PART 423—[REMOVED]

Under the authority of the Disaster Assistance Act of 1988, Public Law 100–387, 102 Stat. 924, August 11, 1988, and for reasons stated above, 43 CFR is amended by removing part 423.

Elizabeth Ann Rieke,

Assistant Secretary—Water and Science.

[FR Doc. 94–9331 Filed 4–18–94; 8:45 am]

BILLING CODE 4310–94–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20, 22, 24, 80, 90, 99

[GN Docket No. 93–252; FCC 94–31]

Implementation of Sections 3(n) and 332 of the Communications Act Regarding Regulatory Treatment of Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule making proceeding adopts rules to implement sections 3(n) and 332 of the Communications Act of 1934 (the Act), as amended by section 6000(b) of the Omnibus Budget Reconciliation Act of 1993 (Budget Act). The new rules adopted: interpret the elements that define the terms "commercial mobile radio service (CMRS)" and "private mobile radio service (PMRS);" based on these definitions, determine the regulatory status of existing mobile services and of personal communications services (PCS); address the degree to which those services that will be classified as CMRS will be subject to regulation under Title II of the Act; and address the other issues, including interconnection rights and preemption of state regulatory authority over mobile service providers. The Commission's action furthers the congressional objectives of ensuring that similar services are subject to consistent regulatory classification and that appropriate levels of regulation be established for CMRS providers. The Commission's action establishes a symmetrical regulatory structure that will promote competition in the mobile services marketplace and will serve the interests of consumers while also benefiting the national economy.

EFFECTIVE DATE: July 18, 1994.

FOR FURTHER INFORMATION CONTACT: Nancy Boocker (202) 632–6450 or Judy Argentieri (202) 632–6917 in the Common Carrier Bureau or David Furth (202) 634–2443 in the Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order in GN Docket No. 93–252, adopted February 3, 1994 and released March 7, 1994. The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Washington, DC 20037.

Paperwork Reduction

Public reporting burden for the collections of information is estimated as follows:

Section/forms	Estimated average hours per response	Estimated annual responses
20.9(a)(13)	2	15
20.9(b)	2	20
20.9(b)(2)	2	10
20.13(a)	40	10
20.13(a)(5)	2	20
20.13(b)	40	10
20.13(c)	2	10
20.15(c)	1	1,200

Total Annual Burden: 2,150.
Frequency of Response: On occasion.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Division, Paperwork Reduction Project, Washington, DC 20554 and to the Office of Management and Budget Paperwork Reduction Project, Washington, DC 20503.

Final Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. section 604, a final regulatory flexibility analysis has been prepared and is presented below. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

Pursuant to section 603 of title 5, United States Code, 5 U.S.C. 603, an initial Regulatory Flexibility Analysis was incorporated in the Notice of Proposed Rulemaking in GN Docket No. 93–252. Written comments on the proposals in the Notice, including the Regulatory Flexibility Analysis, were requested.

A. Need for and Purpose of Rules

This rule making proceeding was initiated to implement sections 3(n) and 332 of the Communications Act. The rules adopted herein will carry out the intent of Congress to establish a uniform regulatory framework for all mobile services.

B. Issues Raised by the Public in Response to the Initial Analysis

While all the parties recognize that this rulemaking will impose new legal obligations on licensees whose regulatory status has changed from private to commercial as a result of the new legislation and the actions we have taken in this Order, a number of parties propose that licensees should be able to offer both commercial and private radio service on the same system and under a single license. As a result of these comments, we have adopted these proposals. As a result of other comments, we have made modifications to other proposals as appropriate.

C. Significant Alternatives Considered

We have reduced the burdens wherever possible. In an effort to reduce the burdens on small entities, for example, we will not impose any tariff filing obligations. In addition, we emphasize that the three-year transition rules adopted in this Order will allow existing licensees that are subject to reclassification as CMRS providers to continue to be regulated as private until August 10, 1996. This three-year period will ensure an orderly transition for all reclassified private licensees that are small entities.

Synopsis of the Second Report and Order

On September 23, 1993, the Commission adopted a Notice of Proposed Rule Making (Notice), 58 FR 53169 (October 14, 1993), in this proceeding in which we sought comment on: (1) The definitional issues raised in the Budget Act; (2) which existing mobile services and future mobile services should be classified as "commercial mobile radio service" under the statute and which should be classified as "private mobile radio services"; and (3) which provisions of Title II of the Communications Act should not be applied to CMRS. We received 76 comments and 52 reply comments in response to the Notice in this proceeding.

In summarizing the actions the Commission has taken in this Order, the following points highlight the decisions

made to implement the objectives of Congress in amending section 332 of the Act. First, the Order gives a comprehensive scope to the term "mobile service," including within the definition all public mobile services, private land mobile service, mobile satellite services, and most marine and aviation wireless services.

Second, the Order defined the term "commercial mobile radio service" in a manner that covers a significant portion of services provided by mobile carriers because of the conclusion that such a definition best serves the congressional purpose of making mobile services widely available at reasonable rates and on reasonable terms in a competitive marketplace. There are three prongs to the CMRS definition: The service must be provided for profit, it must be interconnected to the public switched network, and it must be available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public. Under the first element of the definition, the Order provides that "for profit" includes any mobile service that is provided with the intent of receiving compensation or monetary gain. In the case of services that are not-for-profit, except for a portion of excess capacity that the licensee offers with the intent of receiving compensation, the service will be treated as for-profit to the extent of such excess capacity activities.

Under the second element of the CMRS definition, the Order concludes that a mobile service offers interconnected service if it allows subscribers to send or receive messages to or from anywhere on the public switched network (PSN). Both direct and indirect interconnection with the PSN satisfy this criterion, as well as the use of store-and-forward technology. The Order also gives an expansive meaning to the term public switch network, concluding that the network includes the facilities of common carriers that participate in the North American Numbering Plan and having switching capability.

