

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-140]

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101-26.5—GSA Procurement Programs

PURCHASE OF MOTOR VEHICLES, TRUCKS, AND TRAILERS

This amendment provides guidelines for the procurement of trailers by executive agencies.

Section 101-26.501-1 is amended as follows:

§ 101-26.501-1 General.

Except as provided for the Department of Defense (DoD) in paragraph (a) of this section, executive agencies shall submit to GSA for procurement their requirements for purchase in the United States of all new passenger motor vehicles (FSC 2310), trucks/truck tractors (FSC 2320), and trailers (FSC 2330) of the following types: Van (with payload of not less than 5,000 lbs. nor more than 50,000 lbs.), camping, office, and house. Specifically included are sedans, station wagons, carryalls, ambulances, buses and trucks, including trucks with specialized mounted equipment, truck chassis with special purpose bodies, all camping-, office- and house-type trailers, and van-type trailers (with payload of not less than 5,000 lbs. nor more than 50,000 lbs.).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective April 10, 1974.

Dated: April 2, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74-8192 Filed 4-9-74; 8:45 am]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

Miscellaneous Amendments

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), 41 CFR Chapter 114, is amended as set forth below.

As these amendments relate solely to matters of internal Department practice, the prior notice and public procedure provisions of 5 U.S.C. 553 are inapplicable.

RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

APRIL 3, 1974.

(1) The following sections are amended so that the title "Office of Management Operations" will read "Office of Management Services" and the title "Director of Management Operations" will

read "Director of Management Services":

Sections 114-3.105; 114-3.205; 114-3.206 (2 places); 114-25.350; 114-25.4801 (a); 114-26.600-50(c); 114-26.600-51(f); 114-38.102-1; 114-38.402(a); 114-39-404-3; 114-39.404-4; 114-40.307; 114-42-302-2; 114-43.319(b); 114-43.319-52; 114-45.316-2(b) (2 places); 114-45.317 (c) (2) (v); 114-46.407; 114-47.203-7; 114-47.301-5(b); 114-47.304-8(b) (2 places); 114-47.304-51(c) (2) (v); 114-47.802-54(d); 114-52.203(b); and 114-60.104.

PART 114-38—MOTOR EQUIPMENT MANAGEMENT

Subpart 114-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

114-38.605 Additional exemptions.

114-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

114-38.607 Report of exempted vehicles.

AUTHORITY: (5 U.S.C. 301; sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Subpart 114-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

§ 114-38.605 Additional exemptions.

(a) Requests made pursuant to FPMR 101-38.605 for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles shall be submitted to the Director of Management Services, in duplicate. Each such request shall describe the vehicle for which exemption is sought, the nature of the work on which it is used, and include a certification to the effect that conspicuous identification would interfere with such use.

(b) The Director of Management Services shall be notified promptly when:

(1) The need for a previously authorized exemption no longer exists,

(2) An exempted vehicle is rotated to other work not requiring continued exemption, or

(3) An exempted vehicle is replaced by another vehicle, in which case the notification shall include a description of the replacement vehicles.

(c) Copies of certifications and cancellation notices required to be furnished the General Services Administration pursuant to § 101-38.605 of this title will be transmitted to GSA by the Director of Management Services.

§ 114-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

(a) The following officials are authorized to approve requests for regular District of Columbia tags for exempted vehicles regularly based in the District of Columbia:

(1) Director of Management Services.

(2) Assistant Director for Property Management, Office of Management Services.

(b) Requests for District of Columbia tags (renewal requests or otherwise) to be used on vehicles exempted from carrying U.S. Government tags pursuant to FPMR 101-38.602 through 101-38.605 shall be submitted to the Director of Management Services for signature and transmittal to the District of Columbia Department of Motor Vehicles. Special forms for requesting District of Columbia tags are available from the District of Columbia Department of Motor Vehicles.

§ 114-38.607 Report of exempted motor vehicles.

Each Bureau and Office which has been granted authority to operate motor vehicles without displaying U.S. Government tags and other identification, shall submit an annual report thereon to the Director of Management Services. The report should reflect exemptions in effect as of June 30 and should list separately the number of vehicles exempted pursuant to FPMR 101-38.602, 101-38.603, and 101-38.605. Reports shall be submitted to the Director of Management Services by July 10, of each year.

§ 114-38.5307 [Amended]

(3) Where they appear in § 114-38.5307(b) and (c), the titles "Office of Management Operations" and "Director of Management Operations" are amended to read "Office of Aircraft Services".

PART 114-43—UTILIZATION OF PERSONAL PROPERTY

§ 114-43.402-4 [Amended]

In § 114-43.402-4, the title "Director of Management Operations" is amended to read "Assistant Secretary—Management".

[FR Doc.74-8187 Filed 4-9-74; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 74-309]

UNITED STATES-MEXICO FM BROADCASTING AGREEMENT

Allotment and Use of Channels

In the matter of amendment of the Commission's rules and regulations to effectuate the United States-Mexico FM Broadcasting Agreement.

1. The United States-Mexico FM Broadcasting Agreement, which went into force and effect August 9, 1973, concerns the allotment and the use of FM broadcast channels within 199 miles (320 kilometers) of the common border between the United Mexican States and the United States. By Order, adopted October 3, 1973, and effective October 17, 1973 (43 F.C.C. 2d 293), the FM Table of Assignments—§ 73.202(b) of the Commission's rules and regulations—was amended for Arizona, California, New Mexico, and Texas to reflect the channel allotments agreed to for the border area, and § 73.507 was added to list the Class

A, B, and C noncommercial educational FM channel (201-220) allotments for the border area within these four states.

2. We are now promulgating amendments to the Commission's rules and regulations to further implement the Agreement.¹ These amendments relate to practice and procedure, or are interpretative in nature. In the circumstances, compliance with section 4 of the Administrative Procedure Act is excepted (see 5 U.S.C. 553(b)(3)(A)).

