FOR FURTHER INFORMATION CONTACT: Gregory D. Ham (3AH12), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106, telephone: 215/597–2745.

SUPPLEMENTARY INFORMATION: The Pennsylvania State Implementation Plan (SIP) for nonattainment areas was conditionally approved on May 20, 1980, 45 FR 33607. One of the five conditions was that each designated lead planning agency and metropolitan planning organization in the Allentown-Bethlehem-Easton, Scranton, Wilkes-Barre, and Harrisburg areas would provide written assurances to EPA, with endorsements by the Commonwealth, that no project, program, or plan will be approved that does not conform with the approved SIP.

On July 15, 1980, Secretary Clifford L. Jones submitted to EPA these assurances in the form of consistency/conformity resolutions. These resolutions were submitted by the following organizations:

Lackawanna-Luzerne Transportation Study (For Scranton and Wilkes-Barre)
Tri-County Regional Planning Commission, Harrisburg Area Transportation Study Coordinating Committee (For the Harrisburg area)
Lehigh Valley Transportation Study Area Coordinating Committee (For the Allentown-Bethlehem-Easton area)

The following statement (or a similar statement) was added to the consistency resolutions for these areas: the organization "further resolves that no project, program, or plan will be approved that does not conform to the SIP, when specific guidelines for conformity are jointly developed by the EPA and U.S. DOT." These guidelines were developed and signed on June 12, 1980, and have been distributed to the appropriate MPO's and lead agencies.

Based on the foregoing, it is the decision of the Administrator to accept these commitments as satisfying the appropriate deficiencies in the Pennsylvania SIP.

EPA did not publish a separate proposed approval for these conformity resolutions because the condition requiring these resolutions was discussed in detail in the Federal Register notice conditionally approving the Pennsylvania SIP. See 45 FR 33607 (May 20, 1980). Also, no comments were received on this issue.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The SIP approvals announced today are not major because they only approve state actions. They impose no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments, are available for public inspection at EPA Region III, Air Programs Branch, 6th & Walnut Streets, Philadelphia, Penna. 19106.

Pursuant to the provisions of 5 U.S.C. 605(b) I herby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves State action. Due to the nature of the Federal-State relationship under the Clean Air Act, federal inquiry into the economic reasonableness of the State action would serve no practical purpose and could well be improper.

(42 U.S.C. 7401–642)

Dated: April 13, 1981.

William C. Barber,

Acting Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Pennsylvania was approved by the Director of the Federal Register on July 1, 1980.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

§ 52.2037 [Amended]

Section 52.2037, Control Strategy, is amended by removing paragraph (a)(4).

[FR Doc. 81-11862 Filed 4-17-81; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 122

[EN-FRL 1790-8]

Consolidated Permit Regulations; NPDES Application Requirements for Textile Mills, Ore Mines, and Porcelain Enameling

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule.

SUMMARY: This action suspends for the Textile Mills, Ore Mining and Dressing, and Porcelain Enameling point source categories a portion of the requirement in EPA's consolidated permit regulations that certain effluent testing data for organic toxic pollutants be submitted as part of the application for a National Pollutant Discharge Elimination System (NPDES) permit. This action is in response to public comments and a preliminary evaluation of newly presented data. During the suspension, EPA will reconsider the appropriateness of this requirement for this group of industrial facilities, based upon the newly presented data.

EFFECTIVE DATE: April 20, 1981.

FOR FURTHER INFORMATION CONTACT: Gail Goldberg, Office of Water Enforcement and Permits (EN-336), Washington, D.C. 20460 (202) 426–7035.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued final consolidated permit regulations and the consolidated permit application forms including NPDES permit application forms under the Clean Water Act (45 FR 33290). Those regulations and NPDES permit application Form 2c require that applicants with processes in primary industries provide data obtained through sampling and analyses to characterize their process wastestreams for those toxic organic pollutants designated for that industry category in Appendix D to 40 CFR Part 122. The Textile Mills, Ore Mining and Dressing, and Porcelain Enameling Point Source Categories are listed as primary industries in the Consent Decree issued in *NRDC v. Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979, 12 ERC 1833, 1841.