Under the third prong of the definition, the Order decides that service made available "to the public" means any service that is offered without restriction on who may receive it. The Order also concludes that whether a service is offered to "such classes of eligible users as to be effectively available to a substantial portion of the public" depends on several relevant factors, such as the type, nature, and scope of users for whom the service is intended. The Commission decided not to consider limited system capacity or coverage of small geographic areas as factors in restricting system availability. If a service is provided only for internal use or only to a specified class of eligible users under the Commission's rules, then the Order concludes that the service will not meet the "public availability" prong of the CMRS definition.

Third, the Order interpreted the term "private mobile radio service" by closely adhering to the statutory definition, and with the aim of advancing the congressional objective of applying a symmetrical regulatory framework to mobile services. The Order determines that the statutory language and the legislative history support the conclusion that a mobile service may be classified as PMRS only if it does not fall within the statutory definition of CMRS and is not the functional equivalent of a service that meets the three-part definition of CMRS. Those services that are classified as PMRS will, however, be presumed PMRS unless it is demonstrated that the service is the functional equivalent of CMRS. In applying the functional equivalence test, the Order considers a variety of factors, including whether the mobile service involved is a close substitute for any CMRS offering as evidenced by the cross-price elasticity of demand.

Fourth, applying the definitions discussed above, the Order classifies existing private land mobile services and common carrier services. For example, all existing Government and Public Safety Services (including the Special Emergency Radio Service) and all Industrial and Land Transportation Services other than certain Business Radio Service are classified as PMRS. The Order also classifies Automatic Vehicle Monitoring as a private mobile radio service.

In the Business Radio Service, which has a broader range of eligible users than other Industrial and Land Transportation services, the Order classifies Business Radio licensees who provide for-profit interconnected service to third-party users as CMRS. Business Radio licensees who operate not-for-profit internal systems, or who do not offer interconnected service, are classified as private.

The Order classifies Specialized Mobile Radio (SMR) licensees as CMRS if they offer interconnected service to customers. In addition, private carrier paging (PCP) services are classified as CMRS because they fit the statutory definition of CMRS. The Order concludes, however, those PCP systems that service the licensee's internal communications needs and do not offer for-profit service to third-party customers will be classified as PMRS. The Order classifies 220–222 MHz private land mobile systems using the same approach taken by the Order for classifying SMR and PCP licensees.

Finally, with respect to existing common carrier services, the Order classifies as CMRS: Cellular service, 800 MHz air-ground service, common carrier paging service, mobile telephone service, improved mobile telephone service, trunked mobile telephone service, 454 MHz air-ground service, and Offshore Radio Service.

With respect to mobile satellite service, the Order concludes that the Commission will exercise its discretion under the statute to determine whether the provision of space segment capacity by satellite licensees may be treated as common carriage. Lastly, the Order concludes that the Commission will seek further comment in a subsequent proceeding on whether it should remove existing restrictions that bar CMRS providers from offering dispatch service.

Fifth, the Order determines that personal communications services (PCS) should be classified presumptively as CMRS. Under this approach, a PCS applicant or licensee would be regulated as a CMRS carrier, but would be able to offer private PCS and be regulated as PMRS, upon making the requisite showing. The Order concludes that treating PCS as presumptively CMRS most suits the manner in which the Commission has defined PCS, and the four goals that the Commission established for the service—speed of deployment, universality, competitive delivery, and diversity of services.

Sixth, the Order states that the Commission has decided to exercise its forbearance authority regarding several Title II provisions in order to maximize market competition. The Order finds that the Commission's forbearance actions will promote competition, and that application of the three-pronged test set forth in section 332(c) of the Act warrants forbearance from many Title II provisions. In general, the Commission has forborne from enforcing any tariffing requirements, and from exercising Commission authority to investigate into existing and newly filed rates and practices, to collect intercarrier contracts, to require certification concerning interlocking directorates, and to require Commission approval relating to market entry and exit (respectively, sections 203, 204, 205, 211, 212, and 214 of the Act). The Commission, however, did not forbear from provisions that are unrelated to Commission authority and regulatory obligations (section 210), are primarily

reservations of Commission authority (sections 213, 215, 218, 219, and 221), or are consumer protection-related (sections 223, 225, 226, 227, and 228). In addition, in the case of cellular service, the Order states that the Commission will shortly issue a Notice of Proposed Rule Making to establish monitoring provisions applicable to the cellular marketplace. The Order further provides that the Commission will issue a Notice of Proposed Rule Making addressing whether the Commission should adopt further forbearance actions under Title II of the Act in the case of specified classes of CMRS providers.

Seventh, the Order requires local exchange carriers (LECs) to provide reasonable and fair interconnection for all CMRS because the Commission sees no distinction between cellular carriers to whom LECs are currently required to provide such interconnection and all other CMRS providers, including PCS providers. The Order also provides that if a LEC provides interconnection to CMRS providers while denying the same interconnection to PMRS providers, the carrier would bear the burden of demonstrating why such practice does not constitute a violation of Title II of the Act.

Eighth, the Order concludes that Congress, in revising section 332, intended to preempt state and local rate and entry regulation of all CMRS. The Order establishes a range of procedural and other requirements states must meet if they seek to retain any existing CMRS rate regulation or initiate such rate regulation for the first time.

Finally, the Order implements provisions of the Budget Act that establish effective dates for the "regulatory treatment" amendment to the Communications Act and set forth deadlines for an orderly transition to the changed regulatory structure. The Budget Act established a three-year transition period during which "any private land mobile service provided by any person before such date of enactment, and any paging service utilizing frequencies allocated as of January 1, 1993, for private land mobile service shall * * * be treated as private mobile service." With respect to private land mobile services, the Order interprets this language to mean that the three-year transition applies to all private land mobile licensees who were licensed, and therefore authorized to provide service, as of August 10, 1993. On the other hand, the Order provides that private mobile licensees who are subject to reclassification as CMRS and were not licensed as of the enactment date of the Budget Act, are not subject to the three-year "grandfathering" period, and will therefore be treated as CMRS as soon as the Commission's rules go into effect.

