Appendix A of Part 1611—Legal Services Corporation Poverty Guidelines

Size of family unit	All States but Hawaii [1] and Alaska	Alaska [2]	Hawaii [3]
1	$6,562	$8,225	$7,550
2	8,812	11,012	10,137
3	11,062	13,825	12,725
4	13,312	16,637	15,320
5	15,562	19,475	17,900
6	17,812	22,262	20,487
7	20,062	25,075	23,075
8	22,312	27,887	25,662

[1] For family units with more than eight members, add $2,250 for each additional member in a family.
[2] For family units with more than eight members, add $2,812 for each additional member in a family.
[3] For family units with more than eight members, add $2,587 for each additional member in a family.

Dated: June 13, 1985.

Richard N. Bagenstos,

Acting General Counsel.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 7

[CGD 81-058]

Boundary Lines

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Seagoing Barge Act was revised in 1980 to define a seagoing barge as one that proceeds outside a defined boundary. The purpose of this rulemaking is to establish demarcation lines for the Seagoing Barge Act and more clearly define the existing Boundary Lines which govern the application of various maritime safety statutes. Additionally, the rule consolidates the Boundary Lines where possible.

EFFECTIVE DATE: This rulemaking is effective on July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Donald B. Parsons (G-MVI-2), Room 1407, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, D.C., 20593, (202) 426-4431.

SUPPLEMENTARY INFORMATION: The Coast Guard published proposed rules in the **Federal Register** on June 7, 1982 (47 FR 24604) that sought to establish lines for the Seagoing Barge Act and more clearly define the existing Boundary Lines which govern the application of various maritime safety statutes. A supplemental notice of proposed rulemaking was published on September 15, 1983 (48 FR 41454) and public hearings were held in New Orleans, LA, and Boston, MA, on October 18 and 26, 1983, respectively. As a result of the comments received, substantial changes were made to the proposed rule and a second supplemental notice of proposed rulemaking was published on August 13, 1984 (49 FR 32229). Thirteen comment letters have since been received, and the proposal was discussed at the public meetings of the Towing Safety Advisory Committee (TSAC) on October 11, 1984, and the Rules of the Road Advisory Council (RORAC) on September 20, 1984. Most of the responses were favorable and no substantive changes have been made to the rule as last proposed.

Drafting information

The principal persons involved in drafting this final rule are: Lieutenant Commander Donald B. Parsons, Project Manager, Office of Merchant Marine Safety, and Lieutenant Dave Shippert, Project Attorney, Office of the Chief Counsel.

Discussion

As amended, the Act of February 19, 1895 (33 U.S.C. 151, The Boundary Line Statute) authorizes the Secretary of Transportation to designate and define the lines dividing the high seas from inland waters for the purpose of determining the applicability of various marine safety statutes (33 U.S.C. 151(b)). These lines, promulgated at Part 7 of Title 46 Code of Federal Regulations, currently apply to six statutes. These statutes deal with vessel inspection, equipment and manning standards, and are briefly described as follows:

(1) The Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq.) requires the carriage of radiotelephones on board certain vessels inside the Boundary Lines on the navigable waters of the United States (i.e., inside the three-mile line).

(2) The Coastwise Loadline Act (46 U.S.C. 88) applies to merchant vessels of 150 gross tons and over, engaged in coastwise voyages by sea, and passing outside the Boundary Lines.

(3) The Officers Competency Certificates Convention, Geneva, 1936, (54 Stat. 1683) is in force and the United States is party thereto. Article 1 extends the Convention to all vessels registered in a nation party to the Convention and engaged in maritime navigation. The domestic legislation on the topic, 46 U.S.C. 8304, limits the application of the Convention, for the United States, to vessels navigating on the high seas pursuant to the understanding filed by the United States at the time of ratification ("That the United States Government understands and construes the words 'maritime navigation' appearing in this convention to mean navigation on the high seas only"), and defines the high seas with reference to the Boundary Line.

(4) 46 U.S.C. 3301(7) requires the inspection of seagoing motor vessels. A "seagoing motor vessel" is defined in 46 U.S.C. 2101(33) as a "motor vessel of at least 300 gross tons making voyages beyond the Boundary Line."

(5) 46 U.S.C. 3302(d) exempts from inspection requirements certain vessels under 150 gross tons that operate inside the Boundary Line within the waters of southeastern Alaska and the State of Washington.

(6) 33 U.S.C. 152, applies to the length of towing hawsers between towing vessels and barges when operating inside the Boundary Line.

In 1980, Pub. L. 96-324 amended the Seagoing Barge Act, 46 U.S.C. 395, by defining a seagoing barge as one that "proceeds outside the line dividing the inland waters from the high seas, as defined in section 2 of the Act, (33 U.S.C. 151)." Prior to this rule, the Coast Guard had utilized the traditional definition of "seagoing" as meaning a barge that proceeds past the headlands. This rule establishes new boundary lines under 33 U.S.C. 151(b) at 46 CFR Part 7 to determine the applicability of the Seagoing Barge Act.

Under the Boundary Line Act, as amended in 1980 (Pub. L. 96-324), lines may not be located more than twelve nautical miles seaward of the baseline from which the territorial sea is measured and the lines may differ in position for the purposes of different statutes. The Coast Guard has adopted the principle that, wherever possible, a single line should be established for all purposes, since multiple lines create the possibility of confusion.

The establishment and placement of the lines in these regulations related solely to safety and do not concern themselves with the issue of State or Federal sovereignty or jurisdiction in the areas involved.

Discussion of Comments

Thirteen comment letters were received as a result of the 13 August 1984 Supplemental Notice of Proposed Rulemaking (SNPRM). Oral comments were also received at the meetings held in Washington, D.C., on October 11, 1984, by TSAC and September 20, 1984, by RORAC. This final rule is almost identical to the latest SNPRM with only a few minor changes as discussed below.

1. Ten of the commenters were specifically in favor of the proposed

rule, as were those present at the TSAC meeting.

2. One commenter requested that the Boundary Line be moved several hundred yards offshore at Bakers Haulover Inlet, FL, to enable dredges to work the harbor entrance and approaches without having to undergo inspection for certification. The cost and manhours necessary to accomplish this do not seem justified considering the short distance from the inlet entrance that the vessels would be operating. The Coast Guard agrees and this change has been incorporated at CFR 7.95(n).

3. RORAC recommended that the Bridge-to-Bridge Radiotelephone Act line be moved to 12 miles or at least as far seaward as practicable, and one commenter expressed disappointment that the line was not extended to the twelve-mile limit. Also, it was stated that there would be confusion if this line was established now and then changed in only a few years. As discussed in the preambles of the previous proposals, the Vessel Bridge-to-Bridge Radiotelephone Act (Pub. L. 92-63) line is limited to not more than three miles offshore by law (33 U.S.C. 1201 et seq.). This line has been placed at three miles along the entire coast to provide consistency and simplicity in identifying its location. Additionally, its location is easily found because it is printed on most charts as the seaward extent of the Territorial Sea.

When, or even if, this line will ever be authorized to be located further offshore is not known. Therefore, whether or not confusion will be created by establishing it now and relocating it at some future date is only speculation. The only reasonable alternative to placing it at three miles now would be to leave it unchanged. This is not considered acceptable, however, because in many places radiotelephones have only been required inside of harbors. Requiring the use of radiotelephones in traffic lanes and harbor entrances is felt to be a far superior alternative from a safety standpoint.

4. One commenter pointed out that there were three errors in the SNPRM. These consisted of a buoy that had been renumbered, an inlet that had been renamed, and a tower that was in fact a tank. These changes have been incorporated in this final rule at 46 CFR 7.95 (f), (i), and (j).

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this rulemaking has been found to be so minimal that further evaluation is unnecessary. The Boundary Lines in this rulemaking coincide with the existing lines or, in many cases (e.g., the Gulf of Mexico), extend seaward of the existing lines thereby imposing fewer regulatory requirements on vessels and companies affected by these regulations. Since the impact of this rulemaking is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 7

Law enforcement, Vessels.

Accordingly, Part 7 of Title 46, Code of Federal Regulations, is amended as follows:

1. By revising 46 CFR Part 7 to read as follows:

PART 7—BOUNDARY LINES

General

Sec.

Atlantic Coast

Gulf Coast

Hawaii

Pacific Coast

Alaska

Authority: Sec. 2, 28 Stat. 672 as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 108); 49 CFR 1.46(b).

General

§ 7.1 General purpose of boundary lines.

The lines in this part delineate the application of the following U.S. statutes: 33 U.S.C. 152 relating to the length of towing hawsers; 33 U.S.C. 1201 et seq., the Vessel Bridge-to-Bridge Radiotelephone Act; 46 U.S.C. 88, the Coastwise Loadline Act; 46 U.S.C. 3301(6) requiring the inspection of seagoing barges which are defined in 46 U.S.C. 2101(32); 46 U.S.C. 3301(7) requiring the inspection of seagoing motor vessels which are defined in 46 U.S.C. 2101(33); 46 U.S.C. 3302(d) which exempts from inspection requirements certain vessels under 150 gross tons that operate within the waters of southeastern Alaska and the State of Washington; and 46 U.S.C. 8304, "Implementing the Officers' Competency Certificates Convention, 1936."

§ 7.5 Rules for establishing boundary lines.

(a) For application of the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C. 1201 et. seq., the line is 3 miles seaward of the baseline from which the territorial sea is measured.

(b) Barges of 100 gross tons and over operating on the sheltered waters of British Columbia as defined in the United States-Canada treaty of 1933 (49 Stat. 2685, TS 869) are not required to be inspected as seagoing barges under 46 U.S.C. 3301.

