cause for the regulations to take effect without proposed rule making. Further, in accordance with 5 U.S.C. 553(d)(3), the Bureau finds good cause for the regulations to be effective upon publication, since otherwise, allotments of funds to schools would be delayed.

The policy of the Bureau is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this interim rule to the location identified in the Address section of this preamble. Comments must be received on or before the date specified in the **DATE** section of this preamble.

The Bureau of Indian Affairs has determined that this rule is not a major rule within the terms of Executive Order 12291 because it will not have a major effect on the economy and will not result in a major increase in costs or prices for consumer, individual industries, Federal, State or local government agencies or geographic regions. Furthermore, because of these factors, it does not have a significant economic effect on a substantial number of small entities within the terms of the Regulatory Flexibility Act.

This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.*

The primary author of this document is Nancy Garrett, Deputy Director, Office of Indian Education Programs, 18th and "C" Streets, NW., Washington, DC 20240, (202) 343-2123.

List of Subjects in 25 CFR Part 39

Indian education, Schools, Grant programs—education, Grant programs—Indians.

PART 39—THE INDIAN SCHOOL EQUALIZATION PROGRAM

25 CFR Part 39 is amended as follows:

1. In § 39.30, paragraphs (b) and (c) are revised as set forth below, and paragraphs (d), (e) and (f) are removed.

§ 39.30 Definitions.

* * * * *

(b) "Count week" means the last full week in September for the purposes of calculating allotments.

(c) "Student classification" means any special student need area that receives a separate weighting through the Indian School Equalization Formula.

2. Section 39.32 is revised to read as follows:

§ 39.32 Annual computation of average daily membership.

(a) Average daily membership (ADM) as defined in § 39.2(f) shall be determined during the last full school week in September during which all students eligible under the definition shall be counted by student program classification.

(b) The Director shall direct the receipt and management of information necessary to obtain timely ADM reports from schools. Agency education offices and, in the case of off-reservation boarding schools, Area education offices together with each school's supervisor and school board chairperson where a board exists shall be responsible for certifying the validity of each school's student counts. The September ADM will be used to determine final allotments for the school year.

3. Section 39.35 is revised to read as follows:

§ 39.35 Computation of average daily membership (ADM) for tentative allotments.

Tentative allotments for each future year's funding shall be based on the ADM for the September count week of the current year.

4. Section 39.36 is revised to read as follows:

§ 39.36 Declining enrollment provision.

If the decline of a school's average daily membership exceeds ten percent in any given school year, the school may elect to request funding based on the average of the current and previous years' September ADM count.

5. In § 39.50 paragraph (d) "Initial allotments" is redesignated as paragraph (e) and revised; a new paragraph (d) "Final allotment" is added; paragraph (e) "Responsible fiscal agent" is redesignated as paragraph (f) with no change, and paragraph (f) "Tentative allotments" is redesignated as paragraph (g) and revised to read as follows:

§ 39.50 Definitions.

* * * * *

(d) "Final allotment" means that notice of funds available to schools, based on the September student count as computed through the Indian School Equalization Formula (ISEF) based on full distribution of Indian School Equalization Program (ISEP) funds available for the fiscal year.

(e) "Initial allotment" means that notice of funds available to schools based on the September student count as computed through the Indian School Equalization Formula prior to any adjustments due to fluctuating student counts.

* * * * *

(g) "Tentative allotment" means that notice of funds available to schools based on the September student count as computed through the Indian School Equalization Formula based on a proposed appropriation in the President's budget for the next fiscal year.

6. Section 39.51 is revised to read as follows:

§ 39.51 Notice of allotments.

The Director shall notify school administrators and boards of allotments of funds based on the September ADM count established under Subpart B of this Part according to the following schedule:

(a) Tentative allotments shall be made by March 15 of the prior fiscal year;

(b) Initial allotments shall be made not later than November 15 of the fiscal year; and

(c) Final allotments shall be made not later than January 15 of the fiscal year.

Dated: September 7, 1984.

Ken Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-24077 Filed 9-14-84; 8:45 am]

BILLING CODE 4310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[A-8-FRL-2671-1]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants Delegation of Authority in Region VIII

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice is to clear up any confusion which may have arisen concerning the specific subparts of the Federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) which are delegated to each of the States in EPA Region VIII to enforce. These States are Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.

EFFECTIVE DATE: September 17, 1984.

FOR FURTHER INFORMATION CONTACT: Dale M. Wells, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 844–6131.

SUPPLEMENTARY INFORMATION: The New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) are Federal regulations for industries and pollutants of national concern. These regulations were first promulgated in 1971 and have been delegated to the States for enforcement since 1974. The list of affected industries has grown each year, however, and not all industries have a potential for locating in each of the States. As each new subpart has been added, every State has not always adopted an equivalent regulation to enable State enforcement.

The State of Utah has incorporated by reference all present and future NSPS and NESHAPS regulations and does have the authority and resources to enforce them. Utah will automatically receive delegation of each new NSPS and NESHAPS subpart, as it is promulgated. The other States must adopt an equivalent State regulation prior to delegation.

The lists below indicate the delegation status of each State in Region VIII for each NSPS and NESHAPS subpart. This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act.

(Secs. 111 and 112, 42 U.S.C. 7412 of the Clean Air Act)

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: August 8, 1984.

John G. Welles,

Regional Administrator.

PART 60—[AMENDED]

Title 40, Part 60 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

§ 60.4 [Amended]

In § 60.4 the table below is added as follows:

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS FOR REGION VIII

Subpart	State					
	Colorado	Montana	North Dakota	South Dakota	Utah	Wyoming
A General provisions	*	*	*	*	*	
D Fossil fuel fired steam generating units constructed after 8/17/71	*	*	*	*	*	*
Da Electric utility steam generating units constructed after 9/18/75	*	*	*	*	*	*
E Incinerators	*	*	*	*	*	*
F Portland cement plants	*	*	*	*	*	*
G Nitric acid plants	*	*	*	*	*	*
H Sulfuric acid plants	*	*	*	*	*	*
I Asphalt concrete plants	*	*	*	*	*	*
J Petroleum refineries	*	*	*	*	*	*
K Storage vessels for petroleum liquids constructed after 6/11/73 prior to 5/19/78	*	*	*	*	*	*
Ka Storage vessels for petroleum liquids constructed after 5/18/78	*	*			*	*
L Secondary lead smelters	*	*			*	*
M Secondary brass and bronze ingot production	*	*			*	*
N Iron and steel plants	*	*			*	*
O Sewage treatment plants	*	*	*	*	*	*
P Primary copper smelters	*	*			*	*
Q Primary zinc smelters	*	*			*	*
R Primary lead smelters	*	*			*	*
S Primary aluminum reduction plants	*	*			*	*
T Phosphate fertilizer industry: Wet process phosphoric acid plants	*	*	*		*	*
U Phosphate fertilizer industry: Super phosporic acid plants	*	*	*		*	*
V Phosphate fertilizer industry: Diammonium phosphate plant	*	*	*		*	*
W Phosphate fertilizer Industry: Triple super phosphate plant	*	*	*		*	*
X Phosphate fertilizer industry: Granular triple supper phosphate storage facilities	*	*	*		*	*
Y Coal preparation plants	*	*	*	*	*	*
Z Ferralloy production facilities	*	*			*	*
AA Steel plants: Electric arc furnaces	*	*			*	*
BB Kraft pulp mills	*	*			*	*
CC Glass manufacturing plants	*	*			*	*
DD Grain elevators	*	*	*	*	*	*
EE Surface coating of metal furniture	*	*			*	*
GG Stationary gas turbines	*	*	*	*	*	*
HH Lime manufacturing plants	*	*	*	*	*	*
KK Lead—acid battery manufacturing plants	*				*	*
LL Metalic minerals					*	*
MM Automobile and light duty surface coating operations	*	*			*	*
NN Phosphate rock plants	*				*	*
PP Ammonium sulfate manufacturing	*	*			*	*
QQ Graphic Arts: Publication rotogravure printing	*				*	*
SS Industrial surface coating: Large appliances	*				*	*
TT Metal coil surface coating	*				*	*
UU Asphalt processing and roofing manufacture	*				*	*
VV Synthetic organic chemical manufacturing: Equipment leaks of VOC					*	
WW Beverage can coating	*				*	
XX Bulk gasoline terminals	*				*	
HHH Synthetic fiber production					*	