The Commission concluded that Congress did not intend the transition period to apply in a rigid fashion to pre-enactment licensees and that it did intend some flexibility in the implementation of these transition provisions. The Commission determined, therefore, that it will allow grandfathered licensees to modify and expand existing systems and to acquire additional licenses in the same service for which they were licensed prior to August 10, 1993. In addition, with respect to non-grandfathered licensees, the Commission concluded that reclassification should be effective upon the effective date of the Commission's transitional rules for reclassified services; these rules will be considered in a separate rule making.

With respect to paging services, the Order finds that the transition period applies more broadly. The Commission concluded that Congress specifically provided that all paging licensees "utilizing" private paging frequencies allocated as of January 1, 1993, are to be treated as private mobile radio service providers for three years. The Commission noted that the Conference Report accompanying the Budget Act explains that paging was treated separately to prevent states from attempting to restrict entry of paging licensees on private frequencies prior to the effective date of the Commission's preemption regulations, which do not go into effect until August 10, 1994. The Commission concluded that all private paging licensees are to be treated as private mobile service providers, regardless of whether they were licensed before or after the date of enactment.

Ordering Clauses

Accordingly, it is ordered that the rule changes made, as specified below, will become effective 90 days after publication in the **Federal Register**, pursuant to sections 4(i), 4(j), 7(a), 302, 303(c), 303(f), 303(g), 303(r), 332(c), and 332(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 302, 303(c), 303(f), 303(g), 303(r), 332(c), 332(d).

It is further ordered, pursuant to sections 4(i), 4(j), and 332(c)(1)(A) of the Communications Act, 47 U.S.C. 154(i), 154(j), 332(c)(1)(A), that all commercial mobile radio service providers with tariffs on file with the Commission shall cancel such tariffs. Cancellation shall be by supplement effective upon five days' notice and the supplement shall reference this Order as authority for cancellation. For this purpose, §§ 61.58 and 61.59 of the Commission's rules, 47 CFR 61.58, 61.59, are waived. These cancellations shall be filed no later than July 18, 1994.

It is further ordered that the Petition for Special Relief Concerning Enhanced Mobile Radio Applications and Authorizations filed by Bell Atlantic Mobile Systems, Inc., is denied.

List of Subjects

47 CFR Part 20

Commercial mobile radio services; Radio.

47 CFR Part 22

Public mobile services; Radio.

47 CFR Part 80

Maritime services; Radio.

47 CFR Part 90

Private land mobile services; Radio.

47 CFR Part 99

Personal communications services; Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Adoption of Amendments

47 CFR parts 20, 22, 80, 90, and 99 are amended as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. Part 20 is added to read as follows:

Sec.

20.1 Purpose.
20.3 Definitions.
20.5 Citizenship.
20.7 Mobile services.
20.9 Commercial mobile radio service.
20.11 Interconnection to facilities of local exchange carriers.
20.13 State petitions for authority to regulate rates.
20.15 Requirements under Title II of the Communications Act.

Authority: Secs. 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

§ 20.1 Purpose.

The purpose of these rules is to set forth the requirements and conditions applicable to commercial mobile radio service providers.

§ 20.3 Definitions.

Commercial mobile radio service. A mobile service that is: (a)(1) provided for profit, *i.e.*, with the intent of receiving compensation or monetary gain;

(2) An interconnected service; and

(3) Available to the public, or to such classes of eligible users as to be

effectively available to a substantial portion of the public; or

(b) The functional equivalent of such a mobile service described in paragraph (a) of this section.

Interconnection or Interconnected. Direct or indirect connection through automatic or manual means (by wire, microwave, or other technologies such as store and forward) to permit the transmission or reception of messages or signals to or from points in the public switched network.

Interconnected Service. A service: (a) That is interconnected with the public switched network, or interconnected with the public switched network through an interconnected service provider, that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network; or

(b) For which a request for such interconnection is pending pursuant to section 332(c)(1)(B) of the Communications Act, 47 U.S.C. 332(c)(1)(B). A mobile service offers interconnected service even if the service allows subscribers to access the public switched network only during specified hours of the day, or if the service provides general access to points on the public switched network but also restricts access in certain limited ways. Interconnected service does not include any interface between a licensee's facilities and the public switched network exclusively for a licensee's internal control purposes.

Mobile Service. A radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

(a) Both one-way and two-way radio communications services;

(b) A mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and

(c) Any service for which a license is required in a personal communications service under part 24 of this chapter.

Private Mobile Radio Service. A mobile service that is neither a commercial mobile radio service nor the functional equivalent of a service that meets the definition of commercial mobile radio service. Private mobile radio service includes the following:

(a) Not-for-profit land mobile radio and paging services that serve the licensee's internal communications needs as defined in part 90 of this chapter. Shared-use, cost-sharing, or cooperative arrangements, multiple licensed systems that use third party managers or users combining resources to meet compatible needs for specialized internal communications facilities in compliance with the safeguards of § 90.179 of this chapter are presumptively private mobile radio services;

(b) Mobile radio service offered to restricted classes of eligible users. This includes the following services: Public Safety Radio Services; Special Emergency Radio Service; Industrial Radio Services (excluding Business Radio Services that offer customers for-profit interconnected services); Land Transportation Radio Services; and Radiolocation Services;

(c) 220–222 MHz land mobile service and Automatic Vehicle Monitoring systems (part 90 of this chapter) that do not offer interconnected service or that are not-for-profit; and

(d) Personal Radio Services under part 95 of this chapter (General Mobile Services, Radio Control Radio Services, and Citizens Band Radio Services); Maritime Service Stations (excluding Public Coast stations) (part 80 of this chapter); and Aviation Service Stations (part 87 of this chapter).