3. Accordingly, *It is ordered*, That, pursuant to the authority of sections 4(i) and 303(r) of the Communications Act of 1934, as amended, §§ 1.573, 73.204, 73.207, 73.504, and 74.1202 are amended as set forth below. These amendments are effective April 12, 1974.

Adopted: March 28, 1974.

Released: April 3, 1974.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; (47 U.S.C. 154, 303))

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

PART 1—PRACTICE AND PROCEDURE

1. In § 1.573, Note 1 is amended to read as follows:

§ 1.573 [Amended]

NOTE 1: *Noncommercial educational stations.* Pending further consideration of issues in Docket No. 14185 (dealing with the revision of the FM Broadcast rules and regulations), an application for a noncommercial educational FM broadcast authorization will be subject to the following, notwithstanding any other provision of the FM Broadcast rules or this section:

(a) *Restrictions.* With respect to acceptance of an application for a construction permit for a new or changed facility on channels reserved in § 73.501 of this chapter for noncommercial educational use, the following restrictions will apply:

(1) *Channels 218, 219, and 220.* For Channels 218, 219, and 220, the following criteria must be met:

(i) Power and height may not exceed the maximum specified in § 73.211 of this chapter for a Class B or C commercial station depending on the zone in which it is proposed to locate the facility.

(ii) Minimum mileage separations to stations or assignments on Channels 221, 222, or 223, specified in the FM Table of Assignments (§ 73.202(b) of this chapter) must comply with §§ 73.207 and 73.504 of this chapter.

(iii) If the application is for a change in transmitter site, separation between the facility and either a co-channel or adjacent channel station may not be shortened if the result would be a spacing less than that required by § 73.207 of this chapter.

(2) *Objectionable interference.* No application for a facility on any channel specified in § 73.501 of this chapter will be accepted if the requested facility either would cause objectionable interference within the 1 mV/m contour of any co-channel or adjacent channel, or receive interference within the pro-

posed 1 mV/m contour. The following standards shall be used to determine the existence of objectionable interference:

(i) The distance to the 1 mV/m contour shall be determined by the use of Figure 1 of § 73.333 (F(50,50) curve) of this chapter (see § 73.313(c)(1)).

(ii) The distance to the applicable interference contour shall be determined by the F(50,10) curve, dated June 20, 1960, and published with the Commission's Order, FCC 61-1447, adopted December 6, 1961, setting forth the interim procedure for processing FM applications.

(iii) Objectionable interference will be considered to exist if, on the basis of the curves referred to in this subparagraph, the ratio of undesired to desired signal exceeds: 1:10 for co-channel; 1:2 for first adjacent channel (200 kHz removed); 10:1 for second adjacent channel (400 kHz removed); and 100:1 for third adjacent channel (600 kHz removed).

(3) *Directional antenna.* No application for a construction permit of a new station, or change in channel, or change in an existing facility on the same channel will be accepted for filing a directional antenna with a maximum-to-minimum ratio of more than 15 dB is proposed.

(b) *Maximum and minimum facilities for stations on noncommercial educational FM channels.* No provision as to a minimum facility for an FM broadcast station shall apply to a noncommercial educational station operating on a channel specified in § 73.501 of this chapter; and no provision as to a maximum facility shall apply to a noncommercial educational station on Channels 201 to 217, inclusive. However, any application specifying a facility either below the minimum or exceeding the maximum set forth in § 73.211 will not be necessarily granted; see Notice of Inquiry in Docket No. 14185 as concerns educational FM matters (5 F.C.C. 2d 587, 588, fn. 2 (1966)); see also 13 F.C.C. 2d 751 (1968) and 17 F.C.C. 2d 496 (1969)).

(c) *Additional requirements for noncommercial educational stations under the United States-Mexico FM Broadcasting Agreement.* For the area within 199 miles of the common border between the United Mexican States and the United States, one may only apply for Class A, B, and C channels listed in § 73.507 of this chapter. An application for a noncommercial educational channel will not be accepted if there is a failure to meet the minimum mileage separations to Mexican assignments or authorizations set forth in the Note to § 73.207 of this chapter.

PART 73—RADIO BROADCAST SERVICES

2. In § 73.204, paragraph (a) is amended to read as follows:

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

(a) The United States has entered into agreements with Canada and the United Mexican States, respectively, dealing with the allotment and use of FM broadcast channels and facilities for a defined border area. Assignment of an FM channel, authorization for use of an FM broadcast facility, and related matters as to the use of FM facilities for the particular border area are subject to the provisions of the respective agreements. Both provide for consultation and the right to object to any particular proposal. The Commission will give notice of the filing of such an objection; if, for

whatever reason, the Commission has taken action inconsistent with any such timely objection, it may take appropriate steps to rescind the action taken.

3. In § 73.207(a) the following is added to the note to read as follows:

§ 73.207 Minimum mileage separations between co-channel and adjacent-channel stations on commercial channels.

(a) * * *

NOTE: * * *

Under the United States-Mexican FM Broadcasting Agreement, the following additional mileage separations to Mexican channel assignments and authorizations must be adhered to:

Class to class	Co-channel	1st adjacent	2d adjacent	3d adjacent
A to C	130			
A to B	110			
D to C	125	95	65	65
D to B	105	69	40	40
D to A	60	30	15	15
D to D	11	6	3	3

And for stations or assignments separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels), the following mileage separations must be conformed to:

Classes of stations:	Required spacing in miles
C to D	15
B to D	10
A to D	5
D to D	2

4. In § 73.504 a Note is added at the end to read as follows:

§ 73.504 Zones, classes of stations, use of channels, facilities, and minimum mileage separations between stations.