The consolidated permit regulations, at 40 CFR 122.53(d)(7)(ii)(A), contain the following testing requirement:

(ii) Each applicant with processes in one or more primary industry category (see Appendix A to Part 122) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

(A) The organic toxic pollutants in the fractions designated in Table I of Appendix D for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (d)(8) of this section * * *.

Table I of Appendix D requires that applicants in the Textile Mills and Ore Mining and Dressing industries test and report quantitative data on all four organic pollutant fractions, and that applicants in the Porcelain Enameling industry test and report quantitative data on three of the four organic fractions. Table II of Appendix D lists the organic toxic pollutants in each fraction.

The Agency has received numerous comments and a request for reconsideration (from Kennecott Minerals Corporation) on the appropriateness of the requirement to test for organic toxic pollutants under § 122.53(d)(7)(ii)(A) in the Textile Mills, Ore Mining and Porcelain Enameling industries. The Greige Mills Subcategory (Subpart C of 40 CFR Part 410—low water use processing) of the Textile Mills category was identified by commenters as a subcategory that should not be required to test for toxic organic pollutants. In response to these comments, EPA has reiterated its willingness, as stated at 45 FR 33528, to "continue to investigate existing data and add or delete requirements to ensure that waste streams be analyzed only for pollutants which may be discharged." In addition, the Agency is currently evaluating a recent collection of available data for these three industrial categories.

In general, we made a preliminary review of the data obtained for the Textile Mills, Ore Mines and Porcelain Enameling industries using the same criteria for requiring GC/MS (Gas Chromatography/Mass Spectrometry) fractions we used in the consolidated permit regulations (45 FR 33529). Although we still are basing testing upon a single detection above 10 parts per billion in each GC/MS fraction, we now have separate data on intake water as well as effluent and data on a subcategory basis for these three industries. This new presentation of data made it possible to determine whether or not toxic organic pollutants were found in specific subcategories. Therefore, we believe that sufficient information exists on the occurrence of toxic organic pollutants to justify suspending the following portions of § 122.53(d)(7)(ii)(A):

Textile Mills

1. Testing and reporting for all four organic fractions in the Greige Mills Subcategory.

2. Testing and reporting for the pesticide fraction in all other subparts of this industrial category.

Ore Mining and Dressing

1. Testing and reporting for volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory.

2. Testing and reporting for all four fractions in all other subcategories of this industry.

Porcelain Enameling

Testing and reporting all four GC/MS fractions.

EPA also is suspending the parallel requirement that applicants in these industries complete the corresponding portions of Item V–C of the NPDES application Form 2c, 45 FR 33567.

EPA is reevaluating organic testing requirements for other primary industries as additional data becomes available and expects to propose a revision of the organic testing requirements for industries examined, as appropriate. In the meantime, we are today suspending portions of the testing requirements for Textile Mills, Ore Mines and Porcelain Enameling industries to relieve those industries from the cost of sampling and analysis that may prove unnecessary. When our analysis of the data is completed, we will change the requirement if appropriate, or reinstate it, if not. During the suspension, however, applicants in these categories will still be required under § 122.53(d)(7)(iii)(A) to sample and analyze their wastestreams for those organic toxic pollutants which they know or have reason to believe exist in their discharge. In addition, those plants sampled during EPA's survey of industrial dischargers must report organic testing data generated by EPA. As applicants in the primary industries listed in the NRDC Consent Decree, Textile Mills, Ore Mines and Porcelain Enameling plants must still report quantitative results for the 13 metals on the toxics pollutant list; cyanide; total phenols and any fractions not suspended. Items V–A, B and D must still be completed, according to the instructions in the NPDES application Form 2c and in accordance with § 122.53(d)(7) (i), (ii)(B), (iii), (iv), and (v).

Compliance with Executive Order 12291. Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it suspends portions of a regulatory requirement and would reduce the economic burden on affected industries. Moreover, this action does not satisfy any of the other criteria for a major rule.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the U.S. Environmental Protection Agency, Rm. 3219 C, 401 M Street, SW., Washington, D.C. 20460.

