

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		OxyVinyls must do the following before transporting the delisted waste. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision.
		(A) Provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities.
		(B) Update the one-time written notification if it ships the delisted waste into a different disposal facility.
		(C) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 97

[ET Docket No. 02–98; FCC 04–71]

#### Amateur Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document denies a Petition for Reconsideration filed by Mr. W. Lee McVey in response to the Commission's decision in a Report and Order. The Commission finds that arguments and information provided in the Petition were substantively addressed by the Report and Order and do not merit further consideration.

**DATES:** Effective May 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** James Miller, Office of Engineering and Technology, e-mail [james.miller@fcc.gov](mailto:james.miller@fcc.gov), telephone (202) 418–7351.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order, ET Docket No. 02–98, FCC 04–71, adopted March 24, 2004, and released March 31, 2004. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 863–2893; fax (202) 863–2898; e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

#### Summary of the Memorandum Opinion and Order

1. The Memorandum Opinion and Order (MO&O), denied the Petition for Reconsideration filed by Mr. W. Lee McVey (petitioner) in response to the Commission's decision in the Report and Order (R&O), 68 FR 33020, June 3, 2003. The Commission found that the arguments and information provided in the Petition were substantively addressed by the R&O and do not merit further consideration.

2. In the R&O, the Commission denied American Radio Relay League, Inc. (ARRL), petition requesting, *inter alia*, that the Commission make a secondary allocation to the Amateur Radio Service (ARS) in the 160–190 kHz band for experimentation in the low frequency (LF) range. Amateur use of the 160–190 kHz band is permitted under part 15 of our rules, and use of any band, including the LF band, can be permitted under our experimental rules on a case-by-case basis. The band is allocated to both the fixed and maritime mobile services on a primary basis for Federal Government users and also to the fixed service on a primary basis for non-Federal Government users. There are ten Federal Government assignments for coast stations communicating with ships at sea, and several Federal Government fixed service sites in this band. There are no non-Federal Government assignments in the Commission's database for this frequency band.

3. In addition, unlicensed devices use the LF spectrum. These systems do not have any allocation status, but are authorized to operate under part 15 of our rules on an unprotected, non-interference basis with respect to all other users. Section 15.209 of our rules generally permits unlicensed operation at power limits of 4.9 microvolts/meter. Further, § 15.113 of our rules specifically permits Power Line Carrier (PLC) systems to operate on power

transmission lines for communications important to the reliability and security of electric service to the public in the 9–490 kHz band. In this regard, utility companies have generally come to rely on PLC systems to support a variety of monitoring and control functions of the national power grid. For example, electric utility operators use PLC signaling systems in this band in conjunction with monitoring devices to detect malfunctions and damage to power transmission facilities such as transformer failures and downed lines. When such events occur, these same PLC systems then are used to remotely trip protection circuits that minimize damage to the power system and eliminate danger to individuals in the area of the event.

4. On reconsideration, the petitioner primarily reiterates the opinion he expressed in comments filed in response to the Notice of Proposed Rulemaking (NPRM), 67 FR 40898, June 14, 2002, in the proceeding that PLC use in power grid infrastructure is insignificant and alternative technologies should be encouraged. Although the petition provides additional specific information about PLC systems and alternative technologies used by electric power networks, this information is not substantially different from information in the record, including that supplied by petitioner in his comments, when the Commission made its subject decision. Based on its analysis of the record, including information provided by utility companies that use PLC systems, the Commission found that utility companies have come to rely on PLC systems for monitoring and control of the power grid. Although the petitioner may disagree with this conclusion, it was based on record evidence, and the petitioner has not provided evidence that contests this conclusion.