NOTE: Under the United States-Mexican FM Broadcasting Agreement, for stations and assignments separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels), the following mileage separations (see paragraph (g) of this section) to Mexican allocations or assignments must be adhered to:

Classes of stations:	Required spacing in miles
C to D	15
B to D	10
A to D	5
D to D	2

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

5. In § 74.1202, a note is added at the end to read as follows:

§ 74.1202 Frequency assignment.

NOTE: A translator must comply with the mileage separations to Mexican FM channel assignments and authorizations as Class D FM stations set forth in the Note to § 73.207 of this chapter.

[FR Doc. 74-8095 Filed 4-9-74; 8:45 am]

¹ See "Interim Policy", 43 F.C.C. 2d 1237 (1973).

[Docket No. 18785; FCC 74-299]

PART 76—CABLE TELEVISION SERVICE
Systems With Fewer Than 500 Subscribers

INTRODUCTION

In the matter of amendment of § 74.1103 of the Commission's rules and regulations as it relates to CATV systems with fewer than 500 subscribers.

1. On January 16, 1970, the Commission, on its own motion, released a notice of proposed rulemaking in Docket No. 18785.¹ By this notice, interested parties were invited to file comments on a proposal that the signal carriage and non-duplication provisions of the rules (former § 74.1103)² be amended by the addition of the following footnote:

NOTE.—As used in § 74.1103, the term "community antenna television system" shall not include systems with fewer than 500 subscribers.

2. This action derived from a Public Notice of March 7, 1968³ in which the Commission announced a modification of its processing priorities involving petitions for waiver of (former) § 74.1103, whereby, action would be deferred in cases involving cable television systems having fewer than 500 subscribers. The Commission stated that matters involving small cable systems, if processed in chronological order, would engender difficulties out of proportion to their impact on broadcasting, and that such systems would be most likely to present persuasive hardship cases which would justify waivers. It was further stated that a modification of our processing priorities would allow available staff to direct its attention to cases involving larger cable systems where potential adverse impact on broadcasters would be greatest.

3. The Commission's experience with the temporary processing procedure suggested the desirability of adopting a permanent policy which would fully exempt systems having fewer than 500 subscribers from the carriage and exclusivity rules. The instant proposal was based upon the rationale that such an exemption would not result in any substantial adverse impact on broadcasters and would relieve small cable systems from the burden of compliance with these rules.

SUMMARY OF COMMENTS

4. In joint comments filed by several operators of cable television systems having fewer than 500 subscribers,⁴ the Commission is urged to adopt the proposed exemption on the grounds that compliance with the non-duplication

rules imposes financial and manpower drains on small systems which are disproportionate to the potential impact such systems may have on local broadcasters. It is stated that the cost of switching equipment needed in order to provide non-duplication (\$2,500-\$3,500) can consume a substantial portion of a small system's annual gross revenues, which seldom reach \$25,000 per year. In addition, it is argued that the manpower and maintenance costs, which are integrally related to the cost of the equipment, present a problem of substantial consequence when considering that operation and maintenance of a system having up to 750 subscribers can normally be performed by one person while two persons can service a system of 750 to 2,500 subscribers.

5. The Jerrold Corp., National Trans-Video, Inc., and Television Communications Corp. also support the proposal. In addition to pointing out the potential benefits this change in the rules will have on small operators, these parties state that "the CATV industry has long been of the opinion that the theoretical rationale for the program exclusivity rules lacked the factual justification so important to their being adjudged fair and equitable," and such "questionable restrictions on CATV should therefore be withdrawn."

6. The National Cable Television Association (NCTA) takes the position that CATV has never had an adverse effect on broadcasting, and, therefore, the non-duplication restrictions should be removed from all cable systems. NCTA states that the carriage priority provisions of the non-duplication rules, which are based upon predicted television signal contours, do not take into account the actual availability of signals off the air to television viewers in the area served by a cable system. The result, they aver, hardly serves the public interest when cable systems must carry signals of poor quality and must afford such signals protection against superior quality signals of a lower priority. Additionally, they point out that the effect of the rules often results in one local signal (e.g. grade A contour) being blacked out in order to protect another local signal (e.g. principle community contour); and although there are arguments to be made for protecting local signals against distant signals, there is no public interest served by protecting local signals from other local signals.

7. The NCTA enumerates several problems which, they state, occur in the day to day implementation of the non-duplication rules. They cite such examples as (a) power failures and mechanical malfunctions which prevent proper operation of switching equipment; (b) inaccurate program notices given to CATV in inadvertent deletion of the last ten program; (c) mistaken notices, whereby a broadcaster does not carry a program for which non-duplication protection has been requested, which results in the inability of cable subscribers to view that program on any channel, and; (d) pro-

grams which run longer than anticipated, such as sports events, network movies and speeches by the President or Vice President, and are blacked out by automatic switching equipment before they have ended because the pre-programmed equipment cannot compensate for last-minute changes. These problems are particularly onerous for smaller systems which, it is said, cannot afford the manpower needed to readjust the equipment in such situations and which often have remote switching devices located at a headend that cannot be easily reached on short notice. NCTA states, "The rationale for imposing non-duplication rules upon CATV systems, that CATV unfairly competes with and has an adverse economic effect upon broadcast television, does not apply to such small CATV systems," since there simply aren't enough subscribers to such systems to dilute a television station's viewing audience to any significant degree.

8. Comments from broadcast interests reflect a different view of the proposal.⁵ Palmer Broadcasting Co. objects to the proposal based upon the possibility of cumulative impact of "under 500 systems" if they could ignore the request of a local television station for carriage and/or duplication protection without being held to any procedural requirements whatsoever. Although recognizing that there may be cases where a waiver of the rules is warranted for a system that is both small in size and income and can demonstrate the need for such relief, Palmer argues that such a "radical shift" in Commission policy would "free on a permanent basis a whole class of parties regardless of the equities of each case" and would create the risk of serious harmful impact which would threaten the continued stability of television service achieved by the Commission in balancing conflicting interests under its current rules. Palmer questions an exemption from the carriage rules which would permit cable systems not only to duplicate a local station, but completely replace it with a distant signal of its own choosing. They argue that broadcast stations and small cable systems can now negotiate private agreements, whereby a broadcaster might be persuaded to accept something less than full protection under (former) § 74.1103; but, with the proposed change, such bargaining would be impossible. They state that the adoption of the proposed rule, for these and other reasons, would lead to a chaotic situation.