Authority: This suspension is issued under authority of the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: April 14, 1981.

Walter C. Barber,

Acting Administrator.

§ 122.53 [Amended]

40 CFR 122.53(d)(7)(ii)(A) and the corresponding portions of Item V–C of the NPDES application Form 2c are suspended until further notice as they apply to:

1. Testing and reporting for all four organic fractions in the Greige Mills Subcategory of the Textile Mills industry (Subpart C—Low water use processing of 40 CFR Part 410), and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.

2. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals Subcategory of the Ore Mining and Dressing industry (Subpart B of 40 CFR Part 440), and testing and reporting for all four fractions in all other subcategories of this industrial category.

3. Testing and reporting for all four GC/MS fractions in the Porcelain Enameling industry.

[FR Doc. 81-11851 Filed 4-17-81; 8:45 am]
BILLING CODE 6560-33-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Parts 9, 2090, 2200, 2210, 2220, 2230, 2240, 2250, 2260, 2270, 2300, 2310, 2320, 2340, 2350 and 2920

Effective Dates of Final Rulemakings; Request for Comments

AGENCY: Department of the Interior.

ACTION: Notice of Effective Dates of Final Rulemakings; Request for Comments.

SUMMARY: After careful consideration, under the provisions of Executive Order 12291, of the final rulemakings listed herein, the Department of the Interior has determined to make them effective on April 15, 1981. Before making its final determination, the Department of the Interior also gave careful consideration to the comments received in response to the request for comments that was published in the Federal Register on March 30, 1981.

EFFECTIVE DATE: April 15, 1981.

ADDRESS: Send suggestions, inquiries or comments to: Director (320), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert C. Bruce (202) 343-8735.

SUPPLEMENTARY INFORMATION: After carefully reconsidering the final rulemakings on exchanges (43 CFR Part 2200), withdrawals (43 CFR Part 2300) and leases, permits and easements (43 CFR Part 2920) under the provisions of Executive Order 12291, the Department of the Interior has determined that the rulemakings are not "major" and are to be effective as of April 15, 1981. The Office of Management and Budget has concurred in this determination as part of the reconsideration process.

In addition, the Department has given consideration to the four comments on the rulemakings received by the close of the comment period on April 9, 1981. Three of the comments were directed at the question of whether the rulemakings should be considered "major" under the provisions of Executive Order 12991 and recommended the preparation of a regulatory analysis on each of the rulemakings. As stated earlier, the determination that the rulemakings are not "major" has been made after careful consideration under the provisions of Executive Order 12991. This determination by the Department of the Interior was concurred in by the Office of Management and Budget. However, the Office of Management and Budget has not issued its clearance of the information gathering requirements of the Exchange and Lease, Permit and Easement rulemakings as provided in the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). As a result, information will not be collected under the rulemakings until OMB approval is received for the requirements.

The comments also expressed the view that the rulemakings should be subject to an additional comment period to allow the public to suggest needed changes. Even though the rulemakings are being made effective, they will remain under review and comments and suggestions for revisions are solicited. The comments will be considered and the rulemakings amended to reflect any suggested changes that will make the rulemakings more effective and less burdensome on the using public.

One of the commenters was concerned that the exchange rulemaking is tied to the Bureau of Land Management's land-use planning procedure. The main thrust of the comment was a belief that a long period of time would be needed to amend a plan. The existing land-use planning regulations provide a quick amendment process to allow needed land uses to proceed with a minimum of delay. Further, the Bureau of Land Managment's land-use planning regulations are under review with the aim of simplifying them to make them less burdensome and more responsive to the management of the lands and their resources for multiple uses.

The comments expressed concern about the withdrawal rulemakings, the authority to withdraw public lands for specific uses and the impact those withdrawals have on the public's use of the lands, especially for mineral development. The withdrawal rulemaking contains the additional requirements that section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) placed on a Federal agency that requests that public lands be withdrawn for a specified purpose. The withdrawal rulemaking requires a Federal agency seeking a withdrawal of public lands to furnish complete justification for that withdrawal. This rulemaking makes it more difficult for a Federal agency to obtain a withdrawal than did past procedures.

