Quincy-Gadsden County area has three local weekly newspapers and a new cable television system with a second system under construction in the Havana area of the county. Thomas urges that a second FM channel be assigned to Quincy to provide a competitive outlet to serve the residents of Quincy.

11. In opposition, Big Bend offers a completely different picture of Quincy's current economic outlook. It states that Quincy has suffered "severe declines in population, economic stability and poverty * * *"

It cites the 1970 U.S. Census figures indicating a 6.1 percent decrease in population between 1960 and 1970 and the 1975 Census Bureau estimate revealing a 0.3 percent decrease between 1970 to 1975.[6] Regarding the economic situation Big Bend asserts that the local economy has never recovered from the loss of an annual $20 million shade tobacco crop, a loss which continues to cause high unemployment. We are also told that the county ranks last in the functional literacy of its students according to tests administered by the State of Florida. Accordingly, Big Bend argues that in view of the poor economic status for the county an additional Quincy station cannot be supported.

12. In its further reply, Thomas contends that Quincy's population of over 8,000 is sufficient to support a second FM station and that the Commission has assigned two FM channels in like situations.[7] It notes that in the same population report relied on by Big Bend, the local population decline was expected to reverse itself since it contained a prediction that the county's residents would increase by 4.4 percent from 1975 to 1980 and 8.3 percent from 1980 to 1990. Finally, Thomas urges the Commission to treat the issue of Quincy's ability to support a third local radio station as a *Carroll*[8] issue, not appropriate for consideration at the rulemaking stage,[9] and to approve a competitive broadcasting outlet for Quincy.

13. The Quincy proposal involves arguments concerning the economic impact on competing stations and the community's ability to support an additional channel which we have regularly held are better considered at the application stage.[10] Although it is generally agreed that Quincy's economy and population has suffered declines there is reason to believe that this direction may be reversed. Even if the estimate of a 4.4 percent increase in county population by 1980 does not occur, the facts still support making the assignment. The public would benefit from the additional full-time local service in Quincy which would provide an alternative voice on local matters. The two existing stations are under common ownership.

14. *Accordingly, it is ordered,* That pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, the FM table of assignments (§ 73.202(b) of the Commission's rules) is amended, with respect to the following communities effective August 21, 1978.

City and Channel No.

Quincy, Fla., 269A, 285A.
Tallahassee, Fla., 235, 240A, 255, 276A, 281.

15. *It is further ordered,* That the motion for acceptance of further reply comments submitted by Pat F. Thomas and Mary Ann Thomas is granted to the extent indicated and in all other respects is denied and that the motion to strike the acceptance of further reply comments submitted by Big Bend Broadcasting Corp. is granted in part and denied to the extent indicated.

16. *It is further ordered,* That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-19710 Filed 7-17-78; 8:45 am]

[6712-01]

[Docket No. 21491; RM-2871; FCC 78-467]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in San Francisco and San Mateo, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action exchanges TV channel assignments in San Francisco and San Mateo, Calif., and modifies the licenses of the stations on the respective channels to specify operation on the new channels pursuant to an agreement between the existing licensees which involves a transfer of equipment. The action was taken in response to the licensees' joint request, and this action can be expected to bring substantial improvements in the coverage of both stations.

EFFECTIVE DATE: August 14, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: June 28, 1978.

Released: July 14, 1978.

By the Commission: Commissioner Quello absent.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (San Francisco and San Mateo, Calif.), Docket No. 21491, RM-2871.[1]

1. The Commission has before it the Notice of proposed rule making, 67 FCC 2d 241, adopted December 8, 1977, proposing an exchange in TV channel assignments involving UHF-TV channel 60 in San Francisco, Calif. and UHF-TV channel *14 in San Mateo, Calif. The proposal was adopted in response to a joint petition filed by Bahia de San Francisco Television Co., licensee of TV station KDTV (channel 60), San Francisco, and by the San Mateo County Community College District, licensee of noncommercial educational TV station KCSM-TV (channel *14), San Mateo (hereinafter "petitioners"). Comments have been submitted by petitioners and by Leon A. Crosby (licensee of station KEMO-TV (channel 20), San Francisco); The Association of Maximum Service Telecasters, Inc. ("AMST"); and the Land Mobile Communications Council ("LMCC"). Reply comments were received from all parties.