(c) Except as otherwise described in this part, Boundary Lines are lines drawn following the general trend of the seaward, highwater shorelines and lines continuing the general trend of the

seaward, highwater shorelines across entrances to small bays, inlets and rivers.

Atlantic Coast

§ 7.10 Eastport, ME to Cape Ann, MA.

(a) A line drawn from the easternmost extremity of Kendall Head to latitude 44°54'45" N. longitude 66°58'30" W.; thence to the range marker located in approximate position latitude 44°51'45" N. longitude 66°59" W.

(b) A line drawn from West Quoddy Head Light to latitude 44°48'5" N. longitude 66°56.4' W. (Sail Rock Lighted Whistle Buoy "1"); thence to latitude 44°37.5' N. longitude 67°09.8' W. (Little River Lighted Whistle Buoy "2LR"); thence to latitude 44°14.5' N. longitude 67°57.2' W. (Frenchman Bay Approach Lighted Whistle Buoy "FB"); thence to Mount Desert Light; thence to Matinicus Rock Light; thence to Monhegan Island Light; thence to latitude 43°31.6' N. longitude 70°05.5' W. (Portland Lighted Horn Buoy "P"); thence to Boon Island Light; thence to latitude 42°37.9' N. longitude 70°31.2' W. (Cape Ann Lighted Whistle Buoy "2").

§ 7.15 Massachusetts Bay, MA.

A line drawn from latitude 42°37.9' N. longitude 70°31.2' W. (Cape Ann Lighted Whistle Buoy "2") to latitude 42°22.7' N. longitude 70°47.0' W. (Boston Lighted Horn Buoy "B"); thence to Race Point Light.

§ 7.20 Nantucket Sound, Vineyard Sound, Buzzards Bay, Narragansett Bay, MA, Block Island Sound and easterly entrance to Long Island Sound, NY.

(a) A line drawn from Chatham Light to latitude 41°36.1' N. longitude 69°51.1' W. (Pollack Rip Entrance Lighted Horn Buoy "PR"); thence to latitude 41°26.0' N. longitude 69°46.2' W. (Great Round Shoal Channel Lighted Buoy "2"); thence to Sankaty Head Light.

(b) A line drawn from the westernmost extremity of Nantucket Island to the southwesternmost extremity of Wasque Point, Chappaquiddick Island.

(c) A line drawn from Gay Head Light to Block Island Southeast Light; thence to Montauk Point Light on the easterly end of Long Island.

§ 7.25 Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock East Breakwater Light to Shinnecock West Breakwater Light.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348° true to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 322° true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

§ 7.30 New York Harbor, NY.

A line drawn from East Rockaway Inlet Breakwater Light to Ambrose Light; thence to Highlands Light (north tower).

§ 7.35 Sandy Hook, NJ to Cape May, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light "2" to Shark River Inlet South Breakwater Light "1".

(b) A line drawn from Manasquan Inlet North Breakwater Light to Manasquan Inlet South Breakwater Light.

(c) A line drawn along the submerged Barnegat Inlet North Breakwater to Barnegat Inlet North Breakwater Light "2"; thence to Barnegat Inlet Light "5"; thence along the submerged Barnegat Inlet South Breakwater to shore.

(d) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent of Pullen Island across Beach Haven and Little Egg Inlets.

(e) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(f) A line drawn from the seaward extremity of Absecon Inlet North Jetty to Atlantic City Light.

(g) A line drawn from the southernmost point of Longport at latitude 39°18.2' N. longitude 74°32.2' W. to the northeasternmost point of Ocean City at latitude 39°17.6' N. longitude 74°33.1' W. across Great Egg Harbor Inlet.

(h) A line drawn parallel with the general trend of the seaward, highwater shoreline across Corson Inlet.

(i) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(j) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

§ 7.40 Delaware Bay and tributaries.

A line drawn from Cape May Inlet East Jetty Light to latitude 38°55.8' N. longitude 74°51.4' W. (Cape May Harbor Inlet Lighted Bell Buoy "2CM"); thence to latitude 38°48.9' N. longitude 75°02.3' W. (Delaware Bay Entrance Channel Lighted Buoy "8"); thence to the northernmost extremity of Cape Henlopen.

§ 7.45 Cape Henlopen, DL to Cape Charles, VA.

(a) A line drawn from the easternmost extremity of Indian River Inlet North Jetty to latitude 38°36.5' N. longitude 75°02.8' W. (Indian River Inlet Lighted Gong Buoy "1"); thence to Indian River Inlet South Jetty Light.

(b) A line drawn from Ocean City Inlet Light "6" to latitude 38°19.4' N. longitude 75°05.0' W. (Ocean City Inlet Entrance Lighted Buoy "4"); thence to latitude 38°19.3' N. longitude 75°05.1' W. (Ocean City Inlet Entrance Lighted Buoy "5"); thence to the easternmost extremity of the south breakwater.

(c) A line drawn from Assateague Beach Tower Light to latitude 37°50.2' N. longitude 75°24.9' W. (Chincoteague Inlet Lighted Bell Buoy "CI"); thence to the tower charted at latitude 37°52.6' N. longitude 75°26.7' W.

(d) A line drawn from the southernmost extremity of Cedar Island to latitude 37°34.7' N. longitude 75°36.0' W. (Wachapreague Inlet Entrance Lighted Buoy "1"); thence due south to shore at Parramore Beach.

(e) A line drawn from the seaward tangent of Parramore Beach to the lookout tower on the northern end of Hog Island chartered in approximate position latitude 37°27.2' N. longitude 75°40.5' W.

§ 7.50 Chesapeake Bay and tributaries.

A line drawn from Cape Charles Light to latitude 36°56.8' N. longitude 75°55.1' W. (North Chesapeake Entrance Lighted Gong Buoy "NCD"); thence to latitude 36°54.8' N. longitude 75°55.6' W. (Chesapeake Bay Entrance Lighted Bell Buoy "CBC"); thence to latitude 36°55.0' N. longitude 75°58.0' W. (Cape Henry Buoy "1"); thence to Cape Henry Light.

§ 7.55 Cape Henry, VA to Cape Fear, NC.

(a) A line drawn from Rudee Inlet Jetty Light "2" to latitude 36°50' N. longitude 75°56.7' W.; thence to Rudee Inlet Jetty Light "1".

(b) A line drawn from Bodie Island Light to latitude 35°49.3' N. longitude 75°31.9' W. (Oregon Inlet Approach Lighted Whistle Buoy "OI"); thence to Oregon Inlet Radiobeacon.

(c) A line drawn from Hatteras Inlet Light 255° true to the eastern end of Ocracoke Island.

(d) A line drawn from the westernmost extremity of Ocracoke Island at latitude 35°04' N. longitude 76°00.8' W. to the northeasternmost extremity of Portsmouth Island at latitude 35°03.7' N. longitude 76°02.3' W.

(e) A line drawn across Drum Inlet parallel with the general trend of the seaward, highwater shoreline.

(f) A line drawn from the southernmost extremity of Cape Lookout to latitude 34°38.4' N. longitude 76°40.6' W. (Beaufort Inlet Lighted Bell Buoy

"2BI"); thence to the seaward extremity of the Beaufort Inlet west jetty.

(g) A line drawn from the seaward extremity of Masonboro Inlet north jetty to latitude 34°10.3' N. longitude 77°48.0' W. (Masonboro Inlet Lighted Whistle Buoy "A"); thence to the beach in approximate position latitude 34°10' N. longitude 77°49.4' W.

§ 7.60 Cape Fear, NC to Sullivans Island, SC.

(a) A line drawn from the southernmost extremity to Cape Fear to latitude 33°49.5' N. longitude 78°03.7' W. (Cape Fear River Entrance Lighted Bell Buoy "2CF"); thence to Oak Island Light.

(b) A line drawn from the southernmost extremity of Bird Island at approximate position latitude 33°51.2' N. longitude 78°32.6' W. to latitude 33°50.3' N. longitude 78°32.5' W. (Little River Inlet Entrance Lighted Whistle Buoy "2LR"); thence to the northeasternmost extremity of Waties Island at approximate position latitude 33°51.2' N. longitude 78°33.6' W.

(c) A line drawn from the seaward extremity of Murrells Inlet north jetty to latitude 33°31.5' N. longitude 79°01.6' W. (Murrells Inlet Lighted Bell Buoy "MI"); thence to Murrells Inlet South Jetty Light.

(d) A line drawn from Georgetown Light to latitude 33°11.6' N. longitude 79°05.4' W. (Winyah Bay Lighted Bell Buoy "2WB"); thence to the southernmost extremity of Sand Island.

§ 7.65 Charleston Harbor, SC.

A line drawn from Charleston Light on Sullivans Island to latitude 32°40.7' N. longitude 79°42.9' W. (Charleston Lighted Whistle Buoy "2C"); thence to Folly Island Loran Tower (latitude 32°41.0' N. longitude 79°53.2' W.).

§ 7.70 Folly Island, SC to Hilton Head Island, SC.

(a) A line drawn from the southernmost extremity of Folly Island to latitude 32°35' N. longitude 79°58.2' W. (Stono Inlet Lighted Whistle Buoy "1S"); thence to Kiawah Island bearing approximately 307° true.

(b) A line drawn from the southernmost extremity of Kiawah Island to latitude 32°31' N. longitude 80°07.8' W. (North Edisto River Entrance Lighted Whistle Buoy "2NE"); thence to Botany Bay Island in approximate position latitude 32°33.1' N. longitude 80°12.7' W.

