

97 FCC 2d 279

DOCKET  
80-90

44 Fed Reg 10260 3/20/84

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FCC 84-65  
34283

In the Matter of )  
 )  
Modification of FM Broadcast ) BC Docket No. 80-90  
Station Rules to Increase the ) RM-2587  
Availability of Commercial ) RM 3226  
FM Broadcast Assignments ) RM-3367

MEMORANDUM OPINION AND ORDER

Adopted: March 1, 1984 Released: March 13, 1984

By the Commission: Commissioner Quello concurring and issuing a statement;  
Commissioner Patrick not participating.

Introduction

1. The Commission has under consideration requests for reconsideration of its Report and Order in the above-entitled proceeding adopted May 26, 1983 (48 Fed. Reg. 29486; published June 27, 1983). That document made several changes to the FM allotment structure to increase the availability of FM stations. It would:

- a) allow stations with Class A facilities to operate on the 60 Class B/C channels;
- b) increase the number of station classes, from three to six;
- c) require existing Class B and C stations to meet or exceed minimum facility requirements within three years or be reclassified based on their actual operating facilities; and
- d) convert the technical FM rules to the metric system of units.

2. Interest in these rule changes, or more accurately, in the new stations represented by these changes, was so great that the Commission decided to postpone their effective date until it had acquired additional staff resources. It also opted to temporarily abandon the traditional "petition" method used to amend the FM Table of Allotments in Section 73.202(b) of the rules. Instead, it decided to make 684 new

allotments on its own motion, in a so-called "omnibus" proceeding, using a list of communities compiled previously. 1/

3. The Commission received six petitions for reconsideration of its action. These were filed by Richard Culpepper, Barry Chaiken, the National Association of Broadcasters ("NAB"), Cox Communications Inc. ("Cox"), the National Radio Broadcasters Association ("NRBA"), and a group of FM station licensees ("Licensees"). 2/ Comments in response to these petitions were filed by the Association for Broadcast Engineering Standards, Inc. ("ABES"), NRBA, Atlantic Broadcasting Corporation ("Atlantic"), and Brown Broadcasting Service, Inc. ("Brown"). The Commission also received an application for review filed by Knott County Broadcasting Corporation ("Knott").

#### Discussion

4. Richard Culpepper urges the Commission to permit the filing of applications on a demand basis, without reference to a table of allotments or in the alternative, to accept petitions to amend the present table immediately rather than after the omnibus proceeding. We must deny both requests. This proceeding did not seek to modify the allotment procedure represented by the Table. 3/ Furthermore, to accept individual petitions under the new rules would result in the submission of a flood of FM petitions, a strain of staff resources and creation of unmanageable backlogs. To avoid this situation, the Report and Order stated that the Commission would propose the initial allotments under the new rules and, through a winnowing process, reduce demand to a more manageable level. Mr. Culpepper does not indicate errors in the reasoning process that led to the adoption of this approach and we see no reason to abandon it.

5. Barry Chaiken and Culpepper request the inclusion of communities in which they are the licensees of daytime only AM stations in the new table of allotments. Similarly, Knott requests the allotment of Channel 297C2 to Hindman, Kentucky. Consistent with our attempt to manage workload, the

1/ The communities are to be selected from the station requirements list adopted by the Second Session of the Administrative Conference on AM Broadcasting in Region 2. See Appendix B, footnote 1 of the Report and Order.

2/ "Licensees" refers to the petition filed by Forward Communications Corporation, Group One Broadcasting Company, Guaranty Broadcasting Corporation, Infinity Broadcasting Corporation, Lake Huron Broadcasting Corporation, Park Broadcasting, Inc., Shamrock Broadcasting Company, Inc., Summit Radio Corporation, Tri-Cities Broadcasting Company, WAHR, Inc., and WKRG-TV Inc.

3/ In the Notice of Proposed Rule Making (45 Fed. Reg. 17602; March 19, 1980) at paragraph 8, the Commission stated that "...we have decided to focus our attention on those proposals dealing with changes within the present allocations framework." This thought was referenced in paragraph 7 of the Report and Order: "Central to the Notice's proposals was the retention of the Table of Assignments framework. It did not propose to modify the allotment structure represented by the Table."