All three of the rulemakings grew out of changes in existing procedures made by the enactment of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.). Each of the rulemakings has been the subject of public comment and represents a concerted effort to make the procedures in each of the covered areas easier to understand and, with the exception of the withdrawal procedures, as simple and as little a burden on the public as is possible under the law.

David C. Russell,

Deputy Assistant Secretary of the Interior.

April 15, 1981.

Accordingly, the regulations listed below shall become effective April 15, 1981.

Rule	Date published and FR page	Effective date
Bureau of Land Management 43 CFR Subpart 2091 of Part 2090, Parts 2200, 2210, 2220, 2230, 2240, 2250, 2260, 2270. Exchanges of Land: procedures.	Jan. 6, 1981, 46 FR 1634	Apr. 15, 1981.
Bureau of Land Management 43 CFR Parts 2090, 2300, 2310, 2320, 2340, 2350. Federal land withdrawals; procedures.	Jan. 19, 1981, 46 FR 5794	Apr. 15, 1981.
Bureau of Land Management '3 CFR Parts 9, 2920. Land use: leases, permits, and easements.	Jan. 19, 1981, 46 FR 5772	Apr. 15, 1981.

[FR Doc. 81-11855 Filed 4-17-81; 8:45 am]

BILLING CODE 4310-10-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6030]

List of Communities Eligible for Sale of Insurance Under National Flood Insurance Program; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule, correction.

SUMMARY: In the Federal Register, (FR Doc. 81-9474), Doc. No. FEMA 6019 appearing at pages 19474 and 19475, in the issue of Tuesday, March 31, 1981, make the following corrections to the table for § 64.6:

(1) Remove the last column "Date" from this table.

(2) Remove the footnote, it does not apply to the communities listed.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Johnson, National Flood Insurance Program (202) 755-5581, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator.)

Issued: April 7, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-11624 Filed 4-17-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[FCC 81-126]

Domestic Public Land Mobile Radio Service; Interference-Free Operation

AGENCY: Federal Communications Commission.

ACTION: Denial of petition for reconsideration and dismissal of request for stay of Commission Rule 22.15(b): Final rule.

SUMMARY: The FCC denied a petition for reconsideration and dismissed a request for stay, filed by Mr. Ernest R. Freeman of Sachs/Freeman Associates, Inc., challenging the Commission Order enacting § 22.15(b), which requires all future applicants for base station facilities in the Domestic Public Land Mobile Radio Service (DPLMRS) to demonstrate, at the time the application is filed, interference-free operation in accordance with the Carey method. The allegations of Mr. Freeman were found to be without merit. The Commission is amending § 22.15(b) in order to make it clear that other engineering data may be submitted along with a Carey interference study.

EFFECTIVE DATE: May 21, 1981.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph S. McBride, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 22 of the Commission's rules to make clear that applicants, at the time of filing applications in the Domestic Public Land Mobile Radio Service, must demonstrate interference-free operation; Memorandum opinion and order.

Adopted March 26, 1981.

Released: April 10, 1981.

By the Commission: Chairman Ferris not participating.

1. The Commission has before it for consideration a "Petition for Reconsideration" and a "Request for Stay" of the Commission's Order enacting Rule 22.15(b), Mimeo 27848, released July 30, 1980, 45 FR 52149 (47 RR 2d 1507 (1980)), filed by Ernest R. Freeman. The Order, in accordance with existing practices and in an attempt to clarify existing Rules, required that all applications for a construction permit for new base stations state whether there are any co-channel facilities within a certain area and required that applications, at the time of filing, contain interference studies for those co-channel facilities following procedures consistent with Commission Rules § 22.504 and FCC Report No. R-6406, commonly referred to as the Carey Report.[1]

2. In the "Petition for Reconsideration," Mr. Freeman requests that the Commission reconsider the Order to the extent that the rules were amended to incorporate the Carey Report as the exclusive methodology to be applied in preparing co-channel interference studies. He argues that the Carey method becomes less reliable when the terrain is rugged. Therefore, Mr. Freeman argues, it was arbitrary and a violation of Section 4 of the Administrative Procedure Act (APA) (5 U.S.C. 553) to establish the new rule without soliciting comments or ideas concerning alternate methods from the public.