* Indicates delegation.

PART 61—[AMENDED]

Title 40, Part 61 of the Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

§ 61.04 [Amended]

In § 61.04 the table below is added as follows:

DELEGATION STATUS OF NATIONAL EMISSION STANDARDS FOR HAZARDSOUS AIR POLLUTANTS (NESHAPS) IN REGION VIII

Subpart	State					
	Colorado	Montana	North Dakota	South Dakota	Utah	Wyoming
A General provisions	(*)		(*)		(*)	
B Asbestos	(*)		(*)		(*)	
C Beryllium	(*)		(*)		(*)	
D Beryllium rocket motor firing	(*)		(*)		(*)	
E Mercury	(*)		(*)		(*)	
F Vinyl chloride	(*)		(*)		(*)	

*Indicates delegation.

[FR Doc. 84-24494 Filed 9-14-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-8-FRL-2671-6]

Designation of Areas of Air Quality Planning Purposes; Attainment Status Redesignation; Utah

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rule.

SUMMARY: The EPA gives notice that the final rule approving the redesignation of the attainment status for Salt Lake County and Utah County from non-attainment to attainment for total suspended particulates (TSP) on July 11, 1984 (49 FR 28243) has been withdrawn. Information received from the Utah Air Conservation Committee indicates that these Counties have exceeded primary and secondary TSP NAAQS in 1984. This action does not affect any other part of the notice, i.e., approval of the Utah State Implementation Plan for TSP, lifting of the construction moratorium for TSP in Salt Lake County, and the correction in the December 21, 1983 (48 FR 58378) approval of the Utah carbon monoxide plan for Provo, Utah.

EFFECTIVE DATE: This action is effective on September 10, 1984.

ADDRESS: Copy of the State submittal is available for public inspection during normal business hours at: Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 844-3471.

SUPPLEMENTARY INFORMATION: On December 2, 1983 (48 FR 54348), following a request from the State of Utah, EPA redesignated several areas in Utah from non-attainment to attainment for TSP under Section 107 of the Clean Air Act. In that action, EPA declined to redesignate Salt Lake and Utah Counties. Salt Lake County did not have an approved Part D SIP. Utah County was designated non-attainment because of violations caused by the U.S. Steel facility.

Subsequent submittals by the State indicated that the last measured violation of primary standards in Utah and Salt Lake Counties occurred in 1980 and the last measured violation of the secondary standard occurred in 1981.

On July 11, 1984 (49 FR 28243), EPA published a final rulemaking approving the Utah State Implementation Plant for TSP for Salt Lake County and lifted the construction moritorium for TSP in Salt Lake County. That action also redesignated Salt Lake and Utah Counties to attainment for TSP.

On August 10, 1984, EPA received comments from Dr. J.R. Macfarlane, Chairman of the Utah Air Conservation Committee stating that TSP data for Salt Lake and Utah Counties show exceedances of primary and secondary NAAQS for first quarter (Jan.-Mar.) of 1984.

Because the new data suggests that the redesignation to attainment is inappropriate, EPA is withdrawing that portion of the July 11, 1984 (49 FR 28243) action regarding redesignation of Salt Lake and Utah Counties to attainment for TSP. EPA is doing so without providing prior notice and opportunity to comment because it finds there is good cause within the meaning of 5 U.S.C. 553(b) to do so. Notice and comment will be impractical because EPA needs to withdraw its approval quickly in order to consider the comments from the State. In addition, further notice is not necessary because EPA has already informed the public it would follow this procedure if adverse or critical comments were received by August 10, 1984. For the same reasons, EPA finds it has good cause under 5 U.S.C. 553(b) to make this withdrawal immediately effective.

EPA will review the State's submittal and determine the course of action. After review and consultation with the State, another notice will be published announcing new rulemaking on this issue and provide time for public comment.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

This rulemaking is issued under the authority of Section 107, 110, 172 and 176 of the Clean Air Act (42 U.S.C. 7407, 7410, 7502 and 7506).

Dated: September 10, 1984.

Alvin L. Alm,

Acting Administrator.

Therefore, the amendment to § 81.345 appearing at 49 FR 28243, July 11, 1984 which was to become effective September 10, 1984 is withdrawn.

[FR Doc. 84-24498 Filed 9-14-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 84-32]

Rules Governing Agreements by Ocean Common Carriers and Other Persons

AGENCY: Federal Maritime Commission.

ACTION: Interim rule and request for comments.

SUMMARY: This rule states the Commission's policy that an agreement filed pursuant to the Shipping Act of 1984 must be definite, complete and specific with regard to the authority contained therein. The rule establishes guidelines for distinguishing between impermissible open-ended authority and allowable interstitial authority. This statement of policy and rule is necessary to enable the Commission to evaluate the impact of an agreement, to monitor its operations, and to clarify the scope of the antitrust immunity contained therein.

DATE: Interim rule effective upon publication. Comments on or before October 17, 1984.

ADDRESS: Address comments (original and 20 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5740.

Joseph C. Polking, Director, Bureau of Agreements and Trade Monitoring, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5787.

SUPPLEMENTARY INFORMATION: The Shipping Act of 1984 (46 U.S.C. app. 1701-1720) (hereinafter referred to as "the Act" or "the 1984 Act") requires the Commission to conduct both a technical and substantive review of agreements filed pursuant to section 5 of the Act (46 U.S.C. app. 1704). Section 5 requires that a true copy of every agreement within the scope of the Act be filed with the Commission. Under section 6(b) of the Act (46 U.S.C. app. 1705(b)), the Commission must conduct a preliminary review to determine whether an agreement meets the requirements of section 5. The Commission is authorized to reject agreements that do not meet these requirements. Under section 6(g) (46 U.S.C. app. 1705(g)), the Commission must review an agreement to determine whether it is substantially anticompetitive and is likely to result in an unreasonable reduction in transportation service or an unreasonable increase in transportation cost. In performing its review functions under section 6, the Commission must observe strict timeframes which are mandated by statute.