Commission determined that we would not accept recommendations for communities to be included in the omnibus rule making. We continue to believe that the most orderly and expeditious method of handling the increased channel availability resulting from the Report and Order in this proceeding is the omnibus rule making in which proposals are initiated by the Commission with the opportunity for comments and counterproposals by the public. Petitioners have presented no facts or arguments to alter that determination. Moreover, with specific regard to daytime only AM stations, the omnibus rule making will consider the allotment of FM channels to communities with daytime only stations. Indeed, communities with daytime only stations comprise a significant portion of the station requirements list referred to in footnote 1, supra.

6. The remaining petitions argue for various protections for Class B and C stations from the reclassification provisions of the Report and Order. We therein noted that a significant number of Class B and C stations were operating with facilities that were substantially below those permitted by the rules. Nevertheless, the Commission's spacing requirements protected those stations to the same extent as a full facility licensee. The result of protecting all Class B and C stations at the maximum facility level was the preclusion of new, otherwise permissible services. We therefore determined that existing stations would be given three years from the effective date of the new rules within which to file an application for facilities which achieved certain minimum values for each class. Stations that failed to file such an application within the specified period would be reclassified to an appropriate class that more accurately approximated their actual facilities.

7. NRBA and NAB request that the Commission grandfather existing Class B and C stations rather than reclassify them. Brown supports this request. These parties state that existing stations have been providing reliable service outside their recognized contours for a number of years. If the stations are unable to maintain their present classification, those listeners would be deprived of their services. If the Commission nonetheless wishes to pursue its reclassification goal, NAB and NRBA suggest several measures be taken to provide a greater opportunity for licensees to increase facilities.

8. These suggestions concern the time period allowed for upgrading facilities and the means of protecting existing stations from new allotments made during the omnibus proceeding. NAB and NRBA ask the Commission to provide more than three years in which to meet the new minimums. NAB (and Cox) suggest 10 years; NRBA suggests waivers of the period be liberally granted. NAB, along with Cox and Licensees, requests the adoption of a "more realistic" power and tower height minimum for Class C stations. Their proposed values are based on contentions regarding the amount of land necessary to construct a 300 meter tower and the scarcity of such large parcels in many urbanized areas. Finally, NRBA and NAB, along with Cox and Licensees, urge the Commission not to make interim FM allotments that might impair the ability of existing stations to upgrade. These parties propose a protective zone of a radius of 15 miles be provided Class B and Class C

stations to enable them to have sufficient area within which to relocate if necessary to upgrade their facilities. <sup>4/</sup> "Licensees" urge the Commission "not to reclassify any Class C stations operating below the minimum antenna height, which during the three year period indicates an intention to relocate, but is unreasonably denied access to a 'unique site' in its market for which minimum height could be achieved."

9. In adopting the reclassification requirement in the Report and Order we were aware of the fact that for a variety of reasons, many Class B and C FM stations operate with substantially lesser facilities than those permitted by our rules. The licensee's decision to do so may be based on many factors, including: the facilities necessary to serve the licensee's community; financial considerations; real estate availabilities; local zoning restrictions; or air hazard determinations by the Federal Aviation Administration. Whatever the cause, these stations have received the mileage protection granted to a full facility station of the same class, but that separation provided far greater protection than that required to protect the station's primary service contours as defined by the Commission. In this proceeding, we found that such protection also precludes the potential for new service in other communities. Thus, it was determined that after a grace period for upgrading, stations would be reclassified according to their actual facilities. A reclassified licensee would continue to receive adequate protection albeit from reduced separation standards, and new service would become possible. Nothing presented in reconsideration has caused us to depart from this basic premise. The grandfathering of existing Class B and C stations would merely preserve waste of valuable spectrum resources which could be used to provide much needed service at another community.