Public Switched Network. Any common carrier switched network, whether by wire or radio, including local exchange carriers, interexchange carriers, and mobile service providers, that use the North American Numbering Plan in connection with the provision of switched services.

§ 20.5 Citizenship.

(a) This rule implements section 310 of the Communications Act, 47 U.S.C. 310, regarding the citizenship of licensees in the commercial mobile radio services. Commercial mobile radio service authorizations may not be granted to or held by:

(1) Any foreign government or any representative thereof;

(2) Any alien or the representative of any alien;

(3) Any corporation organized under the laws of any foreign government;

(4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country; or

(5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(b) The limits listed in paragraph (a) of this section may be exceeded by eligible individuals who held ownership interests on May 24, 1993, pursuant to the waiver provisions established in section 332(c)(6) of the Communications Act. Transfers of ownership to any other person in violation of paragraph (a) of this section are prohibited.

§ 20.7 Mobile services.

The following are mobile services within the meaning of sections 3(n) and 332 of the Communications Act, 47 U.S.C. 153(n), 332.

(a) Public mobile services (part 22 of this chapter), including fixed operations that support the mobile systems, but excluding Rural Radio Service and Basic Exchange Telecommunications Radio Service (part 22, subpart H of this chapter);

(b) Private land mobile services (part 90 of this chapter), including secondary fixed operations, but excluding fixed services such as call box operations and meter reading;

(c) Mobile satellite services (part 25 of this chapter) including dual-use equipment, terminals capable of transmitting while a platform is moving, but excluding satellite facilities provided through a transportable platform that cannot move when the communications service is offered;

(d) Marine and aviation services (parts 80 and 87 of this chapter), including fixed operations that support these marine and aviation mobile systems;

(e) Personal radio services (part 95 of this chapter), but excluding Interactive Video and Data Service;

(f) Personal communications services (part 24 of this chapter);

(g) Auxiliary services provided by mobile service licensees, and ancillary fixed communications offered by personal communications service providers;

(h) Unlicensed services meeting the definition of commercial mobile radio service in § 20.3, such as the resale of commercial mobile radio services, but excluding unlicensed radio frequency devices under part 15 of this chapter (including unlicensed personal communications service devices).

§ 20.9 Commercial mobile radio service.

(a) The following mobile services shall be treated as common carriage services and regulated as commercial mobile radio services (including any such service offered as a hybrid service or offered on an excess capacity basis to the extent it meets the definition of commercial mobile radio service, or offered as an auxiliary or ancillary service), pursuant to Section 332 of the Communications Act, 47 U.S.C. 332:

(1) Private Paging (part 90 of this chapter), excluding not-for-profit paging systems that serve only the licensee's own internal communications needs;

(2) Business Radio Services (§ 90.75 of this chapter) that offer customers for-profit interconnected service;

(3) Land Mobile Systems on 220–222 MHz (part 90 of this chapter), except services that are not-for-profit or do not offer interconnected service;

(4) Specialized Mobile Radio services that provide interconnected service (part 90 of this chapter);

(5) Public Coast Stations (part 80, subpart J of this chapter);

(6) Public Land Mobile Service (paging, mobile telephone, improved mobile telephone, trunked mobile, and 454 MHz air-ground services) (part 22, subpart G of this chapter);

(7) Domestic Public Cellular Radio Telecommunications Service (part 22, subpart K of this chapter);

(8) 800 MHz Air-Ground Radiotelephone Service (part 22, subpart M of this chapter);

(9) Offshore Radio Service (part 22, subpart L of this chapter);

(10) Any mobile satellite service involving the provision of commercial mobile radio service (by licensees or resellers) directly to end users, except that mobile satellite licensees and other entities that sell or lease space segment capacity, to the extent that it does not provide commercial mobile radio service directly to end users, may provide space segment capacity to commercial mobile radio service providers on a non-common carrier basis, if so authorized by the Commission;

(11) Personal Communications Services (part 24 of this chapter), except as provided in paragraph (b) of this section;

(12) For-profit subsidiary communications services transmitted on subcarriers within the FM baseband signal, that provide interconnected service (47 CFR 73.295 of this chapter); and

(13) A mobile service that is the functional equivalent of a commercial mobile radio service.

(i) A mobile service that does not meet the definition of commercial mobile radio service is presumed to be a private mobile radio service.

(ii) Any interested party may seek to overcome the presumption that a particular mobile radio service is a private mobile radio service by filing a petition for declaratory ruling challenging a mobile service provider's regulatory treatment as a private mobile radio service.

(A) The petition must show that: (*1*) The mobile service in question meets the definition of commercial mobile radio service; or

(*2*) The mobile service in question is the functional equivalent of a service that meets the definition of a commercial mobile radio service.

(B) A variety of factors will be evaluated to make a determination whether the mobile service in question is the functional equivalent of a commercial mobile radio service, including: consumer demand for the service to determine whether the service is closely substitutable for a commercial mobile radio service; whether changes in price for the service under examination, or for the comparable commercial mobile radio service would prompt customers to change from one service to the other; and market research information identifying the targeted market for the service under review.

(C) The petition must contain specific allegations of fact supported by affidavit(s) of person(s) with personal knowledge. The petition must be served on the mobile service provider against whom it is filed and contain a certificate of service to this effect. The mobile service provider may file an opposition to the petition and the petitioner may file a reply. The general rules of practice and procedure contained in §§ 1.1 through 1.52 of this chapter shall apply.