The 1984 Act also places an obligation on the Commission to monitor operations conducted pursuant to an agreement. In this regard, the Commission's responsibility to evaluate an agreement under section 6(g) continues after an agreement becomes effective. In addition, section 10 of the Act (46 U.S.C. app. 1709) enumerates certain acts which are prohibited. Section 10(a)(2) prohibits a person from operating under an agreement required to be filed under section 5 that has not become effective under section 6. Section 10(a)(3) prohibits a person from operating under an agreement required to be filed under section 5 except in accordance with the terms of the agreement.

Section 7 of the Act (46 U.S.C. app. 1706) provides for an exemption from the antitrust laws for certain enumerated categories of agreements. Section 7(a)(2) states, in relevant part, that the antitrust laws do not apply to:

> * * * any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act, undertaken or entered into with a reasonable basis to conclude that (A) it is pursuant to an agreement on file with the Commission and in effect when the activity took place * * *.

In order to ensure that the Commission may adequately fulfill its responsibilities under the Act to review and monitor agreements and to ensure that agreements are stated with sufficient precision to determine the scope of the antitrust immunity conferred upon them, the Commission is amending its rules governing agreements by ocean common carriers and other persons subject to the Act (46 CFR Part 572).[1] These amendments consist of a new rule stating Commission policy regarding the clarity, completeness and specificity required of agreements and a new rule which distinguishes between impermissible open-ended authority and allowable interstitial authority.

I. Addition to Subpart A—General Provisions

Section 572.103 Policies.

The addition to Subpart A, § 572.103, adds a new paragraph (g) which states Commission policy regarding the clarity, completeness and specificity required in agreements. An agreement filed under the Shipping Act of 1984 must be clear and definite in its terms, must embody the complete present understanding of the parties and must set forth the specific authorities and conditions under which the members of the agreement will conduct their operations and regulate the relationships among the agreement members.

An agreement should be sufficiently clear and definite in its essential terms so as to apprise the Commission of the activities which will be undertaken pursuant to the agreement so that the Commission may evaluate its probable economic impact. At the same time, the Commission does not interpret the 1984 Act to require agreements to be drafted to a degree of exactitude that deprives the parties of a reasonable extent of commercial flexibility—within clearly defined parameters—to respond to changing trade conditions.

One purpose of this policy is to ensure that the Commission may fulfill its responsibility to review an agreement prior to its effectiveness. Under section 6(g) of the Act, the Commission is charged with making an analysis of the competitive impact of an agreement. This evaluation would be made difficult or impossible where an agreement is vague, incomplete or contains open-ended authority.

A second purpose of this policy is to enable the Commission to monitor operations under an agreement once it has gone into effect. The Commission's role as a monitoring agency has been heightened under the 1984 Act which generally allows most agreements to go into effect after a brief waiting period. Because of this shift in emphasis in the regulatory regime, it becomes even more important to have an agreement which is clear, complete and definite. In this regard, it should be noted that section 10(a)(2) prohibits any person from operating under an agreement that has not become effective and that section 10(a)(3) prohibits any person from operating under an agreement except in

[1] On May 29, 1984, the Commission published Interim Rules which implement those provisions of the Shipping Act of 1984 which govern agreements by ocean common carriers and other persons subject to the Act (49 FR 22296). These rules were issued pursuant to authority contained in section 17(b) of the Act (46 U.S.C. app. 1716(b)) to issue interim rules without observing the normal notice and comment procedures required by the Administrative Procedure Act (5 U.S.C. 553). The preamble to these rules stated that persons could file emergency comments prior to the effective date for consideration by the Commission. A number of such comments were received, and on June 14, 1984, the Commission published amendments to its interim agreements' rules making certain modifications and corrections in these rules (49 FR 24697). These Interim Rules, as amended, went into effect on June 18, 1984. They are codified in Title 46 of the Code of Federal Regulations at Part 572.

accordance with its terms. It is, therefore, also in the interest of the parties to an agreement to state their agreement with precision.

Finally, agreement authority should be stated completely and specifically in order to avoid, to the maximum degree possible, any ambiguity concerning antitrust immunity for any activity conducted under the agreement. Exemptions from the antitrust laws are generally strictly and narrowly construed. The 1984 Act, however, extends antitrust immunity to an activity undertaken or entered into "with a reasonable basis to conclude that it is pursuant to an agreement on file with the Commission and in effect when the activity took place." The risk of assuming that a particular activity is pursuant to a stated authority is one that is undertaken by the parties to an agreement. In order for the parties to avoid difficult issues regarding the scope of antitrust coverage, the Commission believes it is best that agreement activities and authorities be stated as clearly as possible.

The Shipping Act of 1984 does not affect previously established Commission policy regarding the clarity, completeness and specificity required in agreements. Accordingly, the new policy statement in § 572.103(g) merely represents a codification of that established policy. There is, however, a greater need for such a restatement of policy under the 1984 Act to enable the Commission to carry out its review functions within strict statutory deadlines and adequately monitor subsequent operations.

II. Addition to Subpart D—Filing and Form of Agreements

Section 572.406 Clear and definite agreements.

The addition to Subpart D adds a new § 572.406 which establishes guidelines for the completeness required of agreements and distinguishes between impermissible open-ended authority and permitted interstitial authority.

Section 572.406(a) requires that an agreement reflect the full and complete *present* understanding of the parties as to its essential terms. The agreement must set forth in adequate detail the procedures and arrangements under which the activity permitted by the agreement is to take place once the agreement becomes effective. For example, an agreement which merely stated that the parties are authorized "to operate a joint service," without indicating the number, or range of vessels, committed to the service would not be deemed to reflect the full understanding of the parties. Such a deficiency would defeat any meaningful Commission review. Similarly, a statement in a joint service agreement which authorized the parties to "acquire substitute or additional tonnage" would result in a situation where the Commission would be unable to evaluate the economic impact of the agreement on the trade under section 6(g). Finally, a filed agreement which referred to or was governed by another agreement not filed with the Commission would be incomplete. It should be noted that operation under an agreement which is incomplete may constitute a violation of section 10(a)(3) of the Act.

Section 572.406(a) also requires that agreements be specific as to the understanding of the parties. Agreements should specify the authority of the agreement and the activities to be conducted under it. The rule does not contemplate that every activity be enumerated in detail. However, general grants of authority which do not specify the activities under the agreement are not favored. For example, an agreement which, as its authority, merely recited the statutory language of section 4(a)(1)–(7) of the Act would require some further clarification. Otherwise, review of such an agreement would be virtually meaningless. Such general statements of authority, even where clarified by subsequent refinement, should be avoided.

Section 572.406(b) proscribes the use of clauses in agreements which contain open-ended authority unless such provisions expressly state that any further such agreement cannot become operative unless filed and effective under the 1984 Act. A problem of open-ended authority arises where an agreement allows for *future* substantive modification of an agreement without specifically requiring filing under section 5. Such general authority to make future modifications without filing with the Commission would subvert the Commission's ability to review and monitor an agreement. Because any such future modifications to an agreement would generally become effective within 45 days after the amendment is filed with the Commission, there is no undue burden or delay in gaining effectiveness of an agreement.