3. In the "Request for Stay," Mr. Freeman argues that the information required for compliance with § 22.15(b) is nearly impossible to obtain from the Commission's public information files. First, Mr. Freeman claims that in order to ascertain what channels may receive interference, he requires access to the Frequency Availability List which the Mobile Services Division recently ceased providing. Furthermore, he maintains that even when the list was available, there were insufficient copies available, the list was not updated often enough, and the information was inadequate for determining which existing and proposed stations are within a specified location. He argues that public access to the underlying data used to generate this list would resolve these problems. Since the data is maintained in the Division's computer data base, he requests that the data base be made available to all who maintain computer terminals. Second, Mr. Freeman alleges that even when the stations which may receive interference are finally identified, the station files of the Mobile Service Division are impossible to locate. This results in his researchers being unable to acquire the necessary engineering data to prepare the required Carey Report showing. Therefore, Mr. Freeman requests that we stay the effective date of the Order until such time as the Commission provides for direct access to the Commission's computer data bank and until the station files are made available upon reasonable request.

4. Section 4 of the APA, 5 U.S.C. 553 requires that a general notice of proposed rule making shall be published in the **Federal Register** and interested parties shall be given an opportunity to comment upon or participate in any rule making. However, these requirements do not apply to "interpretative rules, general statements of policy, or rules of agency organization, procedure or practice ***." 5 U.S.C. 553(b)(A). Section 22.15(b) of the Commission's Rules enacted in the Order is an interpretative rule; adoption of § 22.15(b) is therefore encompassed by the exemption for interpretative rules.[2]

5. An "interpretative rule is a clarification or explanation of existing laws or regulations rather than a substantive modification in or adoption of new regulations." *Continental Oil Co. v. Burns*, 317 F. Supp. 194, 197 (D.C. Del. 1970). *See also, Gibson Wine Co., Inc. v. Snyder*, 194 F.2d 320, 90 U.S. App. D.C. 135 (1952); *National Restaurant Ass'n. v. Simon*, 411 F. Supp. 993 (D.C.D.C. 1976). A formal Commission rule, such as § 22.15(b), may still be interpretative despite the fact that it establishes new procedures. *Commonwealth of Pennsylvania v. United States*, 361 F. Supp. 208 (D.C. Pa. 1973). A test utilizing four criteria has been established by the courts to determine whether the action involves a substantive or interpretative rule. The presence of any of these criteria in a rule making is indicative of a substantive rule. These criteria are: "(1) the complexity and pervasiveness of the rules issued, (2) the drastic changes effected in existing law by the rules, (3) the degree of retroactivity and its impact and (4) the confusion and controversy engendered by practical difficulties of compliance with the new rules." *Spring Mills, Inc. v. Consumer Products Safety Commission*, 434 F. Supp. 416, 430 (D.C.D.C. 1977); *Continental Oil Co. v. Burns, supra*, at 197.

6. A brief consideration of the purpose and effect of the Commission Rule § 22.15(b) reveals that the rule lacks the impact required of a substantive rule. As mentioned in the Order, the Commission's Rules[3] implicitly require the submission of an interference study. Furthermore, the Commission has for many years required the submission of

[1] Roger B. Carey, *Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service*, FCC Report No. R-6406 (June 24, 1964).