(c) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°29.3' N. longitude 80°19.2' W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island charted in approximate position latitude 32°22.5' N. longitude 80°26.5' W.

(d) A line drawn from the abandoned lighthouse on Hunting Island in approximate position latitude 32°22.5' N. longitude 80°26.2' W. to latitude 32°18' N. longitude 80°25' W.; thence to the standpipe on Fripp Island in approximate position latitude 32°19' N. longitude 80°28.7' W.

(e) A line drawn from the westernmost extremity of Bull Point on Capers Island to latitude 32°04.8' N. longitude 80°34.9' W. (Port Royal Sound Lighted Whistle Buoy "2PR"); thence to the easternmost extremity of Hilton Head at latitude 32°13.2' N. longitude 80°40.1' W.

§ 7.75 Savannah River/Tybee Roads.

A line drawn from the southwesternmost extremity of Braddock Point to latitude 31°58.3' N. longitude 80°44.1' W. (Tybee Lighted Whistle Buoy "T"); thence to the southeasternmost extremity of Little Tybee Island bearing approximately 269° true.

§ 7.80 Tybee Island, GA to St. Simons Island, GA.

(a) A line drawn from the southernmost extremity of Savannah Beach on Tybee Island 255° true across Tybee Inlet to the shore of Little Tybee Island south of the entrance to Buck Hammock Creek.

(b) A line drawn from the southernmost extremity of Little Tybee Island at Beach Hammock to the easternmost extremity of Wassaw Island.

(c) A line drawn from Wassaw Island in approximate position latitude 31°52.5' N longitude 80°58.5' W. to latitude 31°48.3' N. longitude 80°56.8' W. (Ossabaw Sound North Channel Buoy "OS"); thence to latitude 31°39.3' N. longitude 81°02.3' W. (St. Catherines Sound Buoy "St. C."); thence to latitude 31°31.2' N. longitude (Sapelo Sound Buoy "S"); thence to the easternmost extremity of Blackbeard Island at Northeast Point.

(d) A line drawn from the southernmost extremity of Blackbeard Island to latitude 31°19.4' N. longitude 81°11.5' W. (Doboy Sound Lighted Buoy "D"); thence to latitude 31°04.1' N. longitude 81°16.7' W. (St. Simons Lighted Whistle Buoy "ST S").

§ 7.85 St. Simons Island, GA to Little Talbot Island, FL.

(a) A line drawn from latitude 31°04.1' N. longitude 81°16.7' W. (St. Simons Lighted Whistle Buoy "ST S") to latitude 30°42.7' N. longitude 81°19.0' W. (St. Mary's Entrance Lighted Whistle Buoy "1"); thence to Amelia Island Light.

(b) A line drawn from the southernmost extremity of Amelia Island to latitude 30°29.4' N. longitude 81°22.9' W. (Nassau Sound Approach Buoy "6A"); thence to the northeasternmost extremity of Little Talbot Island.

§ 7.90 St. Johns River, FL.

A line drawn from the southeasternmost extremity of Little Talbot (Spike) Island to latitude 30°23.8' N. longitude 81°20.3' W. (St. Johns Lighted Whistle Buoy "2 STJ"); thence to St. Johns Light.

§ 7.95 St. Johns Point, FL to Miami Beach, FL.

(a) A line drawn from the seaward extremity of St. Augustine Inlet north jetty to latitude 29°55' N. longitude 81°15.3' W. (St. Augustine Lighted Whistle Buoy "ST. A."); thence to the seaward extremity of St. Augustine Inlet south jetty.

(b) A line formed by the centerline of the highway bridge over Matanzas Inlet.

(c) A line drawn from the seaward extremity of Ponce de Leon Inlet north jetty to latitude 29°04.7' N. longitude 80°54' W. (Ponce de Leon Inlet Lighted Bell Buoy "2"); thence to Ponce de Leon Inlet Approach Light.

(d) A line drawn from Canaveral Harbor Approach Channel Range Front Light to latitude 28°23.7' N. longitude 80°32.2' W. (Canaveral Bight Wreck Lighted Buoy "WR6"); thence to the radio tower on Canaveral Peninsula in approximate position latitude 28°22.9' N. longitude 80°36.6' W.

(e) A line drawn across the seaward extremity of the Sebastian Inlet Jetties.

(f) A line drawn from the seaward extremity of the Fort Pierce Inlet North Jetty to latitude 27°28.5' N. longitude 80°16.2' W. (Fort Pierce Inlet Lighted Whistle Buoy "2"); thence to the tank located in approximate position latitude 27°27.2' N. longitude 80°17.2' W.

(g) A line drawn from the seaward extremity of St. Lucie Inlet north jetty to latitude 27°10'N. longitude 80°08.4' W. (St. Lucie Inlet Entrance Lighted Whistle Buoy "2"); thence to Jupiter Island bearing approximately 180° true.

(h) A line drawn from the seaward extremity of Jupiter Inlet North Jetty to the northeast extremity of the concrete apron on the south side of Jupiter Inlet.

(i) A line drawn from the seaward extremity of Lake Worth Inlet North Jetty to latitude 26°46.4' N. longitude 80°01.5' W. (Lake Worth Inlet Lighted Bell Buoy "2LW"); thence to Lake Worth Inlet Lighted Buoy "3"; thence to the

seaward extremity of Lake Worth Inlet South Jetty.

(j) A line drawn across the seaward extremity of the Boynton Inlet Jetties.

(k) A line drawn from Boca Raton Inlet North Jetty Light "2" to Boca Raton Inlet South Jetty Light "1".

(l) A line drawn from Hillsboro Inlet Light to Hillsboro Inlet Entrance Light "2"; thence to Hillsboro Inlet Entrance Light "1"; thence west to the shoreline.

(m) A line drawn from the tower location in approximate position latitude 26°06.9' N. longitude 80°06.4' W. to latitude 26°05.5' N. longitude 80°04.8' W. (Port Everglades Lighted Whistle Buoy "1"); thence to the signal tower located in approximate position latitude 26°05.5' N. longitude 80°06.5' W.

(n) A line drawn from the seaward extremity of Bakers Haulover Inlet north jetty 090° true to longitude 80°07.2' W.; thence to the seaward extremity of Bakers Haulover Inlet south jetty.

§ 7.100 Florida Reefs and Keys from Miami, FL to Marquesas Keys, FL.

(a) A line drawn from the tower located in approximate position latitude 25°46.7' N. longitude 80°08' W. to latitude 25°46.1' N. longitude 80°05.0' W. (Miami Lighted Whistle Buoy "M"); thence to Fowey Rocks Light (latitude 25°35.4' N. longitude 80°05.8' W.); thence to Pacific Reef Light (latitude 25°22.3' N. longitude 80°08.5' W.) thence to Carysfort Reef Light (latitude 25°13.3' N. longitude 80°12.7' W.); thence to Molasses Reef Light "10" (latitude 25°00.7' N. longitude 80°22.6' W.); thence to Alligator Reef Light (latitude 24°51.1 N. longitude 80°37.1' W.); thence to Tennessee Reef Light (latitude 24°44.7' N. longitude 80°46.9' W.); thence to Sombrero Key Light (latitude 24°37.6' N. longitude 81°06.6' W.); thence to American Shoal Light (latitude 24°31.5' N. longitude 81°31.2' W.); thence to latitude 24°27.7' N. longitude 81°48.1' W. (Key West Entrance Lighted Whistle Buoy); thence to Cosgrove Shoal Light (latitude 24°27.5' N. longitude 82°11.2' W.); thence due north to a point 12 miles from the baseline from which the territorial sea is measured in approximate position latitude 24°47.5' N. longitude 82°11.2' W.

Gulf Coast

§ 7.105 Marquesas Keys, FL to Rio Grande, TX.

(a) A line drawn from Marquesas Keys, Florida at approximate position latitude 24°47.5' N. longitude 82°11.2' W. along the 12-mile line which marks the seaward limits of the contiguous zone (as defined in 33 CFR Part 2.05–15) to Rio Grande, Texas at approximate position latitude 25°58.6' N. longitude 96°55.5' W.

Hawaii

§ 7.110 Mamala Bay, HI.

A line drawn from Barbers Point Light to Diamond Head Light.

Pacific Coast

§ 7.115 Santa Catalina Island, CA.

(a) A line drawn from the northernmost point of Lion Head to the north tangent of Bird Rock Island; thence to the northernmost point of Blue Cavern Point.

(b) A line drawn from White Rock to the northernmost point of Abalone Point.

§ 7.120 Mexican/United States Border to Point Fermin, CA.

(a) A line drawn from the southerly tower to the Coronado Hotel in approximate position latitude 32°40.8' N. longitude 117°10.6' W. to latitude 32°39.1' N. longitude 117°13.6' W. (San Diego Bay Channel Lighted Bell Buoy "5"); thence to Point Loma Light.

(b) A line drawn from Mission Bay South Jetty Light "2" to Mission Bay North Jetty Light "1".

(c) A line drawn from Oceanside South Jetty Light "4" to Oceanside Breakwater Light "3".

(d) A line drawn from Dana Point Jetty Light "6" to Dana Point Breakwater Light "5".

(e) A line drawn from Newport Bay East Jetty Light "4" to Newport Bay West Jetty Light "3".

(f) A line drawn from Anaheim Bay East Jetty Light "6" to Anaheim Bay West Jetty Light "5"; thence to Long Beach Breakwater East End Light "1". A line drawn from Long Beach Entrance Light "2" to Long Beach Light. A line drawn from Los Angeles Main Channel Entrance Light "2" to Los Angeles Light.

§ 7.125 Point Vincente, CA to Point Conception, CA.