5. We also disagree with the Petitioner's assertion that the Commission failed to

take proper action by continuing to rely upon part 15 of our rules and regulations to protect such alleged vital communications and that we should instead provide a primary allocation for PLC systems in this band. PLC systems have been operating successfully in this band for many years on an unlicensed basis pursuant to part 15 of our rules. The Commission acted responsibly in deciding not to modify the allocations for the band. As we noted in the R&O, the Commission considers the potential for interference conflicts between different types of operations, whether licensed or unlicensed, when it considers whether to make allocation changes to a band. That we found a potential threat to PLC operations in the licensing of a new service in the band is not to say that current operations are uncertain or insecure. The Commission concluded that it was better to maintain the *status quo* than to differentiate the status of one service *vis-à-vis* another in the band.

6. Finally, in the NPRM in the proceeding, the Commission did not propose to provide an allocation for PLC systems in this band, and thus the Petitioner's request that we do so on reconsideration is beyond the scope of this proceeding. Further, we will not initiate a proceeding to provide such an allocation, nor to provide technical and service rules for PLC systems as the Petitioner requests. We note that the petitioner raised similar arguments in comments filed in response to the NPRM, suggesting that if PLC systems used narrow-band channels, a portion of the band could be made available for an ARS allocation. The Commission determined in the R&O that although other techniques, could be used to control the power grid, these alternatives may not be as effective, would be costly to implement, and would be disruptive to the public. The Commission is not persuaded that it should revisit this issue at this time.

7. In conclusion, the petitioner alternately reiterates arguments and information already considered in the R&O, and requests action beyond the scope of this proceeding. Further, the Commission concludes that, on balance, our decision properly balances concerns for PLC use supporting the protection and control of the national power grid, without unduly constraining amateur use of the band. The Commission denies the Petition for Reconsideration.

#### Ordering Clauses

8. Pursuant to the authority contained in sections 4(i), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i),

303(c), 303(f), 303(g), and 303(r), the Petition for Reconsideration filed by petitioner *is denied*.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[MM Docket No. 93-25; FCC 03-78]

RIN 3060-AF39

#### Cable Television Consumer Protection and Competition Act of 1992; Direct Broadcast Satellite Public Interest Obligations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule, denied.

**SUMMARY:** This document denies all Petitions for Reconsideration filed in this proceeding. This document has been superseded by a Sua Sponte Order on Reconsideration, FCC 04-44, adopted March 3, 2004 and released March 25, 2004. The new Order reflects changes in rules regarding children's advertising limits and clarification of rules regarding political broadcasting.

**FOR FURTHER INFORMATION CONTACT:** Rosalee Chiara, Policy Division, Media Bureau, (202) 418-0754.

**SUPPLEMENTARY INFORMATION:** The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, and may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com) or may be viewed via Internet at <http://www.fcc.gov/mb/>.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1801, 1803 through 1809, 1811, and 1812

RIN 2700-AC65

#### Re-Issuance of the NASA FAR Supplement Subchapters A and B Consistent With the Federal Acquisition Regulations System Guidance and Policy

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final without change, the proposed rule published in the **Federal Register** on November 17, 2003 (68 FR 64847). This final rule amends the NASA FAR Supplement (NFS) by removing from the Code of Federal Regulations (CFR) those portions of the NFS containing information that consists of internal Agency administrative procedures and guidance that does not control the relationship between NASA and contractors or prospective contractors. This change is consistent with the guidance and policy in FAR Part 1 regarding what comprises the Federal Acquisition Regulations System and requires publication for public comment. The NFS document will continue to contain both information requiring codification in the CFR and internal Agency guidance in a single document that is available on the Internet. This change will reduce the administrative burden and time associated with maintaining the NFS by only publishing in the **Federal Register** for codification in the CFR material that is subject to public comment.

**EFFECTIVE DATE:** April 22, 2004.

**FOR FURTHER INFORMATION CONTACT:** Celeste Dalton, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358-1645; e-mail: [Celeste.M.Dalton@nasa.gov](mailto:Celeste.M.Dalton@nasa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Currently the NASA FAR Supplement (NFS) contains information to implement or supplement the FAR. This information contains NASA's policies, procedures, contract clauses, solicitation provisions, and forms that govern the contracting process or otherwise control the relationship between NASA and contractors or prospective contractors. The NFS also contains information that consists of internal Agency administrative procedures and guidance that does not