Section 572.406(c) provides that activities which may reasonably be viewed as interstitial to a stated agreement authority need not be expressly stated. For example, authority to establish OCP rates would be viewed as interstitial to general ratemaking authority. However, establishment of a tariffed contract rate system would not be interstitial. Changes in the terms and conditions of a charter party underlying a space charter agreement would generally be interstitial. However, changes in the number of vessels (or range of number of vessels) and definition of vessel capacity (or range of capacities) dedicated in a joint service or space charter agreement would not. The rule allows flexibility to make changes for tariff matters or routine operational and administrative matters having no anticompetitive effect.

The rule does not state how the Commission will treat an agreement that is not sufficiently specific, complete and definite. In most cases, such deficiencies could probably be corrected through informal discussions between the Commission's staff and the parties. An agreement which is severely deficient, however, may be rejected, investigated or subject to a formal request for additional information or to challenge in the court under section 11(h) of the Act.

III. Conclusion

This rule is being published as an interim rule, pursuant to section 17(b) of the Act, with opportunity for comment. It will become effective on publication and will serve as an interim rule until such time as a final rule supersedes it. All interested persons have been provided 30 days to comment on the interim rule. This interim rule and all comments filed within the 30-day period will be used as the basis for a final rule pursuant to the requirements of the Administrative Procedure Act (5 U.S.C. 553).

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that these rules will not have a significant economic impact on a substantial number of small entities, within the meaning of that Act.

OMB clearance for the interim rules in 46 CFR Part 572 has been granted under OMB Number 3072–0045. These interim amendments will also be submitted, and comments on the information collection aspects of the amendments may be made at the time the interim rules are formally submitted to OMB as Final Rules.

List of Subjects in 46 CFR Part 572

Antitrust, Contracts, Maritime carriers.

PART 572—[AMENDED]

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 5, 6, 7, 10 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1704, 1705, 1706, 1709, 1716), the Federal Maritime Commission hereby amends Title 46, Code of Federal Regulations, Part 572, Subchapter D as follows:

1. In Subpart A, § 572.103, add a new paragraph (g) to read as follows:

§ 572.103 Policies.

* * * * *

(g) An agreement filed under the Shipping Act of 1984 must be clear and definite in its terms, must embody the complete understanding of the parties, and must set forth the specific authorities and conditions under which the parties to the agreement will conduct their present operations and regulate the relationships among the agreement members.

2. In Subpart D, add a new § 572.406 to read as follows:

§ 572.406 Clear and definite agreements.

(a) Any agreement required to be filed by the Act and the rules of this part shall be the complete agreement among the parties and shall specify in detail the substance of the understanding of the parties.

(b) Except as provided in paragraph (c) of this section, open-ended or vague agreement clauses which contemplate a further agreement or give the parties authority to discuss and/or negotiate a further agreement, the terms of which are not fully set forth in the enabling agreement, will be permitted only if the enabling agreement indicates that any such further agreement cannot go into effect unless filed and effective under the Act;

(c) Further specific agreements or understandings which are established pursuant to express enabling authority in an agreement are considered interstitial and are permitted without further filing under section 5 of the Act only when the further agreement concerns: (1) Routine operational or administrative matters which will have no anticompetitive effect; or (2) establishment of tariff rates, rules, and regulations which are routine and ordinary.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-24457 Filed 9-14-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 90, and 94

[PR Docket No. 83-991; FCC 84-414]

Elimination of Outdated or Unnecessary Rules in the Private Land Mobile Radio Services and the Private Operational-Fixed Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order deleting various rules for the Private Land Mobile Radio Services (Part 90) and the Private Operational-Fixed Microwave Service (Part 94) which are outdated or unnecessary to the efficient administration of the subject services. This action is part of the Commission's ongoing Regulatory Review Program, which seeks to remove those rules which may no longer be necessary.

EFFECTIVE DATE: October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Harold Salters, Private Radio Bureau (202) 632-7597.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 90

Private land mobile radio services, Radio.

47 CFR Part 94

Radio.

Report and Order

In the matter of amendment of Parts 1, 90 and 94 of the Commission's Rules to eliminate outdated and unnecessary rules; PR Docket No. 83-991.

Adopted: September 5, 1984.
Released: September 11, 1984.

By the Commission.

Introduction and Background

1. On September 9, 1983, the Commission adopted a *Notice of Proposed Rule Making*, pursuant to its Regulatory Review Program, concerning the elimination of those provisions of the Commission's Rules governing the Private Land Mobile Radio Services and the Private Operational-Fixed Microwave Service which were outdated or no longer necessary for the effective regulation of those services.[1] Among other things, the *Notice* proposed the elimination of various notification and filing requirements; the deletion of the frequency set-aside for itinerant operations in the Special Industrial Radio Service and the Business Radio Service; the elimination of certain technical requirements on control stations transmitting on mobile service frequencies; and the consolidation of various rule sections governing emergency communications.

2. Six sets of comments were filed in response to the *Notice* in this proceeding. Commenters were the Association of American Railroads (AAR), the Central Committee on Telecommunications of the American Petroleum Institute (API), Forest Industries Telecommunications (FIT), Motorola, Inc. (Motorola), the National Association of Business and Educational Radio, Inc. (NABER), and the Special Industrial Radio Service Association, Inc. (SIRSA). No reply comments were filed.

Discussion

3. All commenters supported our efforts to eliminate unnecessary restrictions from the Rules codified in 47 CFR Parts 1, 90 and 94 governing the Private Land Mobile Radio Services and the Private Operational-Fixed Microwave Service. Several of the proposals contained in our *Notice* elicited support from the commenting parties; other proposals elicited no comments. We are adopting without further discussion several of the *Notice's* noncontroversial proposals, including: deletion of the rule regarding shared use of broadcast antenna structures (§ 1.915); deletion of the rule regarding rented communications equipment (§ 1.956); deletion of references to private radio applications filed prior to December 12, 1960 (§ 1.962); deletion of the provision permitting applicants participating in an area-wide medical communications plan to file the plan with their applications (§ 90.35); revision of the rule regarding license terms (§ 90.149); deletion of the rule requiring notification of the use of special identifiers in the Public Safety and Special Emergency Radio Services (§ 90.425); deletion of the filing requirement regarding tower maintenance agreements (§ 90.441); assigning the Radiolocation Service a new designator (§ 90.555); deletion of a reference to a non-existent rule (§ 94.31); deletion of the notification requirement regarding discontinued microwave stations (§ 94.53); deletion of the rule requiring notification of the commencement or discontinuance of

[1] *Notice of Proposed Rule Making* (FCC 83-397), released September 22, 1983, 48 FR 43355 (September 23, 1983).

microwave station operation (§ 94.55); and correction of a mis-specified frequency pair (§ 94.90).