(a) A line drawn from Redondo Beach East Jetty Light "2" to Redondo Beach West Jetty Light "3".

(b) A line drawn from Marina Del Rey Light "4" to Marina Del Rey Breakwater South Light "1". A line drawn from Marina Del Rey Breakwater North Light "2" to Marina Del Rey Light "3".

(c) A line drawn from Port Hueneme East Jetty Light "4" to Port Hueneme West Jetty Light "3".

(d) A line drawn from Channel Islands Harbor South Jetty Light "2" to Channel Islands Harbor Breakwater South Light "1". A line drawn from Channel Islands Harbor Breakwater North Light to Channel Islands Harbor North Jetty Light "5".

(e) A line drawn from Ventura Marina South Jetty Light "6" to Ventura Marina Breakwater South Light "3". A line drawn from Ventura Marina Breakwater North Light to Ventura Marina North Jetty Light "7".

(f) A line drawn from Santa Barbara Harbor Light "4" to latitude 34°24.1' N. longitude 119°40.7' W. (Santa Barbara Harbor Lighted Bell Buoy "1"); thence to Santa Barbara Harbor Breakwater Light.

§ 7.130 Point Conception, CA to Point Sur, CA.

(a) A line drawn from the southernmost extremity of Fossil Point at longitude 120°43.5' W. to the seaward extremity of Whaler Island Breakwater.

(b) A line drawn from the outer end of Morro Bay Entrance East Breakwater to latitude 35°21.5' N. longitude 120°52.3' W. (Morro Bay Entrance Lighted Bell Buoy "1"); thence to Morro Bay West Breakwater Light.

§ 7.135 Point Sur, CA to Cape Blanco, OR.

(a) A line drawn from Monterey Harbor Light "6" to latitude 36°36.5' N. longitude 121°53.2' W. (Monterey Harbor Anchorage Buoy "A"); thence to the northernmost extremity of Monterey Municipal Wharf No. 2.

(b) A line drawn from seaward extremity of the pier located 0.3 mile south of Moss Landing Harbor Entrance to the seaward extremity of the Moss Landing Harbor North Breakwater.

(c) A line drawn from Santa Cruz Light to the southernmost projection of Soquel Point.

(d) A straight line drawn from Point Bonita Light across Golden Gate through Mile Rocks Light to the shore.

(e) A line drawn from the northwestern tip of Tomales Point to latitude 38°15.1' N. longitude 123°00.1' W. (Tomales Point Lighted Horn Buoy "2"); thence to latitude 38°17.2' N. longitude 123°02.3' W. (Bodega Harbor Approach Lighted Gong Buoy "BA"); thence to the southernmost extremity of Bodega Head.

(f) A line drawn from Humboldt Bay Entrance Light "4" to Humboldt Bay Entrance Light "3".

(g) A line drawn from Crescent City Outer Breakwater Light "5" to the southeasternmost extremity of Whaler Island at longitude 124°11' W.

§ 7.140 Cape Blanco, OR to Cape Flattery, WA.

(a) A line drawn from the seaward extremity of the Coos Bay South Jetty to latitude 43°21.9' N. longitude 124°21.7' W. (Coos Bay Entrance Lighted Bell Buoy "1"); thence to the seaward extremity of the Coos Bay North Jetty.

(b) A line drawn from lookout tower located in approximate position latitude 46°13.6' N. longitude 124°00.7' W to

latitude 46°12.8' N. longitude 124°08.0' W. (Columbia River Entrance Lighted Whistle Buoy "2"); thence to latitude 46°14.5' N. longitude 124°09.5' W. (Columbia River Entrance Lighted Bell Buoy "1"); thence to North Head Light.

(c) A line drawn from latitude 46°52.8' N. longitude 124°12.6' W. (Grays Harbor Light to Grays Harbor Entrance Lighted Whistle Buoy "2"); thence to latitude 46°55.0' N. longitude 124°14.7' W. (Grays Harbor Entrance Lighted Whistle Buoy "3"); thence to Grays Harbor Bar Range Rear Light.

§ 7.145 Strait of Juan de Fuca, Haro Strait and Strait of Georgia WA.

(a) A line drawn from the northernmost point of Angeles Point to latitude 48°21.1' N. longitude 123°02.5' W. (Hein Bank Lighted Bell Buoy); thence to latitude 48°25.5' N. longitude 122°58.5' W. (Salmon Bank Lighted Gong Buoy "3"); thence to Cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to latitude 48°46.6' N. longitude 122°53.4' W. (Clements Reef Bouy "2"); thence to International Boundary Range B Front Light.

Alaska

§ 7.150 Canadian (BC) and United States (AK) Borders to Cape Spencer, AK.

(a) A line drawn from the northeasternmost extremity of Point Mansfield, Sitklan Island 040° true to the mainland.

(b) A line drawn from the southeasternmost extremity of Island Point, Sitklan Island to the southernmost extremity of Garnet Point, Kanagunut Island; thence to Lord Rock Light; thence to Barren Island Light; thence to Cape Chacon Light; thence to Cape Muzon Light.

(c) A line drawn from Point Cornwallis Light to Cape Bartolome Light; thence to Cape Edgecumbe Light; thence to the westernmost extremity of Cape Cross.

(d) A line drawn from Surge Bay Entrance Light to Cape Spencer Light.

§ 7.155 Cape Spencer, AK to Cape St. Elias, AK.

(a) A line drawn from the westernmost extremity of Harbor Point to the southernmost extremity of LaChaussee Spit at Lituya Bay.

(b) A line drawn from Ocean Cape Light to latitude 59°31.9' N. longitude 139°57.1' W. (Yakutat Bay Entrance Lighted Whistle Buoy "2"); thence to the southeasternmost extremity of Point Manby.

(c) A line drawn from the northernmost extremity of Point Riou to the easternmost extremity of Icy Cape.

§ 7.160 Point Whitshed, AK to Aialik Cape, AK.

(a) A line drawn from the southernmost extremity of Point Whitshed to the easternmost extremity of Hinchinbrook Island.

(b) A line drawn from Cape Hinchinbrook Light to Schooner Rock Light "1".

(c) A line drawn from the southwesternmost extremity of Montague Island to Point Elrington Light; thence to the southernmost extremity of Cape Puget.

(d) A line drawn from the southernmost extremity of Cape Resurrection to the Aialik Cape.

§ 7.165 Kenai Peninsula, AK to Kodiak Island, AK.

(a) A line drawn from the southernmost extremity of Kenai Peninsula at longitude 151°44.0' W. to East Amatuli Island Light; thence to the northwesternmost extremity of Shuyak Island at Party Cape; thence to the easternmost extremity of Cape Douglas.

(b) A line drawn from the southernmost extremity of Pillar Cape on Afognak Island to Spruce Cape Light; thence to the easternmost extremity of Long Island; thence to the northeasternmost extremity of Cape Chiniak.

(c) A line drawn from Cape Nunilak at latitude 58°09.7' N. to the northernmost extremity of Raspberry Island. A line drawn from the westernmost extremity of Raspberry Cape to the northernmost extremity of Miners Point.

§ 7.170 Alaska Peninsula, AK to Aleutian Islands, AK.

(a) A line drawn from the southernmost extremity of Cape Kumlium to the westernmost extremity of Nakchamik Island; thence to the easternmost extremity of Castle Cape at Chignik Bay.

(b) A line drawn from Second Priest Rock to Ulakta Head Light at Iliuliuk Bay entrance.

(c) A line drawn from Arch Rock to the northernmost extremity of Devilfish Point at Captains Bay.

(d) A line drawn from the easternmost extremity of Lagoon Point to the northwesternmost extremity of Cape Kutuzof at Port Moller.

§ 7.175 Alaska Peninsula, AK to Nunivak, AK.

(a) A line drawn from the northernmost extremity of Goose Point at Egegik Bay to Protection Point.

(b) A line drawn from the westernmost extremity of Kulukak Point to the northernmost extremity of Round Island; thence to the southernmost extremity of Hagemeister Island; thence to the southernmost extremity of Cape Peirce; thence to the southernmost extremity of Cape Newenham.

(c) A line drawn from the church spire located in approximate position latitude 59°45' N. longitude 161°55' W. at the mouth of the Kanektok River to the southernmost extremity of Cape Avinof.

§ 7.180 Kotzebue Sound, AK.

A line drawn from Cape Espenberg Light to latitude 66°52' N. longitude 163°28' W.; and thence to Cape Krusenstern Light.

Dated: June 12, 1985.

B.G. Burns,

Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 85-14453 Filed 6-17-85; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, and 90

[Gen. Docket 81-413; FCC 85-245]

Authorization of Spread Spectrum Systems Under Parts 15 and 90 of the FCC Rules and Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This action changes Part 15 of the Rules to allow spread spectrum systems to operate in the ISM bands at 902–928, 2400–2483.5 and 5725–5850 MHz on a noninterference basis to other authorized users of these bands. The maximum output power of these systems is limited to 1 watt.

Changes are also made to Part 90 of the Rules to allow law enforcement officers to operate direct sequence and time hopping spread spectrum transmitters on selected Public Safety Radio Service frequencies. To protect the agents involved in these operations, the station identification requirement, which was previously required for these operations, has been dropped. Approval from the local area coordinator, of the Police Radio Service of the district in which the license and equipment are to be used, must be first obtained before a licensed law enforcement officer can operate a spread spectrum transmitter on these frequencies.

EFFECTIVE DATE: June 15, 1985.

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

FOR FURTHER INFORMATION CONTACT:

Dr. Joseph McNulty, (301) 725–1585
Dr. Michael Marcus, (202) 632–7040

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 15

Radio frequency devices.