10. At the same time, it is not our intention to overly restrict a licensee's ability to improve its facilities during the three year grace period. We agree with the petitioners who suggest that allotments made during the interim period could limit a licensee's ability to upgrade. In this regard, the Report and Order indicated that new allotments would be made based upon the present location of existing stations. Thus, new allotments could confine existing stations to upgrading at their present sites. However, land availability, local zoning restrictions or FAA considerations could preclude an improvement of facilities at that location. Accordingly, we have concluded that a "buffer zone" should be provided to permit some additional freedom of movement for existing Class C stations currently operating with antenna heights above average terrain (HAAT) of less than 300 meters, seeking to upgrade their facilities

<sup>4/</sup> On the other hand, Atlantic Broadcasting Corporation supports the Commission's decision to reclassify existing stations, and it cites instances in which existing FM stations would prefer to voluntarily reclassify themselves from Class C to Class C-1. Such reclassification would enable a licensee to change transmitter sites to locations where they feel they will be able to better serve the public interest.

within the three year period. 5/ However, Class B stations - unlike Class C stations - are not restricted to any antenna height minimums. In order to avoid reclassification an existing Class B station now operating below minimum facilities would only have to increase its power to a minimum level required under the new rules for its class of station. This does not require any major tower construction or change in transmitter location. Accordingly, no "buffer zone" would be permitted to Class B stations.

11. The Commission's technical staff conducted a limited study to determine the effect of a buffer on 189 communities chosen from the needs list and located in the southeastern part of the United States. 6/ With no buffer and using the distance separations adopted in the Report and Order, allotments could be made to 107 of those communities. The study then recomputed the communities with potential allotments after adding different buffers to the mileage protection for Class C stations. 7/ The results of our studies are set forth in the following table.

Buffer Zone (Miles)	Estimated Maximum Area for Potential New Site (sq. mi.)	Communities With Potential Allotments	Percent Reduction (107 base)
0	0	107	0%
5	78	89	17%
7	154	77	28%
10	314	73	32%
15	707	54	50%

12. We selected the southeast for our study because that section of the country provides one of the more fertile areas for new allotments under the criteria established in the Report and Order. However, this fact also led the staff to believe that the preclusion in the southeast, although significant for decision making purposes, may be substantially greater than the preclusive effect of a buffer zone on a nationwide basis. To test this hypothesis, the staff conducted further computer studies applying buffer zones

5/ The provided "buffer zone" does not give the existing Class C stations the right to short-space or increase the short-spacing with existing assignments. However, it would allow existing Class C stations to move freely within the confines of the "buffer zone" provided it is possible to do so.

6/ The first 200 communities in that region were selected for the study, but eleven of those were found to be repeats. Thus, the remaining 189 made up the study.

7/ The study added protection only to those Class C stations whose antenna heights were less than 300 meters and therefore subject to reclassification. Some additional preclusion would result from protecting all Class C stations, including those operating with near maximum facilities.

of five, seven, ten and fifteen miles to a nationwide list of 1401 communities. 8/ The results of that study are as follows:

Buffer Zone (Miles)	Communities with Potential Allotments	Percent reduction (828 base)
0	828	0%
5	759	8%
7	729	12%
10	686	17%
15	619	25%

13. Based on these findings, we cannot support an increase in the separation standards to yield the fifteen mile buffer sought by petitioners. That amount of protection would substantially vitiate many of the benefits to be derived from the Report and Order. Rather, we believe that a 16 kilometer (10-mile) buffer can provide for a reasonable "protected area" within which stations may select new sites and at the same time it restricts the potential numbers of new allotments less harshly. In any other context the Commission cannot envision a set of circumstances that could persuade it to temporarily foreclose the allotment of one third of the new channels in any particular region of the country, as noted in paragraph 11, supra. On a national basis we consider 17% temporary foreclosure of channels to be the maximum we permit. However, we fully intended to provide existing stations with the opportunity to increase their facilities within the three year period. We now recognize that existing licensees will have reduced flexibility as the three year period passes, and, as new allotments are made, the buffer zone could become the only area in which an existing licensee could relocate to upgrade its facilities. Short of grandfathering all Class C stations, which we do not feel is warranted, a buffer becomes an acceptable means of protecting existing service so that stations may improve their facilities. 9/ We acknowledge the magnitude of the short-term "cost" of a 16 kilometer buffer. Yet we also recognize that its impact will be temporary. It will dissolve at the end of the up-grade period. It is therefore possible that communities precluded by it will be eligible for an allotment when it is eliminated and existing stations undergo appropriate reclassification.