9. The National Association of Broadcasters (NAB) argues that proposed rule would effect a complete change in Commission policy without any relevant factors having been advanced, and that the proposed rule bears no relationship to the temporary procedures instituted in 1968. They state that an exemption from the carriage and non-duplication rules for all systems having fewer than 500 subscribers would affect a large number of

⁵ A complete list of the parties filing comments in this proceeding may be found at Appendix C.

¹ FCC 70-65, adopted January 14, 1970.

² Former § 74.1103, in its entirety may be found in Appendix A.

³ "Temporary modification of processing priorities in § 74.1103 waiver cases," FCC 68-259.

⁴ Joint comments filed by AMECO, Inc., American Cable Television, Inc., Blatt Bros. TV Cable Corp., Communications Properties, Inc., Cotulla Cable TV, Inc., and Midwest Cable TV, Inc.

households nationwide, and would have an adverse impact on local stations, particularly those in small television markets which depend on small communities for a substantial portion of their audience. NAB contends that such small market television stations cannot afford fractionalization of their audiences which would occur if small cable systems are permitted to bypass local stations.

10. The Association of Maximum Service Telecasters (AMST) contends that the cumulative impact of the proposed exemption from carriage and non-duplication would be very severe, and that small market stations can least afford the protracted proceedings they state would be necessary in order to obtain carriage and non-duplication via special relief proceedings. It is further stated by both NAB and AMST that there would be no decrease in the Commission waiver backlog if this rule were adopted, due to the potential increase in petitions filed by broadcasters. Several broadcasting interests argue that the carriage requirements in particular pose no insupportable burdens for cable systems, large or small, and that the proposed rule would invite non-carriage of local signals. Additionally, since the proposed amendment would permit non-carriage of local stations, it represents a departure from the Commission's fundamental allocations policy which assigns local television stations and requires them to meet the needs and interests of the communities within their respective service areas.

11. The American Broadcasting Co. (ABC) and others argue that an exemption from the carriage and non-duplication rules, based solely upon system size, cannot be justified. Both AMST and ABC state that if such an exemption is granted, however, that the Commission should require new systems to comply with the rules, particularly if it appears evident that such systems will, at some point, have more than 500 subscribers. AMST suggests that the exemption should not be extended to any CATV system having a total population within its franchise area of 3,000 or more, since, based upon a predicted average of 3.5 persons per household and cable penetration of 60 percent, it could be predicted that there would be 500 subscribers in that community.

12. The National Association of Educational Broadcasters (NAEB) makes arguments substantially similar to those advanced by other broadcasting interests, stating that the Commission's instant proposal provides more relief than is needed, and could engender numerous procedural and substantive difficulties which transcend the merits of the proposal. Generally, NAEB stresses the importance of the mandatory carriage rules to local educational stations, and argues for maintaining the existing system of considering special relief petitions on a case-by-case basis. NAEB suggests that if some relief is deemed necessary by the Commission, it should be modified to apply only to the program exclusivity portion of (former) § 74.1103, where a

more substantial showing of hardship to the small systems may be made due to the additional expense and effort required for switching. NAEB states that if the reasons for creating a blanket exemption are thought to be compelling, it should apply only to systems of 100 subscribers or less.

DISCUSSION AND CONCLUSIONS

13. With the adoption of our Cable Television Report and Order⁹ in February, 1972, the Commission established a comprehensive new structure for the regulation of cable television. Although the new rules supersede, in pertinent part, the provisions of former § 74.1103,¹⁰ the substantive questions raised in Docket 18785 remain to be resolved. In our discussion we will take up the issues of signal carriage and program exclusivity separately, for these two areas, in our judgment, represent disparate policy considerations requiring individual treatment.

SIGNAL CARRIAGE

14. Our cable television rules have, since the adoption of our First Report and Order in 1965,¹¹ contained provisions intended to assure carriage of all television stations within their primary service areas. Because cable systems generally desire to carry as many television broadcast signals as possible, the mandatory signal carriage provisions of our rules have generally met with little opposition and have caused few difficulties from the point of view of the cable television system operator. However, during the period following the adoption of our 1966 rules¹² there were a great many small cable systems in existence having the technical capacity to carry no more than three or five television signals. This limited channel capacity was often insufficient to permit the operators of such systems to comply with our mandatory carriage rules without having to engage in extensive system rebuilding. These difficulties, when considered in conjunction with other relevant factors mentioned in our notice of proposed rulemaking in this proceeding, suggested the desirability of exempting small systems from compliance with our signal carriage rules.

15. In the past few years, however, cable television technology has advanced to a significant degree, and many smaller systems have been rebuilt or upgraded substantially. As a result, the vast majority of cable systems now possess ample technical capacity to enable them to fully comply with our carriage rules. None of the comments filed in this proceeding make a sufficiently persuasive

showing of hardship to justify an exemption for even this limited class of small systems. Our present signal carriage rules constitute a complex formulation of provisions through which the Commission has attempted to strike a balance between the often conflicting interests of broadcasters and cable television operators. These rules provide the cornerstone of our overall regulatory structure for cable, assuring broadcasters that they will continue to be able to reach their natural audience markets. We recognize, of course, that some cable systems still labor under special hardship situations; however, our existing special relief procedures provide an adequate method for dealing with cases involving exceptional circumstances which may warrant waiver of the rules. For the aforementioned reasons, we are not adopting the proposed exemption from our signal carriage rules.