47 CFR Part 90

Private land mobile radio services, Radio.

First Report and Order

In the matter of authorization of spread spectrum and other wideband emissions not presently provided for in the FCC Rules and Regulations; Gen. Docket No. 81–413.

Adopted: May 9, 1985.
Released: May 24, 1985.

By the Commission.

Introduction and Summary

1. Spread spectrum modulation is a wideband modulation which was originally developed for military applications but which has several interesting civil applications.[1] This technology has been implicitly forbidden by the FCC rules with a few limited exceptions. On June 30, 1981, the Commission adopted a *Notice of Inquiry* ("*Inquiry*")[2] in this proceeding seeking comments on a rule structure that would permit civil use of this technololgy.[3]

2. Based on the comments received in the *Inquiry*, we adopted a *Further Notice of Inquiry* and *Notice of Proposed Rulemaking* ("*Further Notice*"),[4] on May 26, 1984, proposing specific rules for spread spectrum in Parts 15 and 90 of our Rules. In this First Report and Order we are adopting some of the proposals of the *Further Notice* with some modification. The remaining issues in the *Further Notice* raised significant controversy in the Comments and we are continuing to review these to see what action is appropriate.

3. In general, the replies to the *Inquiry* favored the Commission's effort to introduce this communications technique. However, many of the respondents were concerned that implementation of this technique might cause unacceptable interference to existing services unless its development was restricted to low-powered, limited range applications and that the allowable frequencies and powers were carefully chosen. Because the technology is new and unfamiliar to the civilian sector, many urged the Commission to proceed slowly with its implementation until sufficient experience in the identification and measurement of spread spectrum signals had been gained and an assessment had been made of their interference potential. Without this information, the majority of the respondents were firmly against a general overlay of spread spectrum systems upon existing services. However, few objected to the use of these systems in an overlay fashion, as long as they were restricted to low-power and limited range applications.

4. From the responses to the *Inquiry* the FCC developed rulemaking proposals for the operation of spread spectrum systems as licensed devices in the Police Radio Service under Part 90 of the Rules and as low-powered, limited range devices to be authorized under Part 15 of the Rules. As a further incentive for the development of this technology, the rules would allow spread spectrum systems of higher power to operate in the 902–928, 2400–2483.5 and 5725–5875 MHz Industrial, Scientific and Medical ISM bands. However, the record was still not sufficiently complete to allow a drafting of the equipment authorization procedures and measurement standards that would be used to determine the equipment compliance for these systems. Accordingly, the *Further Notice* was released by the Commission on May 21, 1984 to solicit further information on the equipment authorization and measurement procedures and to obtain comments on the proposed rules.

Discussion of Comments and Reply Comments

5. Thirty-seven comments and fifteen reply comments were filed in response to the *Further Notice*. These came from a wide range of parties and interest groups. A list of those filing comments is contained in Appendix A.[5, 6] Along with comments from individuals, comments were received from amateur radio, broadcasting, business and industry, cordless telephone manufacturing, police and public safety, and radiopositioning and radionavigation interest groups. Most of the comments which were received were directed to issues or questions posed in the *Further Notice* and no significant new matters relative to the proceeding were raised.

6. Many of the respondents favored the proposed authorization of spread spectrum for low-power limited range communications devices and considered the proposed rules conservative enough for immediate adoption. Others, including broadcasting interests in particular, expressed concern over interference to their services from these devices. Though not opposing the Commission's action in general, they did oppose the overlay of spread spectrum systems on the frequency bands in which they are operating.

7. More specifically, broadcasting groups and some large consumer product manufacturers (RCA, GE and others) suggested that the present level of television service would be seriously degraded if spread spectrum systems were allowed to operate in the television bands. Even though the proposed rules were formulated to offer to this service a level of protection from direct sequence systems equivalent to a TASO 3 level of reception at the Grade A service contour, it was argued that an interference level based on this criterion would produce a degradation of picture quality for those living outside of this contour. It was also argued that interference from these systems would cause a loss of picture quality in those

[1] The spreading or dilution of the energy in spread spectrum systems over a wide bandwidth results in several possible advantages: short range overlays on other emissions, resistance to interference from other emissions, and low detectability. While it is not anticipated that spread spectrum will replace other types of modulations in general, the unique characteristics of spread spectrum offer important options for the communications system designer.

[2] 47 FCC 2d 876.

[3] A companion Notice of Proposed Rulemaking was adopted in Docket 81–414 proposing use of spread spectrum in the Amateur Radio Service and has been implemented, in part, in a Report and Order we are adopting today.

[4] 49 FR 21951. FCC 2d

[5] Some of the comments which were received were not pertinent to this proceeding. ONI, Racal-Decca Survey, Inc., Sercel Inc. and Teledyne Hastings-Raydist all filed comments which were concerned solely with radiolocation operations in the 1600–3000 kHz band. These comments are outside the scope of this proceeding which is concerned with spread spectrum systems operating on frequencies above 70 MHz. The comments of these parties will be considered under Docket 84–874 which is dealing with radiolocation allocations in the 1900–2000 kHz band.

[6] Exxon's comments which described a downward looking impulse radar system being developed under a Special Temporary Authorization from the Private Radio Bureau, were also outside the scope of this proceeding. Although the Exxon system operates on frequencies between 100 and 1000 MHz, its relatively high output power (33 watts) and antenna height (to be operated from a hovering aircraft) may require a special allocation under Part 2 of the Rules rather than any consideration in this proceeding under Part 15. We have not received sufficient information in this proceeding in the type of system Exxon proposes to formulate a specific proposal.

areas, both within and outside the Grade A service contour, where reception is superior to TASO 3 at the present time.

8. COMSAT, STC and AT&T were concerned that some microwave, cellular and satellite facilities may be especially vulnerable to interference from spread spectrum devices particularly in those services where wide bandwidths are employed and weak signals are involved.

9. ARRL and several individual amateurs were concerned about possible interference from spread spectrum systems operating in the amateur bands at 144–146, 220–225 and 420–450 MHz. They argued that since amateurs operate in residential environments, which could conceivably contain many Part 15 spread spectrum devices, their systems would be more susceptible to interference from these devices than those in other services which are operating principally in nonresidential environments. It was further argued that in many amateur operations the level of the ambient noise is critical since they are often dealing with very weak signals which in many cases are barely on the fringes of detection. These signals can be easily masked and lost in interference coming from other sources.

10. Of the parties submitting comments that opposed the proposed authorization of spread spectrum systems, RCA was the only one that supported its position with analysis. RCA's analysis dealt with possible interference to FM and television broadcasting from spread spectrum systems operating in the broadcast bands. However this is not a consideration in this item which is concerned with the authorization of spread spectrum systems in the ISM bands and on Public Safety Radio frequencies.

11. Several police and public safety groups filed comments on the proposed authorization of spread spectrum systems in the Police Radio Service bands under Part 90 of the Rules. The major concern of all of these parties was not interference to their service from the police use of spread spectrum systems in these bands, but rather from other spread spectrum systems that would be authorized to use these bands on a secondary basis. The only major difficulty that was foreseen with the police use of spread spectrum systems in these bands was a possible increase in band congestion. To ease this congestion, as well as to provide a broader range of frequencies that could be used for covert operations, it was suggested that the proposed Part 90 spread spectrum authorization be extended to all frequencies in the Public Safety Radio Services.

12. Both APCO and the County of Orange, California, thought that there was no need to increase the present power limit of 2 watts for fast frequency hopping systems operating in the Public Safety bands and that the proposed 15 watt limit for these systems should be reduced to 2 watts. They stated that a 2 watt limit should be sufficient for all of their present and future frequency hopping needs and can easily be increased later if necessary. They also requested that the station identification requirement of § 90.19(g)(3) of the present Rules should be eliminated for undercover operations, since it not only jeopardizes the security of these operations but it also creates a real danger to the agents involved.

> We have long noted that this is an ambiguous rule, providing use "without special authorization", while at the same time requiring "station identification". This inconsistency has led to some problems which would no doubt be perpetuated and possibly increased by the rules as proposed. We would suggest some special type of provision which would allow the frequency coordinator to recommend or assign these channels on a secondary basis, but without the necessity for a formal license, which defeats the intent of maintaining security through anonymity.[1]

County of Orange also requested the use of other Public Safety frequencies for surveillance operations using modulations other than spread spectrum only if approval or the coordinator had been obtained.

13. No serious objections were raised to the authorization of spread spectrum systems in the 902–928, 2400–2483.5 and 5725–5875 MHz ISM bands as long as these operations did not cause interference to systems that have been authorized the use of these bands under other Parts of the Rules. Both NTIA and GE thought that there should be a cap on the maximum output power which these systems can use. NTIA suggested a power limit of 10 watts, GE a limit of 7 watts. COMSAT expressed concern that use of 5850–5875 MHz might cause interference to the new Fixed Satellite Service allocation in that band.

14. In the *Further Notice*, we asked if the proposed rules would be sufficient to allow the development of wireless data terminal systems or whether more power should be allowed for these devices, either by the creation of a special business-industrial class permission under Part 15 or by authorizing them in one of the licensed services. Hewlett-Packard, which has been developing these systems on an experimental basis under Part 5 of the Rules, suggested that the power limits proposed in the *Further Notice* are not sufficient for these devices. Based upon the field strengths which they consider to be adequate for the development of these devices, the proposed level for direct sequence emissions of 33 uV/m at 3 meters per 4 MHz of bandwidth is at least 10 times too small. If this power limit cannot be raised for these systems, then Hewlett-Packard suggested that wireless data terminals be licensed in the Private Land Mobile Radio Services as a separate service under Part 90 of the Rules. RCA felt that since these terminals would be mainly business and not consumer devices, they should be licensed under Part 94 of the Rules for the Private Operational-Fixed Microwave Service, rather than under Part 15.