4. In our *Notice*, we also proposed the deletion of technical requirements for control stations operating on frequencies in the 450–470 MHz band located within 75 miles of the center of specified urban areas. No comments opposed this proposal. In support, Forest Industries Telecommunications (FIT) stated: "FIT agrees that it is enough that control stations are licensed on a secondary, non-interference basis to mobile service communications." We agree that the retention of these technical restrictions serves no useful purpose and, in addition to removing these technical requirements with respect to control stations in the 450–470 MHz band, we are also adopting the proposed conforming amendments to delete these restrictions on control stations operating in the 800 HMz band.[2]

5. In the *Notice*, we proposed eliminating and/or revising five rule sections in Parts 90 and 94 concerning emergency communications in order to consolidate similar rule provisions and eliminate eight notification requirements. These rules require licensees to notify the Commission and the Engineer in Charge of the Radio District in which the station is located when the licensee's station is used for emergency communications and when such emergency use is terminated. Several commenters supported our proposal; none opposed it. Motorola stated:

> Motorola supports the proposal to eliminate the notification requirement as to the beginning and termination of emergency communications. Since the rules in question * * * were enacted, experience has not shown a need for the notification requirements present in the rules; that is, the great majority of licensees have demonstrated that they can suspend normal operations in the event of an emergency, provide emergency communications, and properly return to their normal authorized communications. The administrative burdens on both licensees and on the Commission related to the notice requirements are not justified.
>
> Similarly, Motorola supports the proposed revisions to § 90.411 * * *. The present rule limits civil defense communications to those which a particular licensee would be eligible to provide under its normal criteria for eligibility. This limitation appears to be either superfluous (since the licensee is already permitted to provide such communications) or counterproductive (defeating the very purpose of the rule, to permit civil defense communications which a licensee might not normally be permitted to provide). There is no reason to anticipate that this added flexibility would result in improper communications by licensees. At any rate, the Commission will, under proposed Section 90.411, have the authority to order the discontinuance of such special use.

We agree, and accordingly adopt revised rules governing emergency communications in the Private Land Mobile Radio Services and the Private Operational-Fixed Microwave Service.[3]

6. The commenters identified only two areas of disagreement with our proposals: itinerant frequency set-asides in the Business and Special Industrial Radio Services and deletion of the prohibition contained in Part 94 against the transmission of program material to cable television systems. Additionally, one commenter proposed additional rules for simplification or elimination which were not contained in the *Notice*.

Itinerant Frequencies

7. In the *Notice*, we proposed to eliminate the last remaining distinctions in the rules between frequencies for permanent area use and frequencies for itinerant operations by making all frequencies in the Business and Special Industrial Radio Services available for operation on a permanent basis. Temporary or wide-area use was proposed to be permitted upon a showing of need. NABER, in its comments, requested clarification of our proposed rule to redesignate the itinerant frequencies for "general" rather than "permanent" use. If such a clarification was not made, NABER indicated that it opposed our proposal because the frequency coordinator "may not be able to confirm the accuracy and quality of the licensee's frequency selection if temporary or wide-area systems were randomly interspersed among the frequencies set aside for permanent area use." Motorola offered similar concerns about this aspect of the *Notice*. SIRSA strongly opposed our proposal, stating:

> Allowing "itinerant" operation on any frequency allocated to the Special Industrial Radio Service, based on a "showing of need" would be tantamount to eliminating frequency coordination in the Special Industrial Radio Service since "itinerant" users could "show up" on any given channel without prior frequency coordination. [Footnote omitted]. Itinerant operations could destroy the value of the Special Industrial Radio Service for more than 45,000 "permanent" use licensees; and it is for this reason, we respectfully submit, that the Commission designated frequencies for "itinerant" users. Contrary to the suggestion made by the Commission in its Notice that continued designation of these frequencies for "itinerant" operations appears to be unnecessary for spectrum management purposes, it is absolutely necessary for spectrum management purposes that the "itinerant" classification remain as presently found in the rules.

While noting that some 1,600 users almost 94,000 mobile transmitters employ itinerant frequencies in the Special Industrial Radio Service, SIRSA went on to conclude:

> Continuing to designate a few channels for "itinerant" use will assure a "home" for users having short term communication requirements over a wide area without causing destructive interference to licensees having more permanent requirements. Adoption of the proposal to amend 690.73 could result in chaotic conditions on any frequency in the Special Industrial Radio Service instead of a limited number of instances of interference that only lasts for a short duration on four assignments where all users realize that interference may be experienced from time to time as users move into and out of a particular geographic area.

8. We are persuaded by the arguments advanced by SIRSA (in which API concurred), along with the reservations expressed by NABER and Motorola, that the public interest is best served by retaining the current rules. We therefore decline to adopt the proposed rules in this matter.

Additional Rule Sections

9. The AAR suggested in its comments that we consider revising or eliminating rule §§ 90.443, 90.445, 90.447 and 94.113 concerning station records; and §§ 90.215 and 94.85 concerning transmitter measurements. In support of its suggestion, AAR states:

> The Commission's regulartory objective would be better served by eliminating the specific "how to do" requirements contained in these rules and relying on the responsibility imposed on all licensees to assure that their radio facilities are operated in accordance with the Commission's rules and the terms and conditions of their licenses.

These comments will be taken under advisement and reviewed along with other comments received in response to our *Notice* in General Docket 84–361[4] regarding rules that will be reviewed pursuant to the Regulatory Flexibility Act of 1980.

Transmission of Program Material to Cable Television Systems

10. In the *Notice*, we proposed to delete § 94.25(h) of our Rules governing the Private Operational-Fixed Microwave Service (POFS). This rule

[2] *See* Appendix, Part 90, paragraphs 4, 7 and 19.

[3] *See* Appendix, Part 90, paragraphs 8–11; Part 94, paragraph 1.

[4] *List of Rules to be Reviewed Pursuant to Section 610 of the Regulatory Flexibility Act During 1983–84*, FCC 84–135, released April 12, 1984. 49 FR 17045 (April 23, 1984).

prohibits the acceptance of applications for authorizations to construct POFS systems for the transmission of program material to cable television systems. In support of our proposal, we noted that the Commission had specifically permitted such service to be provided in the microwave frequency bands above 21,200 MHz.[5]

11. FIT and AAR commented in opposition to our proposal. They believe the prohibition on transmission to cable television systems is still applicable, and, in any case, should not have been proposed to be deleted in the context of a "non-controversial" regulatory review rule making proceeding. FIT presented its argument, stating:

> The substance of § 94.25(h) was adopted in the mid 1960s in Docket 15586 as part of a series of policy decisions regarding the requirements of the cable television industry for microwave relay facilities. In that Docket, the Commission established a new radio service for the cable television industry, the [Community Antenna Relay Service], and also decided to discontinue authorizing cable TV microwave relay systems in the Business Radio Service and later in the Private Operational-Fixed Microwave Service. [Citations omitted]. These decisions are incorporated in Paragraph (h) of § 94.25 and in § 94.9(b)(3). While the Commission, in Docket 19671, eliminated some restrictions against the transmission of video program material by certain private microwave stations, its decision in Docket 19671 was not intended to reopen the Private Operational-Fixed Microwave Service to the cable industry. Therefore, Paragraph (h) should not be eliminated, certainly not in the context of this proceeding which deals only with noncontroversial deletions or revision of clearly outdated or unnecessary rules.

AAR commented in similar fashion to FIT.

12. While FIT accurately describes the origin of rule § 94.25(h), it has misconstrued the Commission's intention in adopting its *Memorandum Opinion and Order* in Docket 19671, *supra*. In that document, which was effective August 1, 1983, we amended § 94.9 governing permissibility of communications to read as follows:

* * * * *

(b) The radio facilities shall not be used for any of the following:

* * * * *

(2) Transmission of program material for use in connection with broadcasting, except that:

(i) The facilities may be used to transmit program material from one location to another, provided that the operational-fixed frequencies do not serve as the final link in the chain of distribution of the program material to *broadcast stations*.