NETWORK PROGRAM EXCLUSIVITY

16. The program exclusivity (non-duplication) provisions of (former) § 74.1103 were established in conjunction with mandatory signal carriage rules for the purpose of preventing a loss or diminution of television broadcasting service in areas served by cable television systems. Commission studies which examined the potential impact of cable systems operating in the primary service areas of television stations indicated that duplication of local television station programming via cable carriage of signals not ordinarily available off-the-air in the community of the system could cause substantial audience fractionalization and a resultant loss of advertising revenues which could threaten the economic viability of local stations.¹³ In view of the Commission's fundamental statutory responsibilities under the Communications Act¹⁴ and our basic policy of encouraging the development of local television stations to serve the needs and interests of local communities, we determined that some restrictions were needed to limit cable system duplication of locally carried programming in order to avert potential adverse economic impact on broadcasters.

17. The exclusivity provisions of § 74.1103¹⁵ were based on a system of priorities, whereby local television stations would be afforded program exclusivity on

⁹ *Id.*

¹¹ The Commission is charged with the duty of executing the policy the Communications Act to "make available, so far as possible, to all people of the United States, a rapid, efficient, nationwide and worldwide wire and radio communication service" (47 U.S.C. § 151) and "generally to encourage the larger and more effective use of radio in the public interest" (47 U.S.C. § 303(g)). The Commission is also required to "make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same" (47 U.S.C. § 307(b)).

¹² See Appendix A.

⁹ Cable Television Report and Order, 36 FCC 2d 143 (1972).

¹⁰ Sections 76.91-76.97 of the rules embody the provisions of former § 74.1103, with some modifications. See Appendix B. Our signal carriage rules are now contained in Subpart C, § 76.51-76.65 of the rules.

¹¹ First Report and Order in Docket Nos. 14895, 15233, 38 FCC 683 (1965).

¹² Second Report and Order in Dockets Nos. 14895, 15233, and 15971, 2 FCC 2d 725, (1966).

cable systems located within the stations' Grade B contours, as against duplicate programming carried on the same day by lower priority stations. From highest to lowest, the signal strength priorities were Principal Community, Grade A, and Grade B.¹² Except for a change from same day to simultaneous protection, we have retained the substantive provisions of § 74.1103, as well as the precedents and policies evolved under the prior rules, in our present network program exclusivity rules.¹⁴

18. Following the adoption of our Second Report and Order, in 1966, the Commission received numerous petitions for special relief from cable systems seeking waivers of the exclusivity rules. In order to avoid any substantial weakening of the effect of the rules, we have required a showing of special hardship or "unusual or exceptional" circumstances by cable systems seeking waivers. The heavy burden of proof we have imposed on cable systems is readily apparent from the fact that virtually no waivers of the exclusivity rules have been granted by the Commission. However, while we have strictly enforced exclusivity as a general rule, we have at the same time recognized that small cable systems encounter particular hardship if forced to fully comply with program exclusivity. Therefore, in 1968, we acted to temporarily relieve some small systems from the burdens of compliance by implementing a modified procedure for processing § 74.1103 waiver requests. Under this procedure, action was deferred in cases involving cable systems having fewer than 500 subscribers, on the grounds that such systems would be least likely to have any substantial adverse economic impact on broadcasters and would be most likely to present persuasive cases of hardships that would warrant waivers of the rules. It was felt that these small systems, being typically one or two person operations, constituted a unique class, deserving of special consideration in deference to their limited size and resources.

19. During the six years which have elapsed since our modified processing procedures were implemented, we have been able to gain valuable experience in determining the effect this temporary waiver policy has had on broadcasters, as well as the potential effects a permanent waiver may have. We have reviewed information submitted by the parties filing comments in the instant rule making proceeding as well as data provided in conjunction with petitions in opposition to pending exclusivity waiver requests. Current statistics on cable penetration in representative sample television markets have also been examined.

¹² An additional fourth priority was established for television translator stations, with 100 watts or higher power, licensed to the community of the system.

¹⁴ Our notice of proposed rulemaking in this proceeding did not contemplate the Commission's new syndicated program exclusivity rules. Therefore, our consideration of the proposed exemption will be limited solely to network program exclusivity.

20. Based upon the information before us, it is clear that in the great majority of television markets across the nation, the cumulative number of homes served by cable systems having fewer than 500 subscribers constitutes a very small percentage of the total television households reached by broadcast stations. We have previously stated that we would favor some restrictions on the ability of cable systems to duplicate the programs of local broadcasters, unless we were convinced that the impact of cable system competition on them would be negligible.¹⁵ In light of our past experience with the temporary waiver policy, it is our judgment that cable systems having fewer than 500 subscribers could have only a negligible adverse impact on broadcasters, and therefore, should be exempted from our network program exclusivity rules. We have seen no deleterious effects on broadcasters and, in fact, have never been presented with a persuasive showing of substantial adverse economic impact occurring as a result of program duplication by cable systems having fewer than 500 subscribers. Conversely, the costs of equipment and manpower needed by small systems in order to comply with the non-duplication rules does have a substantial financial impact on such systems when viewed in relation to their gross revenues.

21. Contrary to the assertions of various broadcasting interests, we are not embarking on a shift in Commission policy by adopting the proposed exemption from the exclusivity rules. Rather, we are codifying or making formal what has in substance been an informal Commission policy since 1968. We have determined that this exemption will relieve a limited class of small cable systems from the burdens of compliance with our network program exclusivity rules without adversely affecting television broadcasting stations. Only in television markets where an unusually large number of small systems are situated, will there exist a potential risk of adverse economic impact to broadcasters. In cases presenting special hardship situations, we will consider appropriate relief pursuant to § 76.7 of the rules.

22. In view of the foregoing, the Commission finds that adoption of an exemption from our network program exclusivity rules for cable television systems having fewer than 500 subscribers would be consistent with the public interest.