14. To summarize, the Commission will provide a 16 kilometer buffer, in addition to the normal distance separation requirements, to existing Class C stations currently operating with an HAAT of less than 300 meters. In the event that a station decides to move to a new location

8/ The 1401 communities studied represent those locations on the station requirements list which: have no local station; have only a daytime station; were indicated as requiring an additional minority owned station; and/or were indicated as requiring an additional public (noncommercial) station.

9/ Stations operating with larger facilities are more "efficient," from an engineering standpoint, than stations operating with inferior facilities. (See footnote 9/ in the Notice). Thus, Class C licensees serve the public interest and their own when they improve their facilities. The Commission's interest in providing a buffer area for licensees recognizes the dual benefit obtained.

within the specified period, the buffer zone will be dropped and the new site will no longer receive protection in excess of that provided by the distance separations. We shall provide the buffer only during the period designated for stations to pursue upgrading options and shall not extend it. 10/

15. With regard to the remaining requests for modifications in the reclassification procedure, we find no reason to change our conclusions. The filing of an application to modify facilities is a more appropriate event with which to "toll" the grace period than the filing of a letter of intent as suggested by petitioners. If a licensee is denied access to a "unique site" within that period, we have no basis to assume that it would ever have access to that site. 11/ Similarly, the suggestion that the grace period be extended to 10 years would unreasonably delay the use of a valuable resource by either the existing station that upgrades or new station(s) that would be precluded by the extended grace period.

16. We also do not believe that any change is warranted in the power and antenna height minima for Class C stations. In establishing the intermediate Classes of stations (B1, C1 and C2) we sought to create a rational mix of potential stations with progressively increasing service areas and appropriate distance separation protections. Petitioners have failed to support their contention that their proposal is superior to the one adopted by the Commission. 12/ In order to avoid reclassification a licensee would have 813 square kilometers in his/her buffer zone area to find a new site, construct a tower and upgrade to minimum facilities required under the new rules for its class of station. Additionally, no licensee would be required to downgrade existing facilities so present service would be relatively

10/ As is clear from the foregoing discussion, the Commission intends to protect only Class C stations. Therefore the request of NRBA to protect existing Class A stations with a five mile buffer is denied. Petitioner did not support the request in any manner and we can find no basis to grant it.

11/ If the "unique site" is in the possession of another broadcaster, Section 73.239 of our rules would preclude unreasonable denial of access. Moreover, if the "unique site" becomes available after reclassification, it is possible that the station could seek reinstatement of its higher class at that time.

12/ WNVC, for example, proposed the construction of a guyed tower 335 meters (1100 feet) above ground on a 10.9 acre site. Due to FAA objections, the proposal was amended to a 213 meter (698 feet) tower. Thus, towers exceeding the Class C minimum can be erected on less than eleven acres.

unaffected. Accordingly, modification of our class standards is not warranted. 13/

17. In its comments, ABES requests clarification of Section 73.211 of the Commission's Rules that governs the maxima and minima height above average terrain, and power requirements, of existing Class B and C stations. It states that it believes the rules do not adequately define how existing stations will be classified after the three-year period passes. By way of explanation, stations may not operate with power in excess of the maxima stated in the rules but they may use antenna heights greater than the maxima if transmitter output power is reduced. Reductions are based upon the distance to a station's 1 mV/m contour (60 dBu). Existing stations with antenna heights in excess of those specified in Section 73.211 of the Commission's Rules will be classified or reclassified upon the same basis, i.e., the distance to the 1 mV/m contour. The new rules simply state this requirement and the curves formerly contained in figure 3 of Section 73.333 have been deleted.