2. The Notice proposed to reassign UFH-TV channel 60 from San Francisco, Calif., to San Mateo, Calif., reserving the channel for noncommercial educational use and to reassign UHF-TV channel *14 from San Mateo to San Francisco, deleting the reservation. Also, if no other interest were expressed, it also proposed to modify the respective licenses to specify the newly reassigned channels. (Station KDTV, San Francisco, would operate on channel 14 in San Francisco, and station KCSM-TV San Mateo, would operate

[6] According to Big Bend, this population decrease has continued into 1977 since according to the University of Florida Division of Population Studies, there has been an estimated decrease of 220 persons from July 1, 1976 to July 1, 1977.

[7] Citing *Ogallalla, Neb.*, 41 FR 23955, 37 R.R. 2d 627 (1976).

[8] *Carroll Broadcasting Co.* v. *FCC*, 258 F. 2d 440 (D.C. Cir. 1958).

[9] Citing *Ogallalla, Neb., supra,* and *Avalon, N.J.*, 39 FCC 2d 725 (1972).

[10] See *Melbourne and Satellite Beach, Fla.*, 47 FCC 2d 717 (1974), *Ogallalla, Neb., supra.*

[1] See 42 FR 64379, December 23, 1978.

on channel *60 in San Mateo.)[2] In offering the proposal for comment, the Commission expressed the view that the proposal could well offer substantial public benefit through significant improvements in the coverage areas of both stations.[3] In addition, the Commission noted that by virtue of these changes channel 14 would be operating on Mount San Bruno, in the proximity to some 66 land mobile stations. This means that these land mobile stations would be in violation of § 89.123(a)(4) which requires a 1-mile separation. Nonetheless, the Commission indicated that if no actual interference would result, waiver requests might be granted.

	Population	
	Grade A	Grade B
Present channel 14 operation	653,171	2,539,885
Proposed channel 60 operation	3,994,992	4,444,005
Increase	[1]512	[1]75
	Area (square miles)	
	Grade A	Grade B
Present channel 14 operation	323	904
Proposed channel 60 operation	2,114	4,340
Increase	[1]554	[1]380

[1] In percent.

3. Petitioners again urge the Commission to adopt their proposal citing what they see as the substantial public interest benefits that would result.[4] As to the close spacing of station KDTV (on channel 14) with land mobile stations operating on shared channels, petitioner Bahia states that it has committed itself to correct all complaints of interference to the reception of either the land mobile stations or to that of any nearby TV station. Thus, it states that it supports a waiver of the minimum mileage separation rule, § 89.123(a)(4), so that the land mobile stations may remain at their existing locations.

4. Crosby, in opposing comments, notes that his station, KEMO-TV (channel 20), competes with station KDTV for Spanish viewers in the San Francisco area. He argues that Bahia is a subsidiary of a powerful corporation, the Spanish International Communications Corp., with seven TV stations,[5] and as such should not be allowed to acquire channel 14 instead of channel 60. Crosby believes that channel 14 would offer a competitive advantage in the San Francisco market. Crosby requests the Commission to recognize the fact that he offered an agreement to SMCCC to improve the station although it was refused. He does not explain the significance he sees in the station's having chosen to agree with Bahia instead. Finally, Mr. Crosby expresses his concern that as a result of the combination of a channel 14 TV signal and the channel 17 land mobile signals a spurious signal which has a potential for causing interference to his station on channel 20 could be produced. He requests a hearing on this matter.

5. The comments of AMST and LMCC relate to the possibility of interference to the affected TV broadcast and to land mobile operations, respectively, which may result from the proximity of the transmitters. However, after learning of Bahia's commitment to correct any interference problems that may arise, both have voiced support for the proposal.

6. Based on our review of the allocations situation, it is clear that substantial public benefit can result from the proposed exchange of channels. The San Mateo educational station can considerably improve its coverage by moving to channel 60 where it could make use of some $450,000 worth of equipment that Bahia is to transfer to it under the terms of the agreement. The new equipment will also enable this station to upgrade its facilities to provide "state-of-the-art" color television broadcasting. In addition, the San Francisco station will be able to provide improved coverage to an important part of the total Spanish language population in a 10-county area by virtue of the new equipment it can use on channel 14.