23. Authority for the rules adopted below is contained in sections 2, 3 (a) (b), 4(i)(j), 301, 303, 307(b), 308, 309, and 403 of the Communications Act of 1934, as amended.

24. Accordingly, *It is ordered*, That Part 76 of the Commission's rules and regulations, is amended, effective May 14, 1974, as set forth below. *It is further ordered*, That this proceeding is terminated.

¹⁵ Note 8, *supra* at 38 FCC 683,706 (1965).

Adopted: March 28, 1974.

Released: April 4, 1974.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 403, 48 Stat., as amended 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1094 (47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 403))

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,

Secretary.

Part 76 of 47 CFR Chapter I is amended as follows:

In § 76.95, a new paragraph (c) is added to read as follows:

§ 76.95 Exceptions.

(c) Any cable television system, (as defined in § 76.5(a)), having fewer than 500 subscribers need not comply with the provisions of §§ 76.91 and 76.93.

APPENDIX A—FORMER § 74.1103

§ 74.1103 Requirements relating to distribution of television signals by community antenna television systems.

No community antenna television system shall supply to its subscribers signals broadcast by one or more television stations, except in accordance with the following conditions:

(a) *Stations required to be carried.* Within the limits of its channel capacity, any such CATV system shall carry the signals of operating or subsequently authorized and operating television broadcast and 100 watts or higher power translator stations in the following order of priority, upon the request of the licensee or permittee of the relevant station:

(1) First, all commercial and noncommercial educational stations within whose principal community contours the system or the community of the system is located, in whole or in part;

(2) Second, all commercial and noncommercial educational stations within whose Grade A contours the system or the community of the system is located, in whole or in part;

(3) Third, all commercial and noncommercial educational stations within whose Grade B contours the system or the community of the system is located, in whole or in part; and

(4) Fourth, all commercial and noncommercial educational translator stations operating in the community of the system, in whole or in part, with 100 watts or higher power.

(b) *Exceptions.* Notwithstanding the requirements of paragraph (a) of this section,

(1) The system need not carry the signal of any station, if (i) that station's network programming is substantially duplicated by one or more stations of higher priority, and (ii) carrying it would, because of limited channel capacity, prevent the system from carrying the signal of an independent commercial station or a noncommercial educational station.

(2) In cases where (i) there are two or more signals of equal priority which substantially duplicate each other, and (ii) carrying all such signals would, because of limited channel capacity, prevent the system from carrying the signal of an independent commercial station or a noncommercial educational station, the system need not carry all such substantially duplicating signals, but may select, among them to the extent necessary to preserve its ability to carry the signals of independent commercial or non-commercial educational stations.

(3) The system need not carry the signal of any television translator station if: (1) The system is carrying the signal of the originating station, or (2) the system is within the Grade B or higher priority contour of a station carried on the system whose programming is substantially duplicated by the translator; *Provided, however*, That where the originating station is carried in place of the translator station, the priority for purposes of paragraph (e) of this section shall be that of translator station unless the priority of the originating station is higher.

(4) In the event that the system operates, or its community is located, within the Grade B or higher priority contours of both a satellite and its parent station, the system need carry only the station with the higher priority, if the satellite station and its parent station are of equal priority, the system may select between them.

(c) *Special requirements in the event of noncarriage.* Where the system does not carry the signals of one or more stations within whose Grade B or higher priority contour it operates, or the signals of one or more 100 watts or higher power translator stations located in its community, the system shall offer and maintain, for each subscriber to choose between cable and noncable reception, unless the subscriber affirmatively indicates in writing that he does not desire this device.

(d) *Manner of carriage.* Where the signal of any station is required to be carried under this section,

(1) The signal shall be carried without material degradation in quality (within the limitations imposed by the technical state of the art);

(2) The signal shall, upon request of the station licensee or permittee, be carried on the system on the channel on which the station is transmitting (where practicable without material degradation); and

(3) The signal shall, upon the request of the station licensee or permittee, be carried on the system on no more than one channel.

(e) *Stations entitled to program exclusivity.* Any such system which operates, in whole or in part, within the Grade B or higher priority contour of any commercial or non-commercial educational television station or within the community of a fourth priority television translator station, and which carries the signal of such station shall, upon request of the station licensee or permittee, maintain the station's exclusivity as a program outlet against lower priority or more distant duplicating signals, but not against signals of equal priority, in the manner and to the extent specified in paragraphs (f) and (g) of this section.

(f) *Program exclusivity; extent of protection.* Where a station is entitled to program exclusivity, the CATV system shall, upon the request of the station licensee or permittee, refrain from duplicating any program broadcast by such station, on the same day as its broadcast by the station, if the CATV operator has received notification from the requesting station of the date and time of its broadcast of the program and the date and time of any broadcast to be deleted, as soon as possible and in any event no later than 48 hours prior to the broadcast to be deleted. Upon request of the CATV system, such notice shall be given at least 8 days prior to the date of any broadcast to be deleted.

(g) *Exceptions.* Notwithstanding the requirements of paragraph (f) of this section,

(1) The CATV system need not delete reception of a network program if, in so doing, it would leave available for reception by subscribers, at any time, less than the programs of two networks (including those broadcast

by any stations whose signals are being carried and whose program exclusivity is being protected pursuant to the requirements of this section);

(2) The system need not delete reception of a network program which is scheduled by the network between the hours of 6 and 11 p.m., eastern time, but is broadcast by the station requesting deletion, in whole or in part, outside of the period which would normally be considered prime time for network programming in the time zone involved;

(3) The system need not delete reception of any program consisting of the broadcast coverage of a speech or other event as to which the time of presentation is of special significance, except where the program is being simultaneously broadcast by a station entitled to program exclusivity; and

(4) The system need not delete reception of any program which would be carried on the system in color but will be broadcast in black and white by the station requesting deletion.

APPENDIX B

Subpart E—[Reserved]

Subpart F—Program Exclusivity

§ 76.91 Stations entitled to network program exclusivity.