[2] Additionally, Section 22.15(b) is encompassed by the exemption in Section 4 of the APA for rules of agency organization, procedure and practice, 5 U.S.C. 553(b)(A) i.e. technical or procedural rules controlling the form of agency action and proceedings which do not substantially affect the rights of those businesses which the agency regulates. *Pickus v. Board of Parole*, 507 F.2d 1107, 165 U.S. App. D.C. 284 (1974). The presence of a minor substantive effect, however, does not necessarily mean the rule is substantive. *Ranger v. FCC*, 294 F.2d 240, 111 U.S. App. D.C. 44 (1961). The Carey method, to the extent it is used in calculating interference, could have a substantive effect upon either existing licensees or an applicant; however, as discussed in paragraph 6, the rule is a procedural one.

[3] In the Order, the Commission noted that "the interrelationship of §§ 22.15, 22.100(a), 22.502, 22.503, and 22.504, of the rules, establishes the requirement that applications for base station facilities in the DPLMRS demonstrate interference-free operation." *Domestic Public Land Radio Service*, 47 RR 2d 1507, 1508 (1980), 45 FR 52149, 52150, August 6, 1980.

interference studies, generally utilizing the Carey method. However, the Commission's staff usually found it necessary to request that the applicant submit the interference study, since they often did not accompany the application. Section 22.15(b) has been enacted to remove this processing delay by explicity requiring what was already implicity required by our Rules. Furthermore, to the extent an interference-free demonstration need be made, it must be in accordance with Carey snce certain Commission rules are based upon the Carey Report. *See Public Notice*, May 2, 1980, Mimeo 30893, 45 FR 30202 (47 RR2d 666 (1980)). For example, § 22.504(b) duplicates certain radio wave propagation charts, utilized in determining the reliable service area of a base station for the purpose of providing protection from interference, that have been taken from the Carey Report. The minimum mileage separations of § 22.503 are also based upon the Carey Report. Therefore, the imposition of the requirement that demonstration of interference-free operation be in accordance with Carey adds nothing sustantively to our rules; it merely clarifies them and allows us to eliminate an unnecessary processing delay.

7. Mr. Freeman has argued that the Carey method is only reliable under conditions of average terrain and, therefore, should not be adopted as the exclusive methodology. However, the Commission has not adopted Carey as the exclusive method; we only require that it be presented initially with the application as implicitly required by our Rules. We are well aware of Carey's limitations, as well as those of other methods, and the Mobile Services Division has clearly stated its position on how applications will be handled when a party submits a persuasive showing, through engineering studies using other methods, that the Carey method is inappropriate for estimating interference. *See Public Notice*, May 2, 1980, Mimeo 30893, 45 FR 30202 (47 RR 2d 666 (1980)). However, because there is apparently some confusion as to our policy, we are amending § 22.15(b)(2) to indicate that other engineering studies may be submitted along with, but not as a substitute for, the required Carey engineering study.

8. Applying the above considerations to the four criteria indicative of a substantive rule, we affirm our conclusion that § 22.15(b) is an interpretative rule. First, it is neither complex nor pervasive. The Carey method has been utilized since the mid-sixties and all applicants should be familiar with it. Second, since this is the mere formalization of a current practice, the rule cannot be considered a drastic change in the law. Third, with respect to requiring submission of interference studies at the time of the application the rule does not have a retroactive impact. Only those applications filed after the Order's effective date, September 8, 1980, must be accompanied by interference studies. Finally, the rule is neither controversial nor confusing. Even Mr. Freeman does not allege that it is inadequate under conditions of average terrain. Furthermore, since steps have been taken to correct deficiencies that may exist when the terrain is rugged, the degree of controversy is minimal.[4] Therefore, applying the four criteria of *Spring Mills, supra*, our rule cannot be considered substantive.[5]

9. Mr. Freeman alleges that because it is difficult to ascertain what stations will receive interference and because the station files are difficult to locate, the Commission should stay the order until such time as the information is more accessible to the public. The Commission finds that the information necessary for compliance is, for the following reasons, generally available and accessible.

