSA is adjusting based on the Act's requirements were last adjusted in 1999 for violations related to bumper standards and consumer information regarding crashworthiness and damage susceptibility and in 2000 for violations related to motor vehicle safety. The CPI figures for June 1999 and June 2000 were 497.9 and 516.5, respectively. Accordingly, the factors that we used in calculating the increase are 1.10 (550.4/497.9) for adjustments to the bumper standard and consumer information penalties and 1.07 (550.4/516.5) for adjustments to the motor vehicle safety penalties. Using 1.10 and 1.07 as the inflation factors, calculated increases under these adjustments are then subject to a specific rounding formula set forth in section 5(a) of the Adjustment Act. 28 U.S.C. 2461, Notes. Under that formula:

Any increase shall be rounded to the nearest:

- (1) Multiple of \$10 in the case of penalties less than or equal to \$100;
- (2) Multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;
- (3) Multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;

¹ Individuals interested in deriving the CPI figures used by the agency may visit the Department of Labor's Consumer Price Index home page at <http://www.bls.gov/cpi/home.htm>. Select "US ALL ITEMS 1967=100—CUUR0000AA0", select the appropriate time frame covering the information sought, and select "Retrieve Data" from the menu.