(a) Any cable television system operating in a community, in whole or in part, within the Grade B contour of any television broadcast station, or within the community of a 100-watt or higher power television translator station, and that carries the signal of such station shall, on request of the station licensee or permittee, maintain the station's exclusivity as an outlet for network programming against lower priority duplicating signals, but not against signals of equal priority, in the manner and to the extent specified in §§ 76.93 and 76.95.

(b) For purposes of this section, the order of priority of television signals carried by a cable television system is as follows:

(1) First, all television broadcast stations within whose principal community contours the community of the system is located, in whole or in part;

(2) Second, all television broadcast stations within whose Grade A contours the community of the system is located, in whole or in part;

(3) Third, all television broadcast stations within whose Grade B contours the community of the system is located, in whole or in part;

(4) Fourth, all television translator stations with 100 watts or higher power, licensed to the community of the system.

(c) If the signal of a television broadcast station licensed to a community in a smaller television market is carried by a cable television system, pursuant to § 76.57(a)(4), such signal shall, on request, be afforded network program exclusivity. This provision shall not be applicable to any signal authorized or lawfully carried by a cable television system prior to March 31, 1972.

§ 76.93 Extent of protection.

(a) Where the network programming of a television station is entitled to program exclusivity, the cable television system shall, on request of the station licensee or permittee, refrain from simultaneously duplicating any network program broadcast by such station, if the cable operator has received notification from the requesting station of the date and time of its broadcast of the program and the date and time of any broadcast to be deleted, as soon as possible and in any event no later than 48 hours prior to the broadcast to be deleted. On request of the cable system, such notice shall be given no later than the Mon-

day preceding the calendar week (Sunday-Saturday) during which exclusivity is sought.

(b) Notwithstanding the provisions of paragraph (a) of this section, on request of a television station licensed to a community in the Mountain Standard Time Zone that is not one of the designated communities in the first 50 major television markets, a cable television system shall refrain from duplicating any network program broadcast by such station on the same day as its broadcast by the station. Where a cable system is required to provide same-day program exclusivity, the following provisions shall be applicable:

(1) A cable television system need not delete reception of a network program if, in so doing, it would leave available for reception by subscribers, at any time, less than the programs of two networks (including those broadcast by any stations whose signals are being carried and whose program exclusivity is being protected pursuant to the requirements of this section);

(2) A system need not delete reception of a network program which is scheduled by the network between the hours of 6 and 11 p.m., eastern time, but is broadcast by the station requesting deletion, in whole or in part, outside of the period which would normally be considered prime time for network programming in the time zone involved.

§ 76.95 Exceptions.

Notwithstanding the requirements of § 76.93:

(a) A cable television system need not delete reception of any program which would be carried on the system in color but will be broadcast in black and white by the station requesting deletion.

(b) The Commission will give full effect to private agreements between operators of cable television systems and local television stations which provide for a type or degree of network exclusivity which differs from the requirements of §§ 76.91 and 76.93.

§ 76.97 Waiver petitions.

Where a petition for waiver of the provisions of §§ 76.91 and 76.93 is filed within fifteen (15) days after a request for program exclusivity is received by the operator of a cable television system, such system need not provide program exclusivity pending the Commission's ruling on the petition or on the question of temporary relief pending further proceedings.

§ 76.99 Grandfathering.

The provisions of §§ 76.91, 76.93, 76.151, and 76.153 shall not be deemed to deprive a television station whose signal was carried by a cable television system prior to March 31, 1972, of the nonnetwork program exclusivity rights that such station had on March 30, 1972: *Provided, however*, That such exclusivity rights shall extend only to simultaneous duplication of programming by lower priority television stations, unless the station whose exclusivity rights are at issue is entitled to same-day network program exclusivity pursuant to § 76.93(b), in which case that station shall also be entitled to continued same-day nonnetwork program exclusivity.

APPENDIX C

A. PARTIES FILING COMMENTS

Ameco, Inc., American Cable, American Cable Television, Inc., Blatt Bros. TV Cable Corporation, Communications Properties, Inc., Cotulla Cable TV, Inc., Midwest Cable Television, Inc. (Joint Comments)
American Broadcasting Co.
Association of Maximum Service Telecasters
Bi-States Co.
Boise Valley Broadcasters, Inc.
Brockway Co.

Cohn and Marks
Continental Television, Inc.
Jerrold Corporation, National Trans-Video,
Inc., Television Communications Corp.
(Joint Comments)
KLIX Corp.
KTVB, Inc., KMSO-TV, Inc. (Joint Com-
ments)
Manchester TV Corp.
National Association of Broadcasters
National Association of Educational Broad-
casters
National Cable Television Association
Palmer Broadcasting Co.
Pine Bluffs Community Co.
Pine Bluffs Community Television System

B. PARTIES FILING REPLY COMMENTS

All-Channel Television Society
Ameco, Inc., American Cable Television, Inc.,
Blatt Bros. TV Cable Corporation, Com-
munications Properties, Inc., Cotulla Cable
TV, Inc., Midwest Cable TV, Inc. (Joint
Reply Comments)
Association of Maximum Service Telecasters
KGOV-TV, KCFW-TV, KTVM, KCOY-TV
(Joint Reply Comments)
KMSO-TV, Inc.
KTVB, Inc., Bi-States Company, Brockway
Co. (Joint Reply Comments)
Lee Enterprises, Inc.
National Cable Television Association
Pine Bluffs Community Television System
Wheeling Antenna Company, Inc.

[FR Doc.74-8220 Filed 4-9-74;8:45 am]

PART 97—AMATEUR RADIO SERVICE

In the matter of editorial amendment
of § 97.61 to conform the Authorized Fre-
quency Table of the Amateur Radio Ser-
vice to the Table of Frequency Allocations
in Part 2 of the rules.