(b) Licensees of a Personal Communications Service or applicants for a Personal Communications Service license proposing to use any Personal Communications Service spectrum to offer service on a private mobile radio service basis must overcome the presumption that Personal Communications Service is a commercial mobile radio service.

(1) The applicant or licensee (who must file an application to modify its authorization) seeking authority to dedicate a portion of the spectrum for private mobile radio service, must include a certification that it will offer Personal Communications Service on a private mobile radio service basis. The certification must include a description of the proposed service sufficient to demonstrate that it is not within the definition of commercial mobile radio service in § 20.3. Any application requesting to use any Personal Communications Service spectrum to offer service on a private mobile radio service basis will be placed on public notice by the Commission.

(2) Any interested party may file a petition to deny the application within 30 days after the date of public notice announcing the acceptance for filing of the application. The petition shall contain specific allegations of fact supported by affidavit(s) of person(s) with personal knowledge to show that the applicant's request does not rebut the commercial mobile radio service presumption. The petition must be served on the applicant and contain a certificate of service to this effect. The applicant may file an opposition with allegations of fact supported by affidavit. The petitioner may file a reply. No additional pleadings will be allowed. The general rules of practice and procedure contained in § 1.1 through § 1.52 of this chapter and § 22.30 of this chapter shall apply.

(c) Any provider of private land mobile service before August 10, 1993 (including any system expansions, modifications, or acquisitions of additional licenses in the same service, even if authorized after this date), and any private paging service utilizing frequencies allocated as of January 1, 1993, that meet the definition of commercial mobile radio service, shall, except for purposes of § 20.5 (applicable August 10, 1993 for the providers listed in this paragraph), be treated as private mobile radio service until August 10, 1996. After this date, these entities will be treated as commercial mobile radio service providers regulated under this part.

§ 20.11 Interconnection to facilities of local exchange carriers.

(a) A local exchange carrier must provide the type of interconnection reasonably requested by a mobile service licensee or carrier, within a reasonable time after the request, unless such interconnection is not technically feasible or economically reasonable. Complaints against carriers under section 208 of the Communications Act, 47 U.S.C. 208, alleging a violation of this section shall follow the requirements of §§ 1.711–1.734 of this chapter, 47 CFR 1.711–1.734.

(b) Local exchange carriers and commercial mobile radio service providers shall comply with principles of mutual compensation.

(1) A local exchange carrier shall pay reasonable compensation to a commercial mobile radio service

provider in connection with terminating traffic that originates on facilities of the local exchange carrier.

(2) A commercial mobile radio service provider shall pay reasonable compensation to a local exchange carrier in connection with terminating traffic that originates on the facilities of the commercial mobile radio service provider.

§ 20.13 State petitions for authority to regulate rates.

(a) States may petition for authority to regulate the intrastate rates of any commercial mobile radio service. The petition must include the following:

(1) Demonstrative evidence that market conditions in the state for commercial mobile radio services do not adequately protect subscribers to such services from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. Alternatively, a state's petition may include demonstrative evidence showing that market conditions for commercial mobile radio services do not protect subscribers adequately from unjust and unreasonable rates, or rates that are unjustly or unreasonably discriminatory, and that a substantial portion of the commercial mobile radio service subscribers in the state or a specified geographic area have no alternative means of obtaining basic telephone service. This showing may include evidence of the range of basic telephone service alternatives available to consumers in the state.

(2) The following is a non-exhaustive list of examples of the types of evidence, information, and analysis that may be considered pertinent to determine market conditions and consumer protection by the Commission in reviewing any petition filed by a state under this section:

(i) The number of commercial mobile radio service providers in the state, the types of services offered by commercial mobile radio service providers in the state, and the period of time that these providers have offered service in the state;

(ii) The number of customers of each commercial mobile radio service provider in the state; trends in each provider's customer base during the most recent annual period or other data covering another reasonable period if annual data is unavailable; and annual revenues and rates of return for each commercial mobile radio service provider;

(iii) Rate information for each commercial mobile radio service provider, including trends in each provider's rates during the most recent annual period or other data covering another reasonable period if annual data is unavailable;

(iv) An assessment of the extent to which services offered by the commercial mobile radio service providers the state proposes to regulate are substitutable for services offered by other carriers in the state;

(v) Opportunities for new providers to enter into the provision of competing services, and an analysis of any barriers to such entry;

(vi) Specific allegations of fact (supported by affidavit of person with personal knowledge) regarding anti-competitive or discriminatory practices or behavior by commercial mobile radio service providers in the state;

(vii) Evidence, information, and analysis demonstrating with particularity instances of systematic unjust and unreasonable rates, or rates that are unjust or unreasonably discriminatory, imposed upon commercial mobile radio service subscribers. Such evidence should include an examination of the relationship between rates and costs. Additionally, evidence of a pattern of such rates, that demonstrates the inability of the commercial mobile radio service marketplace in the state to produce reasonable rates through competitive forces will be considered especially probative; and

(viii) Information regarding customer satisfaction or dissatisfaction with services offered by commercial mobile radio service providers, including statistics and other information about complaints filed with the state regulatory commission.

(3) Petitions must include a certification that the state agency filing the petition is the duly authorized state agency responsible for the regulation of telecommunication services provided in the state.

(4) Petitions must identify and describe in detail the rules the state proposes to establish if the petition is granted.

(5) States have the burden of proof. Interested parties may file comments in support or in opposition to the petition within 30 days after public notice of the filing of a petition by a state under this section. Any interested party may file a reply within 15 days after the expiration of the filing period for comments. No additional pleadings may be filed. Except for § 1.45 of this chapter, practice and procedure rules contained in §§ 1.42–1.52 of this chapter shall apply. The provisions of §§ 1.771–1.773 of this chapter do not apply.

(6) The Commission shall act upon any petition filed by a state under this paragraph not later than the end of the nine-month period after the filing of the petition.