* * * * *

(3) To provide the final link in the chain of transmission of program material to cable television systems, multipoint distribution systems, or master antenna TV systems, *except in the frequency bands above 21,200 MHz*.

[Emphasis added.]

13. Clearly, the rules adopted in Docket 19671 permit the transmission of program material to cable television systems so long as the OFS frequencies above 21.2 GHz are employed. Since the existing provision of § 94.25(h) prohibiting the acceptance of applications to construct OFS stations for transmission of program material to cable television systems is in contradiction to the rules the Commission promulgated in Docket 19671, we are amending it to specify that the prohibition applies only to authorizations for transmission facilities operating in the frequency bands below 21.2 GHz.

Miscellaneous Matters

14. We are taking this opportunity to make several minor editorial changes, such as correcting typographical errors and mis-designated references, and clarifying some rule sections in Parts 90 and 94. With respect to these amendments, which are found in the attached Appendix, we find that good cause exists for dispensing with the notice and comment procedures of the Adminstrative Procedure Act, 5 U.S.C. 553. As these changes involve minor, noncontroversial amendments, public notice and comment is unnecessary. The following subparagraphs set out those editorial changes which did not appear in the *Notice* in this proceeding:

(a) *Section 90.75:* Corrections are made to update references to rule sections whose numbers were changed during our Part 90 consolidation of 1978; to correct a reference to another paragraph in that section; and to correct a reference to Subpart Q, which governs developmental operations.

(b) *Sections 90.360 and 90.611:* Paragraph (d) of each section is clarified to indicate that applications which are dismissed are not always physically returned to the applicant; paragraph (e) of each section is clarified to conform it to § 90.141 governing resubmitted applications for facilities above 470 MHz.

(c) *Sections 90.364, 90.607, 90.627 and 90.631(a):* These rule sections are clarified to indicate that, for purposes of trunked systems loading only, control stations are counted along with vehicular and portable mobile units.[6]

(d) *Section 90.631(b):* This provision is clarified to remove the reference to "waiting lists." For Subpart S frequencies it is not the existence of a waiting list that triggers the "takeback" provision, but rather the fact that all trunked channels in the system's geographic area are assigned.

(e) *Section 90.555:* Typographical errors in the Table at paragraph (b) are corrected.

(f) *Section 90.637:* A typographical error is corrected.

(g) *17 rule sections in Part 90:* In each of 17 rule sections, a reference to Subpart P is corrected to specify Subpart Q, which governs developmental operations.

(h) *Section 94.15:* A typographical error is corrected.

(i) *Section 94.63:* This section is revised to add references to multiple address radio systems which were inadvertently omitted when we adopted rules authorizing these systems.

(j) *Section 94.65:* This section is revised in order to bring it into conformance with the rules we adopted in Docket 19671, *supra*, and in the *Report and Order* in Gen. Docket 80–112, 48 FR 33873 (July 26, 1983).

(k) *Sections 94.67 and 94.71:* These sections are revised in order to bring them into conformance with the rules we adopted in Docket 19671, *supra*, that permit digital transmissions. Hence digital transmission standards are added for frequency tolerance and emission and bandwidth limitations.

Conclusion

15. In summary, the Commission is adopting all material aspects of our *Notice* in this proceeding except that we decline to change the frequency set-aside for itinerant operations in the Business and Special Industrial Radio Services. In adopting these rule amendments, we are eliminating thirteen distinct filing and/or notification requirements to which licensees and applicants were formerly subject, as well as eliminating all technical requirements on control stations operating on a secondary basis and consolidating and simplifying the rules governing emergency communications. Additional amendments of an editorial nature are made to Parts 90 and 94.

16. In the *Notice* adopted in this proceeding, the Commission certified

[5] *Memorandum Opinion and Order*, Docket 19671 (FCC 83–245), released June 23, 1983, 48 FR 32578 (July 18, 1983); *Memorandum Opinion and Order* dismissing pet. recon., Docket 19671 (FCC 84–234), released June 5, 1984. The petition for reconsideration filed in this proceeding did not address the issue of transmission to cable television systems.

[6] *See Memorandum Opinion and Order*, PR Docket 79–191 *et al.*, FCC 83–474, released November 1, 1983, 48 FR 51917 (November 15, 1983) at paragraph 11.

that the rule changes proposed would not have a significant economic impact on a substantial number of small entities. Accordingly, the Commission concluded that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. Therefore, there is no requirement for a final regulatory flexibility analysis of the rule changes now being adopted.

17. Accordingly, it is ordered, that effective October 18, 1984, Parts 1, 90 and 94 of the Commission's Rules, 47 CFR Parts 1, 90 and 94, are amended as shown in the attached Appendix. Authority for this action is found in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

18. It is further ordered, that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 1, 90 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

Subpart F—Private Radio Services Applications and Proceedings

§ 1.915 [Removed]

1. Section 1.915 is removed in its entirety.

§ 1.956 [Removed]

2. Section 1.956 is removed in its entirety.

3. Section 1.962 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 1.962 Public notice of acceptance for filing; petitions to deny applications of specified categories.

(a) Except as qualified in paragraph (b) of this section, the provisions of this section shall apply to all applications for authorizations, and substantial amendments thereof, for the following categories of stations and services:

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

§ 90.35 [Amended]

1. Section 90.35 is amended by removing and reserving paragraph (b).

2. In § 90.75, corrections are made by revising paragraph (c)(39)(x), paragraph (d)(4) and paragraph (e)(2). As corrected, the section reads as follows:

* * * * *

§ 90.75 Business Radio Service.

(c) * * *

(39) * * *

(x) Operational fixed stations authorized under this paragraph are exempt from the requirements of §§ 90.137(b), 90.429(d), 90.425 and 90.433.

* * * * *

(d) * * *

(4) Low-power mobile stations of 100 mW or less output power may be assigned any frequency separated by 12.5 kHz from a regularly assigned frequency in the bands 460.650–460.875 MHz and 465.650–465.875 MHz listed in paragraph (b) of this section, for one-way, non-voice biomedical telemetry operations in hospitals, or in medical or convalescent centers.

(e) * * *

(2) Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz and 37.00–37.01 MHz are available for assignment to applicants in this service subject to the provisions of Subpart Q.

* * * * *

3. In § 90.149, paragraph (a) is amended as set forth below and paragraph (b) is corrected by changing the phrase "Subpart P" to read "Subpart Q".

§ 90.149 License term.

(a) Licenses for stations authorized under this part will be issued for a term not to exceed five years from the date of the original issuance, modification or renewal.

* * * * *

4. In § 90.249, paragraph (a)(2) is revised as set forth below to delete the reference to paragraph (b) and paragraph (b) is removed and marked [Reserved].

§ 90.249 Control stations.

* * * * *

(a) * * *

(2) A control station associated with mobile relay station(s) may, at the option of the applicant, be assigned the frequency of the associated mobile station. In the Railroad Radio Service such a control station may be assigned any mobile service frequency available for assignment to mobile stations in that service. Such operation is on a secondary basis to use of the frequency for regular mobile service communications.

* * * * *

(b) [Reserved]

* * * * *

5. In § 90.360, paragraphs (d) and (e) are revised to read as follows:

§ 90.360 Processing of applications.