1. Because of recently adopted changes
in the Table of Frequency Allocations in
Part 2 of the Commission's rules certain
variances exist between the information
contained in the Table of Frequency
Allocations in Part 2 and the Authorized
Frequency List, § 97.61, of the Amateur
Radio Service Rules.

2. This Order is issued to conform the
information in Part 97 with the informa-
tion contained in Part 2 relating to fre-
quency allocations.

3. Because this amendment relates to
editorial revisions to effect consistency
among the Commission's rule parts, prior
notice of rule making public procedure
and effective date provisions are unneces-
sary, pursuant to the Administrative Pro-
cedure and Judicial Review provisions of
5 U.S.C. 553.

4. Accordingly, *It is ordered*, pursuant
to sections 4(i), 5(d) and 303 of the Com-
munications Act of 1934, as amended and
§ 0.231(d) of the Commission's rules and
regulations, That effective April 16, 1974,
§ 97.61 of the Commission's rules is
amended as set forth below.

Adopted: April 2, 1974.

Released April 4, 1974.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066,
1068, 1082; (47 U.S.C. 154, 155, 303))

FEDERAL COMMUNICATIONS
COMMISSION,
JOHN M. TORBET,
Executive Director.

In Chapter I of Title 47 of the Code
of Federal Regulations, Part 97 is
amended as follows:

1. Section 97.61 (a) and (b) are
amended to read as follows:

§ 97.61 Authorized frequencies and
emissions.

(a) * * *

Frequency band	Emissions	Limitations (see para- graph (b))
KHz		
1800-2000	A1, A3	1, 2
3500-4000	A1	
3500-3775	F1	
3775-3890	A5, F5	
3775-4000	A3, F3	4
7000-7300	A1	3, 4
7000-7150	F1	3, 4
7075-7100	A3, F3	11
7150-7225	A5, F5	3, 4
7150-7300	A3, F3	3, 4
14000-14350	A1	
14000-14200	F1	
14200-14275	A5, F5	
14200-14350	A3, F3	

MHz

21,000-21,450	A1	
21,000-21,350	F1	
21,250-21,350	A5, F5	
21,250-21,450	A3, F3	
28,000-29,700	A1	
28,000-28,500	F1	
28,500-29,700	A3, F3, A5, F5	
50.1-54.0	A1	
50.1-54.0	A2, A3, A4, A5, F1, F3, F5	
51.0-54.0	A0	
144-148	A1	
144.1-148.0	A0, A2, A3, A4, A5, F0, F1, F2, F3, F5	
220-255	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	5, 6
420-450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	5, 7
1215-1300	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	5
2300-2450	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	5, 8
3300-3500	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	5, 12
5650-5925	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	5, 9

GHz

10,000-10,500	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5	5
24,000-24,250	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	5, 10
48,000-50,000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	
71,000-84,000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	
152,000-170,000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	
200,000-220,000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	
240,000-250,000	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	
Above 275.00	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5, P	

(b) * * *

(8) No protection in the band 2400-
2500 MHz is afforded from interference
due to the operation of industrial, scien-
tific, and medical devices on 2450 MHz.

(9) No protection in the band 5725-
5875 MHz is afforded from interference
due to the operation of industrial, scien-
tific and medical devices on 5800 MHz.

(10) No protection in the band 24.00-
24.25 GHz is afforded from interference
due to the operation of industrial, scien-
tific and medical devices on 24.125 GHz.

(11) The use of A3 and F3 in this band
is limited to amateur radio stations lo-
cated outside Region 2.

(12) Amateur stations shall not cause
interference to the Fixed-Satellite Ser-
vice operating in the band 3400-3500 MHz.

[FR Doc.74-8222 Filed 4-9-74;8:45 am]

Title 50—Wildlife

CHAPTER I—BUREAU OF SPORT FISH-
ERIES AND WILDLIFE, FISH AND WILD-
LIFE SERVICE, DEPARTMENT OF THE
INTERIOR

PART 33—SPORT FISHING

Squaw Creek National Wildlife Refuge, Mo.

The following special regulation is is-
sued and is effective on April 10, 1974.

§ 33.5 Special regulations: Sport fish-
ing: for individual wildlife refuge
areas.

MISSOURI

SQUAW CREEK NATIONAL WILDLIFE REFUGE

Sport fishing on the Squaw Creek Na-
tional Wildlife Refuge, Missouri is per-
mitted only on the areas designated by
signs as open to fishing. These open areas
are delineated on a map available at the
refuge headquarters and from the office
of the Regional Director, Bureau of Sport
Fisheries and Wildlife, P.O. Box 25486,
Denver Federal Center, Denver, Colorado
80225. Sport Fishing shall be in accord-
ance with all applicable State regula-
tions subject to the following conditions:

(1) Open season: April 1, 1974 through
December 31, 1974 Daylight hours only.

(2) Spearfishing or gigging is permitted:
April 1, 1974 through June 30, 1974.

(3) Refuge waters will be open to the
use of rowboats, canoes and sailboats. No
sailboats after September 1, 1974.

(4) The use of motors on boats will be
restricted to trolling or electric type mo-
tors.

The provisions of this special regula-
tion supplement the regulations which
govern fishing on wildlife refuge areas
generally which are set forth in 50 CFR
Part 33 and are effective through Decem-
ber 31, 1974.

GERALD M. NUGENT,
Refuge Manager, Squaw Creek
National Wildlife Refuge,
Mound City, Missouri.

MARCH 28, 1974.

[FR Doc.74-8191 Filed 4-9-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 211—MANDATORY PETROLEUM
ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM
PRICE REGULATIONS

Allocation and Pricing of Non-bonded
Aviation Fuel

Parts 211 and 212 of Title 10 of the
Code of Federal Regulations are revised
to allow international air carriers access
to non-bonded aviation fuels when
bonded aviation fuels are not available
at prices comparable to those for non-
bonded fuels, to remove the exemption