(7) If the Commission grants the petition, it shall authorize the state to regulate rates for commercial mobile radio services in the state during a reasonable period of time, as specified by the Commission. The period of time specified by the Commission will be that necessary to ensure that rates are just and reasonable, or not unjustly or unreasonably discriminatory.

(b) States that regulated rates for commercial mobile services as of June 1, 1993, may petition the Commission under this section before August 10, 1994, to extend this authority.

(1) The petition will be acted upon by the Commission in accordance with the provisions of paragraphs (a)(1) through (a)(5) of this section.

(2) The Commission shall act upon the petition (including any reconsideration) not later than the end of the 12-month period following the date of the filing of the petition by the state involved. Commercial mobile radio service providers offering such service in the state shall comply with the existing regulations of the state until the petition and any reconsideration of the petition are acted upon by the Commission.

(3) The provisions of paragraph (a)(7) of this section apply to any petition granted by the Commission under this paragraph.

(c) No sooner than 18 months from grant of authority by the Commission under this section for state rate regulations, any interested party may petition the Commission for an order to discontinue state authority for rate regulation.

(1) Petitions to discontinue state authority for rate regulation must be based on recent empirical data or other significant evidence demonstrating that the exercise of rate authority by a state is no longer necessary to ensure that the rates for commercial mobile are just and reasonable or not unjustly or unreasonably discriminatory.

(2) Any interested party may file comments in support of or in opposition to the petition within 30 days after public notice of the filing of the petition. Any interested party may file a reply within 15 days after the time for filing comments has expired. No additional pleadings may be filed. Except for 1.45 of this chapter, practice and procedure rules contained in § 1.42–1.52 of this chapter apply. The provisions of § 1.771–1.773 of this chapter do not apply.

(3) The Commission shall act upon any petition filed by any interested

party under this paragraph within nine months after the filing of the petition.

§ 20.15 Requirements under Title II of the Communications Act.

(a) Commercial mobile radio services providers, to the extent applicable, must comply with sections 201, 202, 206, 207, 208, 209, 216, 217, 223, 225, 226, 227, and 228 of the Communications Act, 47 U.S.C. 201, 202, 206, 207, 208, 209, 216, 217, 223, 225, 226, 227, 228; part 68 of this chapter, 47 CFR part 68; and §§ 1.701–1.748, and 1.815 of this chapter, 47 CFR 1.701–1.748, 1.815.

(b) Commercial mobile radio service providers are not required to:

(1) File with the Commission copies of contracts entered into with other carriers or comply with other reporting requirements, or with §§ 1.781–1.814 and 43.21 of this chapter;

(2) Seek authority for interlocking directors (section 212 of the Communications Act);

(3) Submit applications for new facilities or discontinuance of existing facilities (section 214 of the Communications Act).

(c) Commercial mobile radio service providers shall not file tariffs for interstate service to their customers, or for interstate access service. Sections 1.771–1.773 and part 61 of this chapter are not applicable to interstate services provided by commercial mobile radio service providers. Commercial radio service providers shall cancel tariffs for interstate service to their customers and interstate access service.

(d) Nothing in this section shall be construed to modify the Commission's rules and policies on the provision of international service under part 63 of this chapter.

PART 22—PUBLIC MOBILE SERVICE

2. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

3. Section 22.1 is amended by adding paragraph (g) to read as follows:

§ 22.1 Other applicable rule parts.

* * * * *

(g) Part 20 of this chapter which governs commercial mobile radio services which include the following services in this part:

(1) Public Land Mobile;

(2) Offshore Radio Service;

(3) Domestic Public Cellular Radio Telecommunications Service;

(4) 800 MHz Air-Ground Radiotelephone Service.

§ 22.13 [Amended]

4. Section 22.13 is amended by removing paragraph (f).

§ 22.43 [Amended]

5. Section 22.43 is amended by removing paragraph (b)(2).

§ 22.304 [Removed]

6. Section 22.304 is removed.

PART 80—STATIONS IN THE MARITIME SERVICE

7. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

8. Section 80.3 is amended by removing paragraphs (g) through (k), by redesignating paragraphs (f), and (l) through (o) as (g), and (h) through (k), respectively, and by adding new paragraph (f) to read as follows:

§ 80.3 Other applicable rule parts of this chapter.

* * * * *

(f) Part 20 of this chapter which governs commercial mobile radio services which include subpart J of this part (public coast stations).

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICE

9. The authority citation for part 90 continues to read as follows:

Authority: Sec. 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

10. Section 90.5 is amended by redesignating paragraphs (h) through (j) as paragraphs (i) through (k), respectively, and by adding a new paragraph (h) to read as follows:

§ 90.5 Other applicable rule parts.

* * * * *

(h) Part 20 of this chapter which governs commercial mobile radio service applicable to certain providers in the following services in this part:

(1) Business radio service;

(2) Private paging;

(3) Land mobile service on 220–222 MHz;

(4) Specialized Mobile Radio Service.

* * * * *

PART 99—[REDESIGNATED AS PART 24]

11. Part 99 is redesignated as part 24 to read as follows:

PART 24—PERSONAL COMMUNICATIONS SERVICES

12. The authority citation for redesignated part 24 continues to read as follows:

Authority: Secs. 4, 301, 302, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 301, 302, 303, and 322, unless otherwise noted.

13. In redesignated part 24, § 24.2 is amended by redesignating paragraphs (g) through (i) as paragraphs (h) through (j), respectively, and by adding a new paragraph (g) to read as follows:

§ 24.2 Other applicable rule parts.

* * * * *

(g) Part 20 of this chapter governs commercial mobile radio services.