* * * * *

(d) An application which is dismissed will lose its place in the processing line.

(e) If an application is returned for correction and resubmitted and received by the Commission within 30 days from the date on which it was returned to the applicant, it will retain its place in the processing line. If it is not received within 30 days it will lose its place in the processing line.

6. Section 90.364, is amended by revising paragraph (b)(2) and adding new paragraph (b)(3) to read as follows:

§ 90.364 Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.

* * * * *

(b) * * *

(2) The licensee's existing trunked system(s) authorized on or before October 16, 1982 is loaded to at least 80% of its authorized capacity of vehicular and portable mobile units and control stations.

(3) The licensee's existing trunked system(s) authorized after October 16, 1982 is loaded to at least 80 vehicular and portable mobile units and control stations per channel.

§ 90.376 [Amended]

7. In § 90.376, paragraphs (a)(2), (a)(3) and (a)(4) are removed. Paragraph (a)(1) is redesignated paragraph (b).

8. Section 90.407 is revised to read as follows:

§ 90.407 Emergency communications.

The licensee of any station authorized under this part may, during a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake or similar disaster, utilize such station for emergency communications in a manner other than that specified in the station authorization or in the rules and regulations governing the operation of such stations. The Commission may at any time order the discontinuance of such special use of the authorized facilities.

§ 90.409 [Removed]

9. Section 90.409 is removed in its entirety.

10. Section 90.411 is revised to read as follows:

§ 90.411 Civil defense communications.

The licensee of any station authorized under this part may, on a voluntary basis, transmit communications

necessary for the implementation of civil defense activities assigned such station by local civil defense authorities during an actual or simulated emergency, including drills and tests. The Commission may at any time order the discontinuance of such special use of the authorized facilities.

§ 90.413 [Removed]

11. Section 90.413 is removed in its entirety.

12. Section 90.425 is amended by revising paragraph (a)(4)(i) to read as follows:

§ 90.425 Station identification.

* * * * *

(a) * * *

(4) * * *

(i) In the Public Safety and Special Emergency Radio Services, mobile units licensed to a governmental entity and which operate on frequencies above 30 MHz may use an indentifier which contains, at a minimum, the name of the licensee if the licensee maintains at the station a list of the special identifier(s) to be used by the mobile units.

* * * * *

13. Section 90.441 is revised to read as follows:

§ 90.441 Inspection and maintenance of tower marking and associated control equipment.

* * * * *

(b) Licensees operating stations licensed under this part which share a tower used for antenna and/or antenna supporting purposes with other licensees under this chapter may designate in writing one licensee or a nonlicensed agent to be responsible for maintenance and inspection of the tower and maintenance of the inspection log. In such cases, a copy of the agreement must be kept in each participating licensee's station records.

14. Section 90.555 is amended as follows:

A. In paragraph (a), revise the entries under the heading "Industrial Services", and add a new heading "Radiolocation" and entry just after the entries for Industrial Services to read as set forth below.

B. In the table to paragraph (b), redesignate all references to "IR", as "RS", and also, under Megahertz, revise the entries "39.44–39.50 to read as set forth below:

§ 90.555 Combined frequency listing.

(a) * * *

Industrial Services

IB—Business.
IF—Forest products.
IM—Motion picture.
IP—Petroleum.
IS—Special industrial.
IT—Telephone maintenance.
IW—Power.
IX—Manufacturers.
IY—Relay press.

Radiolocation Service

RS—Radiolocation.

Land Transportation Services

* * * * *

(b) * * *

Frequency	Services	Special limitations
*	* * * *	
39.44	PP	
39.46	PP	Intersystems operation.
39.48	PP	
39.50	PL, PP	
*	* * * *	

15. In § 90.607, paragraph (c)(2) is revised to read as follows:

§ 90.607 Supplemental information to be furnished by applicants for facilities under this subpart.

* * * * *

(c) * * *

(2) Specify the number of vehicular and portable mobile units and control stations to be placed in operation within the term of the license.

* * * * *

16. In § 90.611, paragraphs (d) and (e) are revised to read as follows:

§ 90.611 Processing of applications.

* * * * *

(d) An application which is dismissed will lose its place in the processing line.

(e) If an application is returned for correction and resubmitted and received by the Commission within 30 days from the date on which it was returned to the applicant, it will retain its place in the processing line. If it is not received within 30 days it will lose its place in the processing line.

17. In § 90.627, paragraph (b)(2) is revised to read as follows:

§ 90.627 Limitation on the number of frequency pairs that may be assignable for trunked systems and on the number of trunked systems.

* * * * *

(b) * * *

(2) The licensee's existing trunked system is loaded to at least 80 vehicular and portable mobile units and control stations per channel.

18. In § 90.631, paragraphs (a) and (b) are revised to read as follows:

§ 90.631 Trunked systems loading requirements.

(a) Trunked systems will be authorized on the basis of a loading criterion of 100 mobile stations per channel. For purposes of determining compliance with trunked system loading requirements under this subpart, the term "mobile station" includes vehicular and portable mobile units and control stations.

(b) Each applicant for a trunked system shall certify that a minimum of 60 mobiles for each channel authorized will be placed in operation within three years of initial license grant, and that a minimum of 80 mobiles for each channel authorized will be placed in operation within five years of initial license grant. If at the end of three years or five years a trunked system is not loaded to the prescribed levels and all trunked channels are assigned in the system's geographic area, authorization for channels not loaded to 100 mobile stations cancels automatically. All licenses are subject to this condition.

* * * * *

§ 90.637 [Amended]

19. In § 90.637, paragraphs (a)(2), (a)(3) and (a)(4) are removed. Paragraph (a)(1) is redesignated paragraph (b). In new paragraph (b), the last word "communication" is corrected to read "communications".

20. In each of the following rule sections, a correction is made by revising the phrase "Subpart P" to read "Subpart Q".

Sections

90.19(f)(4)
90.23(d)(2)
90.25(d)(4)
90.53(c)(4)
90.63(a)(2)
90.67(e)(2)
90.69(e)(2)
90.71(e)(2)
90.73(f)(2)
90.79(d)(18)
90.79(f)(2)
90.81(f)(2)
90.89(d)(3)
90.91(d)(5)
90.93(c)(9)
90.95(d)(14)
90.95(e)(3)

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

1. In § 94.11, paragraph (b) is revised to read as follows:

§ 94.11 Points of communication.

* * * * *

(b) *Emergency communications.* During a period of emergency in which the normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, stations may be used for emergency

communications unrelated to the licensee's activities. The Commission may at any time order discontinuance of such special use of the authorized facilities.

§ 94.15 [Corrected]

2. In § 94.15, paragraph (a) is amended by changing the word "as" in the first sentence to "are".

3. In § 94.25, paragraph (b) is revised and paragraph (h) is revised as set forth below:

§ 94.25 Filing of applications.

* * * * *

(b) Every application for a radio station authorization and all correspondence relating thereto, shall be filed with the Commission's offices in Gettysburg, Pennsylvania and shall be addressed to: Federal Communications Commission, Gettysburg, Pennsylvania 17325.

* * * * *

(h) Applications for authorizations to construct microwave operational-fixed radio stations for transmission of program material to cable television systems will not be accepted, except in the frequency bands above 21,200 MHz.