15. Comments were also solicited in the *Further Notice* concerning the feasibility of authorizing carrier current spread spectrum systems. Hewlett-Packard has already made measurements on an experimental 5 milliwatt system and finds that the technology is very promising. Hewlett-Packard can foresee little interference to other authorized services from these systems as long as the carrier current operations are confined to large buildings or areas within buildings which have their power supplied from transformers rather than by a direct connection to the AC power lines. These power transformers with their large interwinding capacitances would prevent much of the RF energy generated by the spread spectrum systems from being fed back into the AC power lines. Carrier current systems are limited to operation on frequencies below 20 MHz because of the excessive signal losses that occur when operated on frequencies above this. We find the two Hewlett-Packard suggestions to be promising new applications of this technology and will consider in the near future further action to authorize their use.

16. A request was made in the *Further Notice* for assistance in developing measurement procedures for spread spectrum systems. Although many parties addressed this matter, there was little consensus as to what these procedures should be. However, most parties did agree that a measurement bandwidth must be specified before any meaningful measurement procedures could be drawn up.

17. Some cordless telephone manufacturers expressed concern in the

[1] APCO Comments, page 5.

comments that the proposed spread spectrum authorizations could prejudice their petition for 2 MHz of spectrum in the 900 MHz band.[8] They felt that the present action by the Commission might force them to utilize a technology which they do not have the resources at the present time to develop, and which may not provide sufficient power for their needs.

18. Of the bands presented above, only two were addressed in a degree which allows for a well reasoned decision. We are deferring without prejudice action on all other issues addressed in the *Further Notice*. The two issues to be decided at this time are the use of spread spectrum in the Police Radio Service and the use of spread spectrum in the ISM bands.

Findings

Spread Spectrum in the Police Radio Service

19. The record of this proceeding is sufficiently complete at the present time to enable us to authorize frequency hopping systems to be operated on a limited basis on certain frequencies in the Public Safety Radio Service. This would expand the provisions currently given in § 90.19(g)(3). This authorization is limited to law enforcement officers and its purpose is to allow them to set up communication links on these frequencies that can be used in connection with physical surveillance, stakeouts, raids and other such activities. Operation on these frequencies will be on a noninterference basis to the operations of other licensees who have been authorized the use of these frequencies under other sections of the Part 90 Rules. In addition, their use of these frequencies is subject to the approval of the applicable frequency coordinators of the Public Safety Radio Service of the district in which the license and equipment are to be used and if non-police Public Safety frequencies are to be used the coordination of the other service's coordinator is also needed. The changes to Part 90 of the Rules and Regulations to accomplish this authorization are presented in Appendix B.

20. Since spread spectrum transmissions are not readily detectable by criminals who may be monitoring the air waves and since they are difficult to jam, this authorization gives law enforcement officers an extremely valuable tool to use in their operations. Federal law enforcement agencies operating radio systems under 47 U.S.C. 305 are already authorized by the National Telecommunications and Information Administration to use spread spectrum in their operations on a case-by-case basis. These new rules extend this same capability to state and local law enforcement agencies as well.

21. Under the new Part 90 Rules frequency hopping systems with a maximum output power of 2 watts are allowed to operate on any of the frequencies presently available to the Public Safety Services as listed in Subpart B of Part 90 of the Rules. The 2 watt power limit for these systems is the same as that which is permitted for all present users of these frequencies, on a "without prior FCC approval" basis, irrespective of the modulation which they may be using. Hence, frequency hopping systems which are operating on these frequencies are not expected to cause harmful interference to other users of this spectrum. The 2 watt output power limit applies to all frequency hopping systems that are operating on these frequencies no matter what their hop rate is. Requests to use higher powers will be considered on a case-by-case basis for special temporary authorizations. Appendix C gives guidelines for coordinators to use in considering requests to use frequency hopping systems which we feel should be adequate to prevent harmful interference.

22. While the Commission and some law enforcement agencies have experience with frequency hopping systems, at this time there is very little non-military experience with direct sequence systems. We have traditionally been extremely careful in minimizing the likelihood of harmful interference to critical public safety systems. Thus we shall defer at the moment the permanent authorization of direct sequence systems for police use until we have more data available. We plan to conduct tests at our Laboratory and will invite representatives of the police community to participate. Pending further action in this area, experimental and developmental licenses and special temporary authorization will be available to manufacturers and police licensees who wish to try direct sequence systems.

23. Both APCO and the County of Orange, California have brought to our attention the inherent danger that the station identification requirement of § 90.19(g)(3) of the present rules poses to both the security of undercover operations and the safety of the agents involved. Since the frequencies allocated for these operations can only be used by the law enforcement officers for spread spectrum, and, since approval must be obtained from the applicable frequency coordinators prior to the use of these frequencies for police spread spectrum operations, it would seem that any unauthorized use of these frequencies can be readily detected. Thus, we feel that the station identification requirement present in this section of the Rules is superfluous and can be deleted safely.

Spread Spectrum in the ISM Bands

24. Spread spectrum systems are also being authorized under Part 15 for general usage in the 902–928 MHz, 2400–2483.5 MHz and 5725–5850 MHz ISM bands. Due to COMSAT's concern in its comments about the possibility for interference to the Fixed Satellite Service allocated at 5850–5875 MHz, we have excluded these frequencies from spread spectrum usage. These systems may operate within these bands with a maximum output power of 1 watt. RF output power outside these bands over any 100 kHz bandwidth must be 20 dB below that in any 100 kHz bandwidth within the band which contains the highest level of the desired power. For certification of spread spectrum equipment that is to be used in these bands, the applicant applying for certification must demonstrate by either measurement or analysis that this limit has been met. Spread spectrum systems are allowed to operate within the ISM bands only on a noninterference basis to other operations that have been authorized the use of these bands under other Parts of the Rules. They must not cause any harmful interference to these operations and must accept any interference which these systems may cause to their own operations.[9]

25. Although both NTIA and GE found no great difficulty with spread spectrum systems operating within the ISM bands with maximum output powers of 7 watts, GE did take exception to the opening of these bands to communications systems which have been accustomed to operation with some degree of protection from

[8] See Electronic Industries Association *Petition for Rulemaking*, RM 4760; (requesting an allocation of 2 MHz of spectrum for cordless telephone use in the 900 MHz band) (filed March 1, 1984.)

[9] NTIA has recently studied the current and potential electromagnetic usage of these three bands. Their findings are contained in the following reports.

See Bohdan Bulawka, "Spectrum Resource Assessment in the 902–928 MHz Band", NTIA Report 80–46, September 1980;

See Robert T. Watson, "Spectrum Resource Assessment in the 2300–2450 MHz Band", NTIA Report 81–78, September 1981;

See William B. Grant, John C. Carroll and Charles J. Chilton, "Spectrum Resource Assessment in the 5650–5925 Mhz Band", NTIA Report 83–115, January 1983.

interference. GE fears that the steady encroachment on these bands by other services will eventually lead to petitions from these other users for protection from interference from ISM devices. This would be unfortunate since industry is constantly finding new uses of these frequencies in many diverse applications ranging from coal desulphurization to food sterilization.

26. We appreciate GE's concern in this regard and acknowledge the danger in opening these bands to high power communications devices. In addition, Part 15 of the Rules is intended to provide authorization for low power communications devices and not for communications devices of considerable output power. To open the Part 15 rules to high-powered communications devices, even in a band where other authorized high powered industrial and government equipment is already operating, would not be in keeping with the purpose of this Part of the Rules. Therefore we have reduced considerably the original power limits that we proposed for systems operating in these bands, even below the levels proposed by NTIA and GE. Even at that, the limit of 1 watt that we are allowing for these systems is still much higher than the level of power that we would normally authorize for devices. However, both because of the unique nature of these bands and because the systems being authorized under these rules will be spreading this energy over a wide bandwidth, we believe an output power level of 1 watt is justified. In view of the 1 watt power limit which we are adopting in the final rules we believe the possibility of these systems interfering with other authorized users of these bands is small.

Conclusion

27. The rules which are adopted here for spread spectrum systems operating in the Police Radio Service and in the ISM bands have been kept deliberately conservative in order to minimize any possibility of interference from these systems to existing services. As a further safeguard, all spread spectrum devices which will be permitted under the Part 15 rules proposed in this Report and Order are required to be certified as a prerequisite to marketing. The Rules for the certification of Part 15 low power communication devices are given in the Rules and Regulations under Part 15, Subpart B. See also Part 2, Subpart J, for general certification and type acceptance procedures. In addition, the Commission has the discretionary authority to call in sample devices for testing as part of the certification process. As we have done in the past with cordless telephones, CB radios, home computers and other devices, we expect to engage in a thorough sampling program until we are confident that the manufacturers have gained sufficient knowledge and skill in building these devices, so that they pose no potential interference problems to other uses of the radio spectrum. The procedures for the type acceptance of equipment to be used in the Police Radio Service are given in § 90.203 of the Rules and in Subpart J of Part 2.

28. With the above mentioned safeguards that have been built into the Rules, we do not feel that requiring spread spectrum transmitters to use automatic identifiers is warranted at the present time. However in the future, when a much broader authorization of spread spectrum systems may be considered, we may wish to consider some form of transmission identifier to assist us in identifying and locating units which may be causing interference.