18. Several other matters have come to the Commission's attention that require discussion and clarification. A question has been raised concerning the use of beam tilt by FM stations and whether main lobe power or maximum power in the horizontal plane will be used when stations are reclassified. Existing stations using beam tilt will be classified according to their HAAT and power in the main lobe. This is consistent with Commission requirements that a broadcast station employing a beam tilt can change its antenna by filing an application for license (FCC form 302), provided that the existing HAAT and ERP remain unchanged. The Commission's FM engineering data base, which will be used for reclassification, does contain the main lobe power as well as power in the horizontal plane. Therefore we anticipate no difficulty in classifying or reclassifying existing stations. Nonetheless, if a station feels it has been incorrectly classified it should notify the Commission.

19. In other areas, questions have been raised about the applicability of Section 73.213 of the Commission's Rules to short-spaced stations. This rule section only applies to stations that were short-spaced prior to November 16, 1964. Other existing stations that do not meet the increased second and third adjacent channel spacings will be grandfathered at their existing sites. If they request a new site, our policy will be to waive the second and third adjacent channel separations to the "old" required spacings (e.g. 15, 40 or 65 miles) for the duration of the 3 year period. Applications for unoccupied allotments, however, will have to meet the new spacing requirements.

---

13/ Similarly NAB expressed its concern that the new mileage separations will negatively affect the quality of FM stereophonic reception. In the Report and Order the Commission stated that protecting stereophonic transmissions (rather than monophonic) would significantly increase the distance by which stations must be separated and thereby substantially decrease the potential for new stations. Increased protection was rejected based on the need to provide for a sufficient number of necessary allotments and because stereophonic broadcast is considered to be an optional enhancement of a station's entertainment programming. No new information has been provided to warrant a re-examination of this issue. Accordingly, we shall not revisit the protection question.

20. Also, inquiries have been received from existing Class C stations wishing to voluntarily reclassify their stations to a lower class in order to move their transmitter site to a location that would not be available with their present station class. The Commission believes that these stations should not be required to go through rule making if they will voluntarily accept the lower classification. Therefore when a license is granted to such licensees, the Table will automatically be revised to the appropriate class of station.

Miscellaneous matters remaining from the "80-90" Report and Order

21. As indicated in the Report and Order, we shall convert the technical FM broadcast service rules to the International System of Units to conform to the Commission's program for conversion of all its rules. (See Public Notice, FCC 73-737, July 28, 1976.) Until such time as the application form can be revised to reflect this change, applicants may continue to tender applications that use the English system of units. The Commission's technical staff will convert the data on the application to the metric system to ensure compliance with the rules.

22. As note in paragraph 2, supra, the Commission did not set a date for the rules adopted in the Report and Order to be effective. It instead chose to delay the implementation of the new rules until it had sufficient staff resources to handle the number of petitions and applications anticipated. Those resources have been obtained in the interim and the Commission will now set the effective date of the "80-90" rules to be the date of adoption of the omnibus "Notice."

23. One of the petitions that stimulated this proceeding was filed by the National Telecommunications Information Administration (RM-3367). It sought changes in the FM rules to allow "FM drop-ins," based on the use of terrain shielding and directional antennas. In the Notice in this proceeding the Commission indicated its intention to consider these requests in a future proceeding. We now believe that there is no reason to plan to examine the rule changes sought by NTIA within the foreseeable future. A number of new stations will result from the other rule changes adopted that shall provide significant opportunities for new media outlets. We see no reason to pursue changes in the rules to allow still more stations before the potential afforded by the most recent changes are exhausted. We prefer to see if the present demand for new stations could perhaps be sated by the opportunities now available. Therefore we shall deny the NTIA petition without prejudice.