10. Specifically, Mr. Freeman alleges that because the Frequency Availability List is no longer available he is unable to ascertain what other frequencies are present in a given area. However, the list was only discontinued for a very brief period, and, by Public Notice dated September 12, 1980, the Division again made the Frequency Availability List accessible to the public. One copy is maintained for public inspection in the Mobile Services Division's public reference room and is updated weekly. Therefore, since § 22.15(b) requires that only those station applications pending for more than 60 days be identified, Mr. Freeman should have minimal difficulty identifying co-channel facilities. Mr. Freeman also believes that the information in the Frequency Availability List is so insufficient that an applicant cannot readily determine which existing and proposed stations are within a given distance from a specified location. The Commission has determined that frequency studies are the responsibility for the individual applicant. *Dial-A-Page, Inc.*, 75 FCC 2d 432, 46 RR 2d 1239 (1980). The information which the Division makes available to applicants has always proven adequate in the past. Although we are receptive to suggestions for reducing the work required in preparing an application if it can be easily arranged and the cost is reasonable, Mr. Freeman has failed to offer, and we are unaware of, any reasonable practices which could be adopted presently to facilitate an applicant's search of the Commission's records.

11. Our consideration of Mr. Freeman's request that the public be given access to the Commission's computer data bank leads us to conclude that a grant of this request is currently impracticable for two reasons.[6] First, the present computer hardware configuration, including communications access ports, is insufficient to satisfy the anticipated demand of both the public and the Commission staff. If everyone with a computer terminal were permitted access to the computer, it would be extremely difficult, if not impossible, for the Commission's staff to use the computer since the system would be saturated. Second, in order to give the public access to the computer, the Commission would have to make wide dissemination of its passwords to the computer's time sharing system. This password is subject to frequent periodic change. Even though individual files are further protected by their own passwords, the probability of computer fraud being committed by anyone bent on "breaking" these protective devices would be greatly increased. Thus, the Commission could not guarantee the confidentiality of general Commission files, not limited to the Mobile Services Division's files, containing sensitive data. The Commission lacks the facilities, and the technology, to provide what it considers adequate protection of its automated data files under these circumstances. We believe that public access to our computerized files, with the attendant probability of compromise of sensitive information residing therein, would be inadvisable and would interfere with the staff's ability to adequately perform its licensing responsibilities under the Act.

12. Finally, Mr. Freeman maintains that the Mobile Services Division's

[4] Mr. Freeman has not challenged Carey to the extent it measures interference under average conditions; rather his allegations challenge Carey's reliability under conditions of rugged terrain. However, as previously mentioned, the Commission has provided for this inadequacy of the Carey Study and we have been offered no reason to believe that these precautions are inadequate. Thus, there is very little controversy surrounding the Carey method.

[5] For the same reasons, we conclude that the Commission's action was not arbitrary.

[6] Mr. Freeman requested and was provided with a listing of our Fortran computer program for calculating co-channel electrical interference in accordance with the Carey Report and Commission § 22.504.

public station files are difficult to locate. We recognize that this has been a problem in the past and the Mobile Services Division is currently attempting to correct this situation so that files will be available upon request. In addition, if an applicant, either because he or she is coming in from out of town or for some other reason, would find it to be an inconvenience if the file were not available, then the applicant should notify the Mobile Services Division's file room in advance of the need for a particular station file and the staff will have it available when the requesting party arrives. If the file cannot be made available the staff will notify the requesting party in advance of this fact, stating the reason for the unavailability and the estimated date that such file will become available.

13. For the foregoing reasons § 22.15(b)(2) is hereby amended with clarifying language as set out in the Order. This amendment will become effective on May 21, 1981. The petition for reconsideration filed by Ernest R. Freeman is DENIED and the request for stay filed by Ernest R. Freeman is dismissed. Memorandum Opinion and Order, Mimeo 27848, released July 30, 1980, is hereby affirmed.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Section 22.15(b)(2), Title 47, of the Code of Federal Regulations (47 CFR), is revised to read as follows:

§ 22.15 Technical Content of Applications.