* * * * *

§ 94.31 [Amended]

4. In § 94.31, paragraph (g) is removed and marked [Reserved].

5. Section 94.53 is revised to read as follows:

§ 94.53 Discontinuance of station operation.

In case of permanent discontinuance of a station licensed under this part, the licensee shall forward the station license to the Federal Communications Commission, Gettysburg, Pennsylvania 17325, for cancellation. For purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued.

§ 94.55 [Removed]

6. Section 94.55 is removed in its entirety.

7. Section 94.63 is amended by revising paragraph (b) introductory text to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

* * * * *

(b) The interference protection criteria for operational-fixed stations, other than those licensed on frequencies set out in §§ 94.65(a)(1), 94.90 and 94.91 are as follows:

* * * * *

8. Section 94.65 is amended by revising paragraph (f) and footnotes 1 and 2 to paragraph (f) to read as follows:

§ 94.65 Frequencies.

* * * * *

(f) *2500–2690 MHz:* The channels 2650–2656 MHz, 2662–2668 MHz and 2674–2680 MHz, and the corresponding response frequencies 2686.9375 MHz, 2687.9375 MHz, and 2688.9375 MHz may be assigned for operational-fixed stations. Such assignments are subject to the condition that all operational-fixed stations must comply with the technical standards applicable to stations in the Instructional Television Fixed Service (ITFS) contained in Subpart I of Part 74 of this chapter.[1] Operational-fixed stations authorized in this band as of July 16, 1971 which do not comply with the above provisions may continue to operate at their presently assigned frequencies. Requests for subsequent license renewals or modifications for existing licenses will be considered; however, expansion of systems comprised of such stations will not be permitted.

2650–2656	2686.9375 [2]
2662–2668	2687.9375 [2]
2674–2680	2688.9375 [2]

* * * * *

9. Section 94.67 is amended by revising footnote 2 to the frequency tolerance table to read as follows:

§ 94.67 Frequency tolerance.

* * * * *

[2] In accordance with the technical standards contained in Subpart I, Part 74 of this chapter when A5 emission is to be employed. Otherwise, the frequency tolerance shall be 0.0025%

* * * * *

10. Section 94.71 is amended by revising footnote 3 to the table in paragraph (b) to read as follows:

§ 94.71 Emission and bandwidth limitations.

* * * * *

(b) * * *

[3] Assignments for applications proposing to employ amplitude modulation (A5) for the transmission of a video signal will be made in accordance with the technical standards governing the Instructional Television Fixed Service contained in Subpart I, Part 74 of this chapter. For applications not proposing to employ a video signal, the standards contained in paragraph (c) below shall apply.

* * * * *

§ 94.90 [Amended]

11. Section 94.90 is amended by changing the reference in the introductory paragraph from "12,200/12,460" to "12,220/12,460".

[FR Doc. 84-24398 Filed 9-14-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Pursuant to § 94.69, however, stations licensed on the channels specified in this paragraph may employ any type of emission consistent with efficient use of the spectrum and good engineering practice, except that Type B, damped-wave emission will not be authorized.

[2] Response frequencies: when authorized, they may be paired respectively with the channels 2650–2656, 2662–2668 and 2674–2680 MHz and used in accordance with the technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

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47 CFR Part 73

[MM Docket No. 83-1022; RM-4576]

FM Broadcast Stations in Houghton and Hancock, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 242 to Houghton, Michigan, in response to a petition filed by Midwest Radio Consultants, Inc. The assignment could provide a second FM service to Houghton.

EFFECTIVE DATE: November 19, 1984.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Houghton and Hancock, Michigan); MM Docket No. 83–1022 RM–4576.

Adopted: August 31, 1984.
Released: September 11, 1984.

By the Chief, Policy and Rules Division

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 45433, published October 5, 1983, proposing the assignment of Class C Channel 242 to either Hancock or Houghton, Michigan, in response to a petition filed by Midwest Radio Consultants, Inc. ("petitioner"). The proposal would add a second FM service to either community. Petitioner filed comments supporting its original proposal to make a hyphenated assignment. However, petitioner states

that if the assignment can be made to only one community, the assignment should be made to Houghton because it is the county seat and the larger of the two communities. No other comments were received.

2. The Commission has determined that the public interest would be served by assigning Channel 242 to Houghton. An interest has been shown for its use and such an assignment could provide a second local service to that community. We found no reason to grant a hyphenated assignment. Both communities already have their own FM stations which demonstrates their separate identities. The channel can be assigned to Houghton consistent with the minimum distance separation requirements of § 73.207 of the Commission's Rules.[1] Canadian concurrence has been received.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b), and 0.283 of the Commission's rules, it is ordered. That effective November 19, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended as follows:

City	Channel No.
Houghton, MI	242, 249A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Charles Schott

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–24509 Filed 9–14–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–1141; RM–4497]

FM Broadcast Station in Saugatuck, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 224A to Saugatuck, Michigan, in response to petitions filed by David C. Schaberg. The assignment could provide a first FM broadcast service to Saugatuck.

EFFECTIVE DATE: November 19, 1984.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations (Saugatuck, Michigan); MM Docket No. 83–1141, RM–4497.

Adopted: August 31, 1984.
Released: September 11, 1984.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by David C. Schaberg ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 51658, published November 10, 1983, proposing the assignment of FM Channel 224A to Saugatuck, Michigan, as its first FM assignment. Petitioner filed comments indicating that it would file an application to construct and operate on Channel 224A, if assigned. Supporting comments were also filed by Robert A. Sherman. No opposing comments were received.

2. The proposed assignment of Channel 224A to Saugatuck can be made in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.[1] Canadian concurrence has been received.

3. The Commission has determined that the public interest would be served by assigning Channel 224A to Saugatuck, Michigan, since it could provide a first FM broadcast service to that community.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 19, 1984, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the community listed below:

City	Channel No.
Saugatuck, MI	224A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–24510 Filed 9–14–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–1142; RM–4503; RM–4674]

FM Broadcast Stations in Charlotte Amalie, VI, and Isabel Segunda, PR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 296A to Charlotte Amalie, Virgin Islands, as that community's fourth local assignment, at the request of John T. Galanses.

EFFECTIVE DATE: November 19, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Charlotte Amalie, Virgin Islands, and Isabel Segunda, Puerto Rico); MM Docket No. 83–1142, RM–4503, RM–4674.

Adopted: August 31, 1984.
Released: September 11, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 51661, published November 10, 1983, which sought comments on the request of John T. Galanses ("Galanses") to assign FM Channel 282 to Charlotte

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[1] An assignment to either Houghton or Hancock would fail to provide two existing stations the 16 kilometer buffer zone now permitted to Class C stations with less than a 300 meter antenna height. However, this requirement applies to petitions filed after March 1, 1984. See BC Docket 80–90, 94 FCC 2d 152 (1983), recons. 49 FR 10460 published March 20, 1984.

[1] It should be noted that the assignment of 224A to Saugatuck, Michigan, does not provide the 16 kilometer buffer zone for WKJE–FM, Channel 225, Cadillac, Michigan. See Docket 80–90, 49 FR 10260, published March 20, 1984. This requirement applies to petitions filed after March 1, 1984. David A. Schaberg's petition was received on June 6, 1983.