24. In the Report and Order we indicated that applications filed by existing Classes B and C stations requesting authority to increase antenna height and/or power in order to meet or exceed minimum facility requirements within the three year period, will be treated as minor changes. Similarly, we will consider as a minor modification any site move within the 16 Kilometers buffer zone area by an existing Class C station presently operating with an antenna height of less than 300 meters above average terrain, for the duration of the grace period. Furthermore, we indicated in the Report and Order that the maximum antenna height and power requirements for a Class C1 station (100 kilowatts and 300 meters HAAT) are also the established minimum requirements for a Class C station. To clarify this issue an existing station or a future proposal requesting 100 kilowatts of power and 300 meters of HAAT, will be

treated as a Class C station. Section 73.211(b) is corrected to show that the maximum antenna height for Class C1 stations will be 299 meters (981 feet) to resolve any classification ambiguity.

25. Accordingly, IT IS ORDERED, that the "Petition for Partial Reconsideration" filed in this proceeding by Richard Culpepper, IS DENIED.

26. Accordingly, IT IS ORDERED, that the "Petition for Reconsideration" filed in this proceeding by Barry Chaiken, IS DENIED.

27. Accordingly, IT IS ORDERED, that the "Petition for Partial Reconsideration" filed in this proceeding by The National Radio Broadcasters Association, IS GRANTED IN PART AND DENIED IN PART.

28. Accordingly, IT IS ORDERED, that the "Petition for Partial Reconsideration" filed in this proceeding by the "Licensees" IS GRANTED IN PART AND DENIED IN PART.

29. Accordingly, IT IS ORDERED, that the "Petition for Partial Reconsideration" filed in this proceeding by "Cox," IS GRANTED IN PART AND DENIED IN PART.

30. Accordingly, IT IS ORDERED, that the "Petition for Reconsideration" filed in this proceeding by The National Association of Broadcasters, IS GRANTED IN PART AND DENIED IN PART.

31. Accordingly, IT IS ORDERED, that the "Application for Review" filed in this proceeding by Knott County Broadcasting Corporation, IS DENIED.

32. Accordingly, IT IS ORDERED, that the "Petition for Rule Making" filed by the National Telecommunications Information Administration, IS DENIED.

33. Accordingly, IT IS ORDERED, that Part 73 of the Commission's Rules, 47 C.F.R. 73 IS AMENDED, as set forth in the attached Appendix, effective April 19, 1984.

34. IT IS FURTHER ORDERED that this proceeding is TERMINATED.

35. Authority for this action is contained in Sections 4(1), 303(g) and 303(r) of the Communications Act of 1934, as amended.

36. For further information on this proceeding, contact John Karousos, Mass Media Bureau, (202) 632-9660.

FEDERAL COMMUNICATIONS COMMISSION

William J. Tricarico  
Secretary

A P P E N D I X

1. Section 73.204 is added to read as follows:

**§73.204 International agreements and other restrictions on use of channels.**

See §§73.207, 73.220 and 73.1650.

2. Section 73.207 is amended by revising Tables A and C to read as follows:

**§73.207 Minimum distance separations between stations.**

(a) \*\*\*

(b) \*\*\*

(1) \*\*\*

Table A  
MINIMUM DISTANCE SEPARATION REQUIREMENTS  
in kilometers (miles)

<u>Relation</u>	<u>Co-channel</u>	<u>200 kHz</u>	<u>400/600 kHz</u>	<u>10.6/10.8 MHz</u>
A to A	105 (65)	64 (40)	27 (17)	8 (5)
A to B1	138 (86)	88 (55)	48 (30)	16 (10)
A to B	163 (101)	105 (65)	69 (43)	16 (10)
A to C2	163 (101)	105 (65)	55 (34)	16 (10)
A to C1	196 (122)	129 (80)	74 (46)	32 (20)
A to C	222 (138)	169 (105)	105 (65)	32 (20)
B1 to B1	175 (109)	114 (71)	50 (31)	24 (15)
B1 to B	211 (131)	145 (90)	71 (44)	24 (15)
B1 to C2	200 (124)	134 (83)	56 (35)	24 (15)
B1 to C1	233 (145)	161 (100)	77 (48)	40 (25)
B1 to C	259 (161)	193 (120)	105 (65)	40 (25)
B to B	241 (105)	169 (105)	74 (46)	24 (15)
B to C2	241 (150)	169 (105)	74 (46)	24 (15)
B to C1	270 (168)	195 (121)	79 (49)	40 (25)
B to C	274 (170)	217 (135)	105 (65)	40 (25)
C2 to C2	190 (118)	130 (81)	58 (36)	24 (15)
C2 to C1	224 (139)	158 (98)	79 (49)	40 (25)
C2 to C	249 (155)	188 (117)	105 (65)	40 (25)
C1 to C1	245 (152)	177 (110)	82 (51)	48 (30)
C1 to C	270 (168)	209 (130)	105 (65)	48 (30)
C to C	290 (180)	241 (150)	105 (65)	48 (30)