* * * * *

[FR Doc. 94–9071 Filed 4–18–94; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 931198–4100; I.D. 031494C]

RIN 0648–AF97

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS adopts as final, with one change, the interim final rule authorizing the Southwest Regional Director (RD), NMFS, to require the owner or agent of a vessel with a permit for the longline fishery to make accommodations for a NMFS observer. This final rule requires permit holders or their designated agents (which may include the vessel operator) to provide NMFS with at least 72 hours notice (not including weekends and Federal holidays) prior to each departure from port so the RD can determine if an observer placement will be made. This action is necessary to ensure adequate collection-of-data on the frequency and nature of interactions between longline fishing gear and sea turtles around Hawaii to ensure the fishery operates in compliance with the Endangered Species Act (ESA).

EFFECTIVE DATE: April 23, 1994, 0001 hours Hawaii time.

ADDRESSES: Copies of the Observer Plan may be obtained from Anneka W. Bane,

Acting Regional Director, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Svein Fougner at 310–980–4034; Norm Mendes at 310–980–4022, or Alvin Katekaru at 808–955–8831.

SUPPLEMENTARY INFORMATION: The Pelagic fisheries of the western Pacific region, including the longline fishery based in Hawaii, are managed under a Fishery Management Plan (FMP) that was approved in 1987 and subsequently was amended six times. Rules implementing the FMP are found at 50 CFR part 685.

A Biological Opinion and Incidental Take Statement were issued June 10, 1993, concerning the take of sea turtles in the Hawaii longline fishery. In addition to setting a limit on the incidental take of sea turtles, the Incidental Take Statement also requires NMFS to establish an observer program (initially through voluntary placements and subsequently through a mandatory program) to ensure collection of sufficient data to produce statistically significant results and to evaluate the accuracy of logbooks submitted for the fishery.

This rule provides the administrative mechanism for NMFS to carry out the observer program with general longline permit holders.

An interim final rule establishing the mandatory observer program was published on December 22, 1993 (58 FR 67699). In that rule, the observer placement authority was provided under the limited entry permit requirement for longline vessels under an existing longline limited entry program in Hawaii. It was anticipated that a new limited entry program would be implemented by an FMP amendment existing at the time the program expires at midnight, April 22, 1994. However, the proposed FMP amendment (Amendment 7) was not submitted to the Secretary for review and implementation under the Magnuson Fishery Conservation and Management Act (Magnuson Act) until late January 1994. Under the normal schedule of the Magnuson Act for action on FMP amendments, the new program (if approved) will not be implemented before mid-June 1994. This means there could be a lapse of 2 months in observer placements due to the lack of a limited entry program and moratorium permits to which the existing observer requirements apply. If this occurred, there would be a substantial risk that the incidental take of turtles could erroneously be estimated. This could result in adverse impacts on sea turtles, if the take of turtles were significantly underestimated and corrective action to protect turtles were not taken; or adverse impacts on the industry if the take of turtles were overestimated and unnecessary constraints were imposed on the fishery.

The interim final rule is being adopted as final with one change. The change from the interim final rule is to impose the observer placement requirements on the owner of a vessel covered by a general longline permit issued under § 685.9, provided any part of the vessel's next fishing trip will occur in the exclusive economic zone (EEZ) around Hawaii. This is a change from the interim rule, which required notification of NMFS by holders of permits issued pursuant to the current moratorium under § 685.15. However, the moratorium, and the permits issued thereunder, are due to expire April 22, 1994. As explained above, a replacement limited entry program will probably not be implemented prior to April 22, 1994. Therefore, in order to continue to collect observer data, NMFS needs to modify the observer requirement to apply to vessels with general longline permits issued under § 685.9. These general permits are currently required and will remain so even with the expiration of the moratorium and implementation of a new limited entry program.

Comments on the interim final rule were received from two persons. One commenter emphasized the importance of obtaining detailed, at-sea data on the longline fishery and fully endorsed the observer program. The other commenter raised a number of operational concerns tied to the timing of notices prior to fishing trips and of observer placement meetings. This commenter suggested that more flexibility is needed to accommodate the nature of the fishery and the difficulty for fishermen to make firm timing commitments regarding vessel departures.

No changes have been made in the regulations as a result of these comments. Experience in observer programs in other fisheries indicates that arrangements usually can be made for modifications when necessary to accommodate changes in schedules (§ 685.11(c) (1) and (3)) and delays in departure times or special accommodations for observers (§ 685.11(d)). It is recognized that vessel operators may want to make rapid turnaround on trips and may not have 72 hours on shore to contact NMFS concerning the next trip. These operators can contact NMFS through a telephone call from their vessels at sea, if necessary, to determine if an observer will be required and to arrange the placement, if necessary. If a vessel's departure is delayed, the operator can telephone NMFS on a toll free line to arrange for a change in schedule with little disruption. NMFS expects that experience in the longline fishery observer program will provide feedback from vessel owners and operators that should result in an effective program with minimal disruption of vessel operations and scheduling. If necessary, changes can be made to operational procedures without requiring changes in the regulations. Finally, one of the two commenters pointed out correctly that the preamble to the proposed rule could be clarified to indicate that: (a) The Council had recommended, and the Secretary had taken, emergency action to close the protected species zone to longline fishing before the Biological Opinion was issued; and (b) the limited success of the voluntary observer program had been due in large part to the limited number of observers available for duty.

Classification

The Assistant Administrator for Fisheries NOAA, (AA), has determined that the measures in this rule are consistent with the Magnuson Act and other applicable law.

For purposes of E.O. 12866, this rule has been determined to be "not significant".