7. We have been urged by Crosby to order a hearing to determine the effect of this acquisition as it concerns the competitive balance in the Spanish programing market. However, as we previously stated in the notice, neither Bahia nor its parent organization is gaining an additional station. Thus, the term acquisition really does not apply to this situation. It is no more than an exchange in channels. Crosby may well prefer to face a Spanish language competitor on channel 60 rather than channel 14, but we have been offered no evidence upon which we could reasonably find that as a result of Bahia's switch to channel 14, the overall service to the public will be adversely affected.[6] Finally, petitioners objected to the procedure employed by the Commission in which other parties were permitted to express an interest in the channels to be assigned. However, since no such interest was forthcoming, the objection has become moot, and we can proceed to modify the licenses.

8. Arguments also were offered on the possibility that interference could result because 66 land mobile stations operating on UHF channel 16 or 17 on a shared basis, are located close to the sites of UHF TV stations on channels 14 and 20. Interference to these stations could take several forms. First, the land mobile stations on channels 16 and 17 could suffer interference as a result of overloading at the receivers from strong signals on nearby TV stations which operate on adjacent frequencies. However, this problem appears unlikely to occur. Also, even though our rules do not require it to do so, Bahia has committed itself to correct any such interference to land mobile receivers by the use of filters. Because of the absence of TV sets in the area where the land mobile stations operate, no direct effect on reception by them is anticipated. The greater concern is not about these forms of interference but about possible interaction between the signal of stations in the area. When the Commission adopted a plan to permit one or two of the lower UHF TV channels (channels 14–20) to be utilized by land mobile licensees on a shared basis in the 13 largest urban centers,[7] it acted to minimize the possibility of intermodulation ("IM") interference to television receivers. The safeguard chosen was the 1 mile minimum separation rule (§ 89.123(a)(4)).[8] In this case, IM

[2] San Francisco (population 715,674) (1970 U.S. Census) is coextensive with San Francisco County. It is served by 11 TV stations (2 of which are noncommercial educational stations). San Mateo (population 78,991) is located in San Mateo County (population 556,605), which is part of the San Francisco SMSA (population 3,109,519). It has one TV station (channel *14) operated by the petitioner, San Mateo County Community College District (station KCSM-TV).

[3] The San Francisco station will gain through the use of less expensive coaxial line which is not available for its current higher channel. The San Mateo station is to receive substantial financial assistance from Bahia and also expects a matching Federal grant for the improvement of its equipment and facilities, including color transmission capability. SMCCC estimates that as a result of these improvements, the proposed San Mateo channel 60 operation would provide coverage as follows:

[4] Although they support the notice generally, they do object to the Commission's view that other expressions of interest would have to be considered. However, this point has become moot since no such expression were received. Petitioners also responded to the part of the notice which indicated the Commission's concern that a particular provision of their agreement could have the effect of permitting one licensee to retain a financial interest in the other station. Petitioners have informed us that they have taken the necessary steps to delete that provision.

[5] We are told that the latest acquisition of a TV station occurred on August 17, 1977, and involved a Phoenix, Ariz., station.

[6] The concern was that interference to one or more of these stations could result.

[7] In San Francisco some 66 such stations are operating on channels 16 and 17.

[8] See *Land Mobile Use of TV Channels 14-20, et al.*, memorandum opinion and order, docket 18261, 25 FCC 2d 764, 768, par. 9 (1970).

interference may occur in the following ways:

Combination of signals (TV—television) (LM—land mobile)	(IM) interference to reception
(1) TV channel 14 and LM channel 17.	TV channel 20.
or	
(2) TV channel 20 and LM channel 17.	TV channel 14.
or	
(3) TV channel 14 and LM channel 16.	TV channel 20.

In any of the preceding examples, the potential for an interference problem appears to be easily correctable since at the affected area on Mount San Bruno, few, if any, receiver locations exist and Bahia has stated that it would take the necessary steps to correct any such problem. In view of this, the Commission will hereby waive its rules and permit all existing land mobile facilities which are operating on channels 16 and 17 within 1 mile of the new channel 14 TV operation to continue to use their present sites.[9] Since the possibility of interference to reception of TV channel 20 asserted by Crosby appears minimal and would be easily correctable, we believe a hearing on this matter as requested by Crosby, is not warranted.

9. *Accordingly, it is ordered,* That pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, the television table of assignments (§ 73.606(b) of the rules) is amended, effective August 21, 1978, with respect to the following communities:

City and Channel No.

San Francisco, Calif., 2+, 4−, 5+, 7−, *9+, 14+, 20−, 26−, *32+, 38, 44−.
San Mateo, Calif., *60.

