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Federal Communications Commission.

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Bureau.

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47 CFR Part 90

[DA 95-1669]

Inter-Category Sharing of Private Mobile Radio Services in the 806-821/ 851-866 MHz Bands

AGENCY: Federal Communications
Commission.

ACTION: Notice; petitions for
reconsideration and clarification.

SUMMARY: The Wireless
Telecommunications Bureau has denied
reconsideration and/or clarification of
the Bureau's Order imposing a freeze on
the acceptance of new applications for
inter-category sharing of frequencies
allocated to the Public Safety,
Industrial/ Land Transportation and
Business Radio Services. This action
was taken because of the need to ensure
the continued availability of these
frequencies to license applicants eligible
in these service categories until the
Commission resolves the significant
spectrum allocation issues raised in PR
Docket No. 93-144 and by the Public
Safety community. This action will
maintain the integrity of the
Commission's licensing process.

EFFECTIVE DATE: August 3, 1995.

FOR FURTHER INFORMATION CONTACT:

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Telecommunications Bureau, (202) 418-
0627.

SUPPLEMENTARY INFORMATION: This is a
summary of the Wireless
Telecommunications Bureau's
Memorandum Opinion and Order, DA-
1669, adopted July 26, 1995, and
released July 28, 1995. The full text of
this Memorandum Opinion and Order is
available for inspection and copying
during normal business hours in the
Private Wireless Division, Wireless
Telecommunications Bureau, 2025 M
Street, Room 8010, Washington, D.C.
The complete text may be purchased
from the Commission's copy contractor,
International Transcription Service,
Inc., 2100 M Street, Suite 140,
Washington, D.C. 20037, telephone
(202) 857-3800. This will impose no
paperwork burden on the public.

Summary of Memorandum Opinion and Order

1. The Wireless Telecommunications
Bureau (Bureau) denied requests for
reconsideration and clarification of the
Bureau's Order (60 FR 20247 (1995))
imposing a freeze on inter-category
sharing of frequencies in the 806-821/
851-866 MHz band allocated to the
Public Safety, Industrial/Land
Transportation (I/LT), and Business
Radio (Business) Services. Petitions for
Reconsideration were filed by UTC, the
Telecommunications Association (UTC)
and, in a joint pleading, by Central and
South West Corporation, Indianapolis
Power and Light Company and Union
Electric Company (CIU). Additionally, a
Request for Clarification of the Bureau's
Order was filed by the Industrial
Telecommunications Application (ITA).
Oppositions to the reconsideration and
clarification requests were filed by the
Association of Public-Safety
Communications Officials-International,
Inc. (APCO) and Replies were filed by
both ITA and CIU.

2. Because of pressure placed on the
800 MHz Business and I/LT categories
by Specialized Mobile Radio (SMR)
applicants seeking to use these channels
on an inter-category sharing basis there
has been a significant increase in the
number of Business and I/LT license
applicants filing applications (on an
inter-category basis) for 800 MHz Public
Safety channels. In response to these
developments, the Commission has
initiated a rule making proceeding (PR
Docket 93-144, 59 FR 60111 (November
22, 1994)) to determine, among other
things, the appropriate allocation of this
segment of the spectrum. To avoid
compromising the resolution of this
issue, as well as the spectrum concerns
of the Public Safety community, the
Bureau imposed a temporary freeze on
the acceptance of applications for inter-
category sharing of channels allocated to
the Public Safety, I/LT and Business
Services.

3. In response to UTC's contention
that the freeze constituted substantive
action, the Bureau indicated that freezes
have long been considered by the
Commission as procedural in nature
and, therefore, this action did not
require compliance with the notice and
comment provisions of the
Administrative Procedure Act. Further,
the Bureau stated that providing the
public with notice of the action to be
taken and an opportunity to comment
would undercut the effectiveness of the
freeze and, thus, not be in the public
interest.

4. The Bureau concluded that neither
UTC's nor ITA's suggested

modifications to the freeze Order were
adequate to preserve the *status quo* until
resolution of the spectrum allocation
issues raised in PR Docket No. 93-144
and by the Public Safety community.
Limiting the freeze to SMR use of the
relevant channels, as suggested by UTC,
would be an incomplete remedy
because of previous encroachment by
SMRs in the I/LT pool. Also, ITA's
proposal to limit inter-category use to
internal communications is inadequate
to maintain the *status quo*.

5. Contrary to CIU's assertions, the
record supports the conclusion that the
communications needs of the Public
Safety community are currently at risk
of not being met. Further, current
problems cannot be addressed—as
suggested by CIU—merely by
identifying their cause. In any case, the
freeze is not a final resolution of the
matter, by merely a temporary action to
prevent compromising the
Commission's resolution of significant
spectrum allocation issues.

6. For the foregoing reasons, the
Bureau affirms the Order suspending
the acceptance of applications for inter-
category sharing to the 800 MHz Private
Mobile Radio Service Frequencies
allocated to the Public Safety,
Industrial/land Transportation and
Business Radio Services.

List of Subjects in 47 CFR Part 90

Administrative practice and
procedure.

Federal Communications Commission.

Reginal M. Keeney,

Chief, Wireless Telecommunications Bureau.

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 519 and 552

[APD 2800.12A, CHGE 63]

RIN 3090-AF77

General Services Administration Acquisition Regulation; Small Business

AGENCY: Office of Acquisition Policy,
GSA.

ACTION: Final rule.

SUMMARY: The General Services
Administration Acquisition Regulation
(GSAR) is amended to remove a
provision regarding small business
concern representation which is a
deviation to the Federal Acquisition
Regulation (FAR). The deviation is not
needed since Federal Acquisition