29. We are deferring without prejudice action on the remaining issues which were discussed in the *Further Notice*, such as, the operation of low powered spread spectrum devices on frequencies above 70 MHz, the measurement procedures to be used in the certification of these devices and the possibility of licensing spread spectrum wireless data terminals and carrier current systems under other Parts of the Rules. For further information about this Report and Order contact, Dr. Joseph McNulty at (301) 725–1585 or Dr. Michael Marcus at (202) 632–7040.

Regulatory Flexibility Final Analysis

30. *Reason for Action.* The Commission believes that its rules and policies should be reviewed in the context of current social, technological and financial environments in which licensees and applicants operate, so that service to the public may be facilitated while at least regulatory cost is imposed. It is in this light that it is considering modification of its Part 15 and Part 90 rules.

31. *The Objectives.* The Commission proposes to accommodate spread spectrum systems by reducing regulation to the maximum extent feasible. The Commission believes that such action will lead to a more rapid development of spread spectrum technology in the civilian sector.

32. *Legal basis.* Action proposed herein is taken pursuant to sections 4(i), 7(a), 302 and 303(r) of the Communications Act of 1934, as amended.

33. *Description, potential impact and number of small entities affected.* The ability to develop communications equipment which employs spread spectrum modulation techniques as described in the attached Rules will be beneficial to all entities which are involved. Therefore, we foresee only positive impacts on small entities.

34. *Recording, record keeping and other compliance requirements.* The modifications to Part 15 and 90 of the Rules would require record generation by the manufacturer sufficient to meet the usual equipment authorization requirements. Additionally, the modifications of the part 90 Rules require a simple onetime notification to the applicable frequency coordinators of the district in which the license and equipment are to be used.

35. *Federal rules which overlap, duplicate or conflict with this rule.* None.

36. *Any significant alternatives minimizing impact on small entities and consistent with the stated objective.* None.

37. Accordingly, it is ordered, that effective June 15, 1985, Part 15 and Part 90 of the Rules and Regulations are amended as set forth in the attached Appendix B. The authority for this action is found in section 4(i), 7(a), 302, and 303(r) of the Communications Act of 1934, as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—List of Parties Supplying Comments and Reply Comments to the Further Notice

The following parties supplied Comments to the *Further Notice of Inquiry* and *Notice of Proposed Rulemaking:*

Aeronautical Radio, Inc., (ARINC)
American Radio Relay League, (ARRL)
American Telephone and Telegraph Company, (AT&T)
Associated Public-Safety Communications Officers, Inc., (APCO)
Association of Maximum Service Telecasters, (MST)
California Public Safety-Radio Association, Inc., (CPRA)
Communications Satellite Corporation, (COMSAT)
Jonathan C. Dahm
Joint submission by Dr. George R. Cooper and Dr. William W. Chapman
Del Norte Technology, Inc.
Door Operator & Remote Controls Manufacturers Association, (DORCMA)
Dynascan Corporation

The Consumer Electronics Group of the Electronic Industries Association, (EIA/CEG)
The Personal Communications Section, Telecommunications Group, of the Electronic Industries Association
Exxon Communications Company
General Electrics, (GE)
Geostar Corporation
Hewlett-Packaged, (HP)
County of Los Angeles, Department of Communications
Mura Corporation
National Association of Broadcasters, (NAB)
National Association of Business and Educational Radio, Inc., (NABER)
National Broadcasting Company, Inc., (NBC)
Offshore Navigation, Inc., (ONI)
Radscan, Inc.
RCA Corporation, (RCA)
Ronald E. Reder
Cortland E. Richmond
Satellite Television Corporation, (STC)
Schenectady Amateur Radio Association, Inc.
Sercel Incorporated
Telesciences International Limited
Joint submission by 15 telephone companies
Texas VHF-FM Society
U.S. Dept. of Commerce, National Telecommunications and Information Administration, (NTIA)
Wilkins Engineering
Zenith Electronics Corporation

The following parties supplied Reply Comments to the *Further Notice of Inquiry* and *Notice of Proposed Rulemaking:*

American Petrolum Institute, (API)
American Telephone and Telegraph Company, (AT&T)
Association of Maximum Service Telecasters, (MST)
Communications Satellite Corporation, (COMSAT)
County of Orange, California
Del Norte Technology, Inc.
The Personal Communications Section, Telecommunications Group, of the Electronic Industries Association
General Electric, (GE)
Hewlett-Packard, (HP)
National Association of Broadcasters, (NAB)
Offshore Navigation, Inc., (ONI)
Racal-Decca Survey, Inc.
Radscan, Inc.
Teledyne Hastings-Raydist
Joint submission by 19 telephone companies
U.S. Dept. of Commerce, National Telecommunications and Information Administration, (NTIA)

Appendix B—Changes to Parts 2, 15 and 90 of the FCC Rules and Regulations

PART 2—[AMENDED]

A. Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

The authority citation for Part 2 continues to read:

Authority: Section 4(i), 7(a), 302, and 303(r) of the Communications Act of 1934, as amended.

1. Section 2.1, General Definitions, is amended by inserting the following definitions in alphabetical order.

§ 2.1 [Amended]

* * * * *

Direct Sequence Systems. A direct sequence system is a spread spectrum system in which the incoming information is usually digitized, if it is not already in a binary format, and modulo 2 added to a higher speed code sequence. The combined information and code are then used to modulate a RF carrier. Since the high speed code sequence dominates the modulating function, it is the direct cause of the wide spreading of the transmitted signal.

* * * * *

Frequency Hopping Systems. A frequency hopping system is a spread spectrum system in which the carrier is modulated with the coded information in a conventional manner causing a conventional spreading of the RF energy about the carrier frequency. However, the frequency of the carrier is not fixed but changes at fixed intervals under the direction of a pseudorandom coded sequence. The wide RF bandwidth needed by such a system is not required by a spreading of the RF energy about the carrier but rather to accommodate the range of frequencies to which the carrier frequency can hop.

* * * * *

Pulsed FM Systems. A pulsed FM system is a spread spectrum system in which a RF carrier is modulated with a fixed period and fixed duty cycle sequence. At the beginning of each transmitted pulse, the carrier frequency is frequency modulated causing an additional spreading of the carrier. The pattern of the frequency modulation will depend upon the spreading function which is chosen. In some systems the spreading function is a linear FM chirp sweep, sweeping either up or down in frequency.

* * * * *

Spread Spectrum Systems. A spread spectrum system is an information bearing communications system in which: (1) Information is conveyed by modulation of a carrier by some conventional means, (2) the bandwidth is deliberately widened by means of a spreading function over that which would be needed to transmit the information alone. (In some spread spectrum systems, a portion of the information being conveyed by the system may be contained in the spreading function.)

* * * * *

Time Hopping Systems. A time hopping system is a spread spectrum system in which the period and duty cycle of a pulsed RF carrier are varied in a pseudorandom manner under the control of a coded sequence. Time hopping is often used effectively with frequency hopping to form a hybrid time-division, multiple-access (TDMA) spread spectrum system.

* * * * *

Hybrid Spread Spectrum Systems. Hybrid spread spectrum systems are those which use combinations of two or more types of direct sequence, frequency hopping, time hopping and pulsed FM modulation in order to achieve their wide occupied bandwidths.

* * * * *

PART 15—[AMENDED]

B. Part 15 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

The authority citation for Part 15 continues to read:

Authority: Sections 4(i), 7(a), 302, and 303(r) of the Communications Act of 1934, as amended.

1. New § 15.126 is added to read as follows:

§ 15.126 Operation of spread spectrum systems.

Spread spectrum systems may be operated in the 902–928 MHz, 2400–2483.5 MHz and 5725–5850 MHz frequency bands subject to the following conditions:

(a) They may transmit within these bands with a maximum peak output power of 1 watt.

(b) RF output power outside these bands over any 100 kHz bandwidth must be 20 dB below that in any 100 kHz bandwidth within the band which contains the highest level of the desired power. The range of frequency measurements shall extend from the lowest frequency generated in the device (or 100 MHz whichever is lower) up to a frequency which is 5 times the center frequency of the band in which the device is operating.

(c) They will be operated on a noninterference basis to any other operations which are authorized the use of these bands under other Parts of the Rules. They must not cause harmful interference to these operations and must accept any interference which these systems may cause to their own operations.

Note.—Spread spectrum systems using the 902–928 MHz, 2400–2500 MHz and 5725–5850 MHz bands should be cautioned that they are sharing these bands on a noninterference basis with systems supporting critical government requirements that have been allocated the usage of these bands on a primary basis. Many of these systems are airborne radiolocation systems that emit a high EIRP which can cause harmful interference to other users. For further information about these systems, write to: Director, Office of Plans and Policy, U.S. Department of Commerce, National Telecommunications and Information Administration, Room 4096, Washington, D.C. 20230.

Also, future investigations of the effect of spread spectrum interference to Government operations in the 902–928 MHz band may require a future decrease in the power limits.

(d) For frequency hopping systems, at least 75 hopping frequencies, separated by at least 25 kHz, shall be used, and the average time of occupancy on any frequency shall not be greater than four-tenths of one second within a 30-second period. The maximum bandwidth of the hopping channel is 25 kHz. For direct sequence systems, the 6 dB bandwidth must be at least 500 kHz.

(e) If the device is to be operated from public utility lines, the potential of the RF signal fed back into the power lines shall not exceed 250 microvolts at any frequency between 450 kHz and 30 MHz.

PART 90—[AMENDED]

C. Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

The authority citation for Part 90 continues to read:

Authority: Sections 4(i), 7(a), 302, and 303(r) of the Communications Act of 1934, as amended.