10. *It is further ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license of Bahia de San Francisco TV Co. for station KDTV(TV) is modified, effective August 21, 1978, to specify operation on UHF TV channel 14 instead of on UHF TV channel 60. The licensee shall inform the Commission in writing by no later than August 21, 1978, of its acceptance of this modification. Station KDTV may continue to operate on channel 60 for 1 year from the effective date of this action or until it is ready to operate on channel 14, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided.

(a) At least 30 days before commencing operation on channel 14, the licensee of station KDTV shall submit to the commission the technical information normally required of an applicant for the channel, including that connected with a change in the transmitter site.

(b) At least 10 days prior to commencing operation on channel 14, the licensee of station KDTV shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of station KDTV shall not commence operation on channel 14 without prior Commission authorization.

11. *It is further ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license of San Mateo County Community College District for station KCSM-TV is modified, effective August 21, 1978, to specify operation on UHF TV channel *60 instead of on UHF TV channel *14. The licensee shall inform the Commission in writing by no later than August 21, 1978, of its acceptance of this modification. Station KCSM-TV may continue to operate on channel *14 for 1 year from the effective date of this action or until it is ready to operate on channel *14, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided:

(a) At least 30 days before commencing operation on channel *60, the licensee of Station KCSM-TV shall submit to the Commission the technical information normally required of an applicant for the channel, including that connected with a change in the transmitter site.

(b) At least 10 days prior to commencing operation on channel *60, the licensee of station KCSM-TV shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of station KCSM-TV shall not commence operation on channel *60 without prior Commission authorization.

12. *It is further ordered,* That copies of this report and order shall be mailed by certified mail, return receipt requested, to Bahia de San Francisco TV Co., licensee of station KDTV(TV), 2200 Palou Avenue, San Francisco, Calif. 94124, and to San Mateo County Community College District, licensee of station KCSM-TV, 1700 West Hillsdale Boulevard, San Mateo, Calif. 94402.

13. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-19848 Filed 7-17-78; 8:45 am]

[9] Consideration can be given to waiver requests if there are additional proposals for new land mobile facilities on channels 16 and 17 within 1 mile of the TV channel 14 transmitter.

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HS-4, Notice No. 8]

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

Noise Levels in Railroad Employee Sleeping Quarters; Guideline

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Issuance of interpretive guideline; statement of policy.

SUMMARY: This document issues an interpretive guideline which FRA will employ in administering and enforcing section 2(a)(3) of the Hours of Service Act, as amended (45 U.S.C. 62(a)(3)), which was enacted by Pub. L. 94-348, approved July 8, 1976. The statutory provision makes it unlawful for any common carrier "to provide sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters". In order to facilitate compliance with the Hours of Service Act and to give notice concerning the policy of FRA in enforcing this provision of law, FRA is amending appendix A to part 228 by adding a description of the noise level resulting from noise sources within the control of the railroad which will be regarded by FRA as the maximum level permitting "an opportunity for rest" within the meaning of the statute. The standard adopted is an $L_{eq}(8)$ value of 55dB(A).

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Urman (RRS-24), Office of Safety, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590, 202-426-9178.

SUPPLEMENTARY INFORMATION: Elsewhere in this FEDERAL REGISTER FRA amends part 228 by adopting final rules relating to the construction or reconstruction of railroad employee sleeping quarters in areas close to switching or humping operations. Section 228.107(c) of those rules states that FRA will utilize a standard of 55dB(A) L_{eq} measured over any 8-hour period. The preamble to the rules discusses the public comment received and the basis for FRA action in adopt-

ing the aforementioned criterion. That discussion is incorporated herein by reference. See material in Docket No. HS-2, Notice No. 6, in this portion of today's FEDERAL REGISTER.

In light of experience gained through FRA field activities related to the enforcement of the Hours of Service Act since July 8, 1976, and in consideration of the comments received in Docket No. HS-2, FRA has decided to utilize as a guideline in its enforcement of section 2(a)(3) of the Hours of Service Act (45 U.S.C. 62(a)(3)) a maximum equivalent steady state sound level in eight hours ($L_{eq}(8)$) of 55dB(A). That is, any sleeping quarters provided for employees covered by the Hours of Service Act which cannot meet an $L_{eq}(8)$ noise level standard of 55dB(A) as a result of the noise generated by sources within the control of the carrier will be deemed in violation of the Act.