(2)(1)

(3)

\* \* \* \* \*

Table C  
MINIMUM DISTANCE SEPARATION REQUIREMENTS  
in kilometers (miles)

<u>Relation</u>	<u>Co-channel</u>	<u>200 kHz</u>	<u>400/600 kHz</u>	<u>10.6/10.8 MHz</u>
A to A	105 (65)	65 (40)	25 (15)	8 (5)
A to B	175 (110)	105 (65)	65 (40)	16 (10)
A to C	210 (130)	170 (105)	105 (65)	32 (20)
A to D	95 (60)	50 (30)	25 (15)	8 (5)
B to B	240 (150)	170 (105)	65 (40)	25 (15)
B to C	270 (170)	215 (135)	105 (65)	40 (25)
B to D	170 (105)	95 (60)	65 (40)	16 (10)
C to C	290 (180)	240 (150)	105 (65)	48 (30)
C to D	200 (125)	155 (95)	105 (65)	25 (15)
D to D	18 (11)	10 (6)	5 (3)	3 (2)

3. Section 73.506 is amended by revising the headnote and paragraphs (a)(3) and (b), to read as follows:

**§73.506 Classes of Noncommercial Educational FM stations and channels.**

\* \* \* \* \*

(3) Noncommercial educational stations with more than 0.01 kW transmitter power output are classified Class A, B1, B, C2, C1, or C, depending on the effective radiated power, antenna height above terrain, and the zone in which the station's transmitter is located, on the same basis as provided for in §§73.205, 73.206, and 73.211 for stations on the non-reserved FM channels.

(b) Any noncommercial educational station except Class D may be assigned to any of the channels listed in §73.501. Class D noncommercial educational FM stations applied for or authorized prior to June 1, 1980, may continue to operate on their authorized channels subject to the provisions of §73.512.

4. Section 73.507 is amended by revising paragraph (c) to read as follows:

**§73.507 Minimum distance separation between stations.**

\* \* \* \* \*

(c) (1) Stations separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels) from allotments or assignments on non-reserved channels will not be authorized unless they conform to the separations in Table A given in §93.207.

(2) Under the United States-Mexican FM Broadcasting Agreement, for stations and assignments differing in frequency by 10.6 to 10.8 MHz (53 or 54 channels), U.S. noncommercial educational FM allotments and assignments must

meet the separations given in Table C of §73.207 to Mexican allotments or assignments in the border area.

5. Section 73.211 is amended by substituting the values "299 (981)" for the values "300 (984)" given as entry five in the third column of the table in paragraph (b).

6. Also footnote 36/ of the Report and Order should change to read as follows:

Meters	=	.3048 x feet
kilometers	=	1.609 x miles
Square kilometers	=	1/.386 x square miles

March 1, 1984

CONCURRING STATEMENT  
OF  
FCC COMMISSIONER JAMES H. QUELLO

In re: Reconsideration of the Report & Order Modifying FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, BC Docket No. 80-90.

While this is not the course I would have chosen,<sup>1/</sup> it does appear that significantly increased opportunities for local FM service may result from this decision. Since the item does recognize legitimate concerns of existing FM licensees as they seek to conform to the new policies, I concur in the result.

---

<sup>1/</sup> See Dissenting Statement of Commissioner James H. Quello, Report & Order in BC Docket 80-90, 48 Fed. Reg. 29486, June 27, 1983.