1. Section 90.19(g)(3) is revised as follows:

§ 90.19 Police radio service.

* * * * *

(g) * * *

(3) A licensee may use, without special authorization from the Commission, any mobile service frequency between 40 and 952 MHz, listed in Subpart B of this Part of the Rules, for communications in connection with physical surveillance, stakeouts, raids, and other such activities. Such use shall be on a secondary basis to operations of licensees regularly authorized on the assigned frequencies. The maximum output power that may be used for such communications is 2 watts. Transmitters, operating under this provision of the Rules, shall be exempted from the station identification requirements of § 90.425. Use of Public Safety frequencies not listed in paragraph (d) of this section is conditional on the approval of the coordinator corresponding to each frequency. Spread spectrum transmitters may be operated on Public Safety frequencies between 37 and 952 MHz, providing that they are type accepted by the Commission under the provisions of §§ 2.803 and 90.203 of the Rules, and meet the following conditions:

(i) Frequency hopping transmitters can be operated, with a maximum output power of 2 watts, on any Public Safety mobile service frequency between 37 and 952 MHz listed in Subpart B of this section. At least 20 hopping frequencies shall be used and the average time of occupancy on any frequency shall not be greater than 1/10 second in every 2 seconds;

(ii) Use of spread spectrum transmitters under this section of the Rules is subject to approval by the applicable frequency coordinator of the radio services of the district in which the license and equipment are to be used.

2. Section 90.207 is amended by revising paragraph (k) as follows:

§ 90.207 Types of emissions.

* * * * *

(k) For stations in the Fire, Police and Power Radio Services utilizing digital voice modulation, in either the scrambled or unscrambled mode, F3Y emission will be authorized. Authorization to use F3Y emission is construed to include the use of F9Y emission subject to the provisions of § 90.233.

3. Section 90.209 is amended by adding new paragraph (h) as follows:

§ 90.209 Bandwidth limitations.

* * * * *

(h) All out of band emissions, including spurious emissions from switching, that are produced by frequency hopping systems, shall be kept below the limits specified in this Section of the Rules for similar systems which are modulated about a fixed frequency and do not frequency hop.

Appendix C—Initial Coordinator Guidelines for Spread Spectrum

Spread spectrum can be an important tool for law enforcement use in applications where it is vital that radio transmissions must not be detected. While conventional voice privacy systems protect the contents of a message, the presence of encrypted communications is readily detectable and in itself could jeopardize the security of a sensitive operation.

These guidelines are intended to help coordinators in approving requests to use spread spectrum. Requests that do not comply with these guidelines may not be interference-prone, but would require either more detailed calculations or a field test to determine the likelihood of interference. Coordinators may also wish to consider approving uses that have a small interference potential if they feel the value of the operation supported exceeds the cost of the interference.

A frequency hopping (FH) system which hops at a rate of over 100 hops/sec and which hits a conventional voice channel less than 5% of the time will not cause harmful interference regardless of field strength. The interaction of FH with traditional systems becomes more noticeable as the hopping rate is decreased. Hopping rates of less than 10 hops/sec are not recommended for this reason. Frequency hopping systems may trigger carrier operated repeaters on frequencies that they use. (Such repeaters are rare in the public safety services and the Commission has consistently discouraged their use because of their susceptibility to false triggering.) Thus, special steps are needed to protect such repeaters. Interaction with conventional receivers will be further minimized if the hopping frequencies are interleaved between conventional channels.

The following conditions should be met for coordination without a field test:

1. All FH systems should hop at more than 10 hops/sec. As hopping rates greater than 100 hops/sec are preferred, coordinators may wish to have a field demonstration of slower systems.

2. The coordinator should ensure that the sum of the inverse of the processing gain (that is, the number of frequencies used) of all FH systems operated in a given band within a 70 mile diameter does not exceed .05.

3. All frequencies used by carrier operated repeaters within 50 miles should be excluded from the set of hopping frequencies unless it can be demonstrated that the turn-on delay of the repeater is adequate to prevent false triggering (50–100 ms is probably needed).

4. All frequencies used by digital data systems and paging systems within 50 miles should be excluded from the set of

hopping frequencies unless a field test can show absence of harmful interference.

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47 CFR Parts 73 and 97

[BC Docket No. 79-47; RM-2830; FCC 85-302]

Rebroadcasts of Transmissions of Non-broadcast Radio Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein amends Parts 73 and 97 of the Commission's rules concerning broadcast use of transmission of non-broadcast radio stations. These rule changes: (1) Eliminate the prohibition on rebroadcasts of messages transmitted by personal radio service (CB and GMRS) stations; (2) revise and clarify the amateur radio rules pertaining to broadcast-related activity; (3) permit rebroadcasts of CB and amateur transmissions without prior permission of the message originator; and (4) eliminate the requirements for FCC rebroadcast permission. The elimination of the prohibition on rebroadcasts of personnel radio service messages and the requirements for FCC rebroadcast permission allows broadcasters greater discretion with respect to program material sources and significantly reduces the administrative burden associated with rebroadcasts of transmissions by non-broadcast radio stations. The modification to permit rebroadcasts of CB and amateur messages without permission from the message originator conforms the rules to recent changes to section 705 of the Communications Act of 1934, as amended. Finally, the revisions to the amateur rules clarify the Commission's intention to maintain the amateur service for purposes separate and distinct from broadcasting.

EFFECTIVE DATE: July 22, 1985.

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

FOR FURTHER INFORMATION CONTACT: Alan Stillwell, Mass Media Bureau (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Television, Radio.

47 CFR Part 97

Amateur radio.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 73 and 97 of the Commission's rules concerning rebroadcasts of transmissions of non-broadcast radio stations; BC Docket No. 79-47, RM-2830, FCC 85-302.

Adopted: June 7, 1985.
Released: June 13, 1985.

By the Commission.

1. The Commission is adopting revisions to its broadcast rules concerning rebroadcast of non-broadcast radio transmissions to eliminate unnecessary restrictions and administrative procedures and to conform them to new provisions of the Communications Act of 1934, as amended. These revisions provide for: (1) Elimination of the prohibition on rebroadcasts of Personal Radio Service communications;[1] (2) elimination of the requirement for FCC rebroadcast approval; and, (3) exemption of rebroadcasts of CB and amateur radio communications from the requirements for prior authorization from the orginating station. The Commission also is revising portions of its amateur radio rules to clarify its intention to maintain the amateur service for purposes separate from broadcasting.

Background

2. This proceeding was initiated in 1979 in response to a petition for rule making filed by the National Association of Broadcasters (NAB). In its petition, the NAB asked the Commission to amend the rules to permit broadcast stations to rebroadcast CB emergency transmissions and to permit amateur stations to transmit emergency and public safety information for broadcast and broadcast-related purposes. On March 15, 1979, the Commission adopted a combined *Notice of Inquiry and Memorandum Opinion and Order (Inquiry)*, 44 FR 20465, that denied the NAB's request for changes to the amateur rules, but asked for comments and additional information on the question of whether to permit rebroadcasts of CB emergency messages.

3. Subsequent to the *Inquiry*, in 1982, the Congress modified section 605 of the Communications Act to eliminate the statutory proscriptions on the unauthorized interception of amateur and CB radio transmissions.[2] In October of 1984, Congress again modified section 605 and redesignated the new version as section 705, 47 U.S.C. § 705. However, the 1984 modifications do not affect matters relating to privacy or rebroadcasts of the subject radio communications.[3] An additional development concerning rebroadcast activity occurred in the context of the October 1983, United States military action in Grenada, when questions arose concerning use of amateur radio facilities in conjunction with broadcast news gathering activities.

4. In light of the record developed with respect to the *Inquiry*, the 1982 statutory revisions, and the uncertainty concerning the rules with respect to use of amateur communications in broadcast news gathering, the Commission adopted a *Notice of Proposed Rule Making* (*Notice*), 49 FR 30549, in the rebroadcast matter on July 12, 1984. In the *Notice*, the Commission indicated it was undertaking a comprehensive review and revision of its regulations with respect to rebroadcasts of transmissions of non-broadcast radio stations. The *Notice* set forth specific proposals for eliminating restrictions and procedures with respect to rebroadcast activity and for rewriting portions of the amateur rules to clarify the Commission's policy with respect to use of amateur facilities for broadcast purposes.

5. Thirteen comments and eight reply comments were submitted in response to the *Notice*. A list of parties filing comments and replies is presented in Appendix A.

6. *Current Rule Provisions.* Under the current rules, broadcast stations generally are permitted to rebroadcast the transmissions of non-broadcast radio stations, subject to requirements for prior permission that vary with the type of stations originating the message.[4] The exception to this general policy is that the rules prohibit any rebroadcast of communications from Personal Radio Service stations, that is, stations in the CB and GMRS radio services.[5] In the case of private radio

[1] The Personal Radio Services, as addressed in Part 95 of the rules, include the General Mobile Radio Service (GMRS), the Remote Control (R/C) Radio Service and the Citizens Band (CB) Radio Service. Prior to 1976, the Personal Radio Sevices were known as the Citizens Radio Service with subdivisions Class A, Class C, and Class D that corresponded to the individual subservices under the Personal Radio Services designation. *See, Third Report and Order* in Docket No. 20120, 41 FR 56067.

[2] *See* Communications Amendments Act of 1982, Pub. L. 97-259.

[3] *See*, Cable Communications Policy Act of 1984, Pub. L. No. 98-549, § 5, 98 Stat. 2779 (1984).

[4] The rebroadcast rules are set forth in 47 CFR 73.1207

[5] *See* 47 CFR 73.1207(e). *See also* footnote 1, *supra*.