In consideration of the foregoing, appendix A to part 228 (42 FR 27594, 27598; May 31, 1977) is amended by adding immediately after the existing paragraph designated "Sleeping Quarters" under the major heading of "General Provisions" the following new text:

"Sleeping quarters are not considered to be 'free from interruptions caused by noise under the control of the railroad' if noise levels attributable to noise sources under the control of the railroad exceed an $L_{eq}(8)$ value of 55dB(A)."

The principal program draftsman of this document was Stephen Urman of the Office of Safety. The principal legal draftsman was Grady Cothen, Jr., of the Office of Chief Counsel.

Issued in Washington, D.C. on July 11, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-19855 Filed 7-17-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

Clarifications and Modification of Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: New rules and procedures affecting the Commission's internal organization became effective January 1, 1978. (49 FR 65181, December 30, 1977). After 4 months' experience with these rules, certain modifications and clarifications have proven necessary, and this document amends several of their provisions. Attention is directed particularly to new subsection 5(c) which provides that appeals from the decisions of the Commission's Motor Carrier Board will be acted upon by a single Commissioner rather than a division of the Commission. (The Motor Carrier Board has primary jurisdiction to decide motor and water carrier temporary authority applications.) Because these amendments involve the internal organization and procedures of the Commission, they are being issued in final form, and public comments are not being requested.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Chandler, phone 202-275-1912.

SUPPLEMENTAL INFORMATION: Section 1011.2(a)(5) of the rules reserves certain types of cases to the entire Commission for action. The amendments to that paragraph are designed, first, to define more precisely what is meant by "general rate increase" cases, and second, to limit the Commission's reservation of jurisdiction over rail finance proceedings to those of major significance.

The amendment to § 1011.5(a)(4) expands the Chairman's authority so that he may dismiss applications as well as complaints upon the request of a party. It limits that authority to situations in which the request for dismissal is uncontested.

New § 1011.5(c) provides for a significant change in jurisdiction. Appeals from decisions of the Motor Carrier Board, the principal activity of which is deciding applications for motor and water carrier temporary authority, have previously been acted on by a division of the Commission. Henceforth, these appeals will be assigned, in rotation, to individual members of the Commission, except the Chairman. This change reflects both the informal nature of these proceedings and the very substantial volume of appeals which must be handled. It implements recommendation No. 24 of the Commission's staff task force on improving motor carrier entry regulation, submitted to the Commission on July 6, 1977.

New § 1011.5(d) makes it clear that an individual Commissioner, including the Chairman and Vice Chairman, may certify any matter assigned to him or her to the Commission for disposition.

Sections 1011.6 (g) and (h) established and assigned jurisdiction to the Accounting Board and the Valuation Board. With the transfer of the Commission's oil pipeline valuation functions to the new Department of Energy, it became unnecessary to maintain a separate board to act on valuation matters. The amendment creates a single Accounting and Valuation Board.

* * * * *

Part 1011 of Title 49 of the Code of Federal Regulations is amended in the following respects—

Section 1011.2(a)(5) is amended to read—

§ 1011.2 The Commission.

(a) * * *

* * * * *

(5) All cases involving general rate increases as defined in 49 CFR parts 1102 and 1104, as well as similar increases affecting modes of transportation not specifically referred to in those parts; all matters arising under section 1(16)(b) of the act; all cases arising under section 5(2) of the act involving a class I railroad where the matter has involved the taking of testimony at an oral hearing; and all cases arising under section 5(3) of the act.

* * * * *

Section 1011.5(a)(4) is amended, and new paragraphs (c) and (d) added as follows:

§ 1011.5 Delegations to individual Commissioners.

(a) * * *

* * * * *

(4) Dismissal of complaints and applications on the unopposed motion of any party.

* * * * *

(c) Appeals from decisions of the Motor Carrier Board are assigned for action, in rotation, to individual Commissioners, except the Chairman of the Commission.

(d) The Chairman, Vice Chairman, or any other Commissioner may certify to the Commission any matter assigned to him or her under this part.

Section 1011.6(h) is amended, paragraph (i) is deleted, and paragraph (j) is redesignated as new (i) as follows:

§ 1011.6 Employee Boards.

* * * * *

(h) Accounting and Valuation Board. (1) Authority (A) to permit departure from general rules, prescribing uniform systems of accounts for carriers and other persons under the act, and