* * * * *

(b) * * *

(2) Contain interference studies demonstrating that the proposed facilities will not cause harmful electrical interference to those co-channel facilities (existing or proposed) identified in response to paragraph (b)(1) of this section. The interference studies must use procedures consistent with § 22.504 and FCC Report No. R-6406, "Technical Factors Affecting the Assignment of Facilities In The Domestic Public Land Mobile Radio Service", by Roger B. Carey. Any other interference studies utilizing other procedures, which the applicant believes the Commission should consider, may also be submitted, along with the above required study, and will be considered in accordance with *Public Notice*, May 2, 1980, Mimeo 30893, 45 FR 30202 (47 RR 2d 666 (1980)). All supporting data and calculations must be included with the results of the studies.

[FR Doc. 81-11601 Filed 4-17-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

Modification of 500 kHz Automatic Alarm Receiver in the Maritime Mobile Service; Extension of Time

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has indefinitely extended the time within which to complete modification of the 500 kHz automatic alarm receiver in the maritime mobile service. This action was taken in order to permit the required modification to coincide with another contemplated modification.

EFFECTIVE DATE: April 23, 1981.

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

FOR FURTHER INFORMATION CONTACT: Walter E. Weaver, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 83 to extend the date for compliance with the requirements of § 83.554(a)(1)(i).

Adopted: April 8, 1981.

Released: April 13, 1981.

1. The Chief, Private Radio Bureau hereby extends the mandatory date of July 1, 1981, appearing in subdivisions (a) and (b) of Section 83.554(a)(1)(i) of the rules. The date of July 1, 1981, applies to the requirement for completion of modifications of internal timing circuitry within the 500 kHz automatic alarm receiver.[1] These requirements were adopted in the proceeding in Docket No. 20148.[2]

2. This action results from Commission action in the Eighth Notice of Inquiry in Docket No. 20271. In the Eighth Notice of Inquiry the Commission proposed that the international Radio Regulations be amended to reduce the guard band for 500 kHz from 490–510 kHz to 495–505 kHz. This proposal was adopted at the 1979 World Administrative Radio Conference. The purpose of the reduction is to effect improved efficiency in use of the radio spectrum. Implementation of this guard band reduction necessitates a corresponding modification of the 500 kHz automatic alarm receiver.

3. The modifications of the auto-alarm receiver will be implemented by complete replacement of the receiver, in some cases, and by modification in others.

4. By Order released November 2, 1978, FCC 78-759, the Commission authorized the Chief, Private Radio Bureau (then the Safety and Special Radio Services Bureau) to extend the effective date beyond July 1, 1981, if he determined such an extension appropriate. Because certain technical characteristics have yet to be worked out such an extension is appropriate.

5. The amendment adopted herein merely extends an exception to certain technical requirements on auto-alarms and as such is considered a minor amendment. Hence, the notice and public procedure provisions of U.S.C. 553 are unnecessary. Accordingly, it is ordered, That pursuant to the authority contained in Sections 4(i) and 303 (e), (f) and (r) of the Communications Act of 1934, as amended, Part 83 of the Commission's Rules is amended effective April 23, 1981, as set forth in the attached Appendix.

6. Regarding questions on matters covered by this document contact Walter E. Weaver (202) 632-7175, Federal Communications Commission.

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

Carlos V. Roberts,

Chief, Private Radio Bureau.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATION ON SHIPBOARD IN THE MARITIME SERVICES

In § 83.554(a)(1)(i), paragraphs (*a*) and (*b*) are revised to read as follows:

§ 83.554 Requirements for radiotelegraph auto alarm.

(a) * * *

(1) *Basic technical requirements.*

(i) * * *

(*a*) Auto alarms of the non-digital type employing resistance-capacitance timing covered by type approval granted before October 1, 1969, and placed in service on or before January 1, 1975, need only satisfy the following less stringent rejection limits: the auto alarm shall not

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[1] These are radio devices, usually unattended, which are capable of receiving over the air an alarm signal transmitted by a distant ship or shore station; they are designed to respond to the signal by actuating an alerting device such as a bell at a location where a watch stander is persent. The alarm signal is a radio wave made up, ideally, of twelve four-second dashes separated from each other by one-second spaces.

[2] The Report and Order released May 1, 1975; FCC 75-442; 52 FCC 2d 818; 40 FR 19644.