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. Permit holders or their designated agents will have to notify NMFS at least 72 hours prior to departure on a fishing trip so the RD can determine whether an observer must be taken. If the RD concludes an observer must be taken, the permit holder or designated agent will be so advised and further arrangements will be made, as necessary, concerning details of time and place of embarkation, observer duties, permit holder, vessel operator and crew responsibilities, and related matters. Vessel owners may submit reimbursement claims for certain observer-related costs. The public reporting burden for this collection is estimated to average 5 minutes per call, with all trips covered. About 10 percent of all calls would result in an observer placement, requiring possibly 1 hour to meet with NMFS officials and make observer placement arrangements. This collection is part of a previously approved collection (Southwest Region Logbook Family of Forms, OMB No. 0648–0214), modification of which was approved by the Office of Management and Budget for the interim final rule.

Send comments regarding this burden estimate or on any other aspect of this collection-of-information to the RD (see ADDRESSES) and to the Office of Management and Budget, Paperwork Reduction Project (0648–0214), Washington, D.C. 20503 [Attn: NOAA Desk Officer].

This action is intended to carry out the requirements of the Biological Opinion and Incidental Take Statement issued by NMFS under section 7 of the ESA on June 10, 1993. These data are necessary to determine the impacts of take on the species and possible measures to reduce or prevent the take in the future. Therefore, this rule is consistent with the ESA.

List of Subjects in 50 CFR Part 685

American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Northern Mariana Islands.

Dated: April 13, 1994.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

Accordingly, the interim final rule amendment 50 CFR part 685 which was published at 58 FR 67699 on December 22, 1993, is adopted as a final rule with the following change:

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

1. The authority citation for part 685 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 685.11, the first sentence of paragraph (a) is revised to read as follows:

§ 685.11 Protected species conservation.

(a) *Notice prior to fishing trip.* The permit holder for a fishing vessel subject to the permit requirements of § 685.9, or an agent designated by the permit holder, shall provide a notice to the Regional Director at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around Hawaii. * * * * * * * * * *

[FR Doc. 94–9325 Filed 4–18–94; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 75
Tuesday, April 19, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1209

Practices and Procedures for Appeals and Stay Requests of Personnel Actions Allegedly Based on Whistleblowing

AGENCY: Merit Systems Protection Board.

ACTION: Notice of proposed rule.

SUMMARY: The Board proposes to amend its Practices and Procedures for Appeals and Stay Requests of Personnel Actions Allegedly Based on Whistleblowing. This amendment extends the time limit for filing an appeal of an agency action where the appellant first files a request for a stay of that action. This proposed change will bring the filing time in initial whistleblower cases into line with filing times in the Board's appellate jurisdiction cases and will also have the effect of making the Board's appellate processes more accessible to Federal employees.

DATES: Comments must be received on or before May 19, 1994.

ADDRESSES: Submit comments to Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419–0002.

FOR FURTHER INFORMATION CONTACT: Llewellyn M. Fischer, General Counsel, (202) 653–7171.

SUPPLEMENTARY INFORMATION: The proposed change came about as a result of Executive Order 12866, September 30, 1993, requiring agencies to insure that regulations are effective, consistent, sensible, and understandable. The Board's review found that changing the time limit for filing initial appeals to its regional offices would be consistent with the legal and regulatory time limits for filing with the Federal courts and the Equal Employment Opportunity Commission both of which can potentially review final decisions of the Board. The consistency created by this proposed change will help to eliminate possible confusion by Federal employees who file appeals with the Board.

The Board has determined that this proposed regulatory action is not "significant" as defined by Executive Order 12866, and therefore, is not subject to review by the Office of Management and Budget.

The Board has also determined that this proposed regulatory action does not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96354, 94 Stat. 1164, 5 U.S.C. 601–612).

List of Subjects in 5 CFR Part 1209

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board proposes to amend 5 CFR part 1209 as follows:

PART 1209—[AMENDED]

1. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 1204, 1221, 2302(b)(8) and 7701.

§ 1209.5 [Amended]

2. Section 1209.5 is amended by removing the number "20" in paragraph (c); and by adding in its place the number "30".

Dated: April 13, 1994.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 94–9323 Filed 4–18–94; 8:45 am]

BILLING CODE 7400–01–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–90–201]

Energy Conservation Program for Consumer Products (Energy Conservation Standards for Eight Types of Consumers Products)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking; extending comment period and scheduling of second public hearing.

SUMMARY: Due to requests by the Gas Appliance Manufacturers Association, the Association of Home Appliance Manufacturers, the Edison Electric Institute, the Electronic Industries Association, and the Carolina Power & Light Company, and the large volume of information contained in the Notice of Proposed Rulemaking (NOPR) and in the Technical Support Document, the Department of Energy (the Department or DOE) has decided to extend the comment period by 60 days and schedule a second public hearing. This notice announces that the comment period which was to be closed on May 18, 1994, will be extended to July 18, 1994, and a second public hearing is scheduled for June 7 and 8, 1994.

DATES: Written comments in response to this document must be received by July 18, 1994.

Oral views, data, and arguments may be presented at a second public hearing to be held in Washington, DC, on June 7 and 8, 1994. Requests to speak at the hearing must be received by the Department no later than 4 p.m., Friday, May 27, 1994, for the second public hearing. Ten (10) copies of statements to be given at the public hearing must be received by the Department no later than 4 p.m., Tuesday, June 1, 1994, for the second public hearing.

ADDRESSES: Written comments and requests to speak at the public hearing are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Hearings and Dockets, "Energy Conservation Program for Consumer Products (Energy Conservation Standards for Eight Types of Consumer Products)" (Docket No. EE–RM–90–201), Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–0561.

Both hearings will begin at 9:30 a.m., and will be held at the U.S. Department of Energy, Forrestal Building, room 1E–245, 1000 Independence Avenue SW., Washington, DC.

Requests may be hand delivered to such address between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests should be labeled "Energy Conservation Program for Consumers Products (Energy Conservation Standards for Eight Types of Consumers Products)," (Docket No. EE–RM–90–201), both on the document and on the envelope.