a significant economic impact on a substantial number of small entities. The rule only carries out the Department's statutory responsibility as set out in section 810(c) of the Fair Housing Act, 42 U.S.C. 3610(c).

Accordingly, public comment is solicited in accordance with 24 CFR 115.6(b) with respect to the following jurisdictions:

*States*

Tennessee

*Localities*

Escambia County, Florida
Pinellas County, Florida
Danville, Illinois
Marion, Indiana
Boston, Massachusetts
St. Joseph, Missouri

Dated: July 23, 1985.

Antonio Monroig,

*Assistant Secretary for Fair Housing and Equal Opportunity.*

[FR Doc. 85-18427 Filed 8-1-85; 8:45 am]

BILLING CODE 4210-28-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 42

[CC Docket No. 84-283; FCC 85-351]

### Preservation of Records of Communications Common Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission is proposing to revise Part 42 of its Rules and Regulations to reduce recordkeeping requirements imposed on communication common carriers. This would be accomplished by eliminating a listing of specific record retention requirements for some 700 categories and subcategories of records. In lieu thereof carriers would be required to maintain at their general offices a master index of records showing specific records, related retention periods and storage locations. As an alternative, the Commission would continue to prescribe a shortened list with shorter retention periods for most records. In addition, regardless of which alternative would be chosen, the Commission is proposing to modify requirements relating to storage media, eliminate overly specific provisions relating to how records should be destroyed and a reporting requirement dealing with the premature destruction of records.

**DATES:** Comments are due by August 23, 1985 and replies by September 9, 1985.

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

**FOR FURTHER INFORMATION CONTACT:** Gerald P. Vaughan, Stephen Steckler, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

**SUPPLEMENTARY INFORMATION:**

**Lists of Subjects in 47 CFR Part 42**

Communications common carriers, reporting and recordkeeping requirements.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission.

### Notice of Proposed Rulemaking

In the matter of revision of Part 42, Preservation of Records of Communication Common Carriers; CC Docket No 84-283.

Adopted: July 9, 1985.

Released: July 17, 1985.

By the Commission.

#### I. Introduction

1. In this Notice of Proposed Rulemaking (NPRM), the Commission proposes to reduce the record retention and reporting burdens imposed under Part 42, "Preservation of Records of Communications Common Carriers." This would be accomplished by eliminating a listing of specific record retention requirements for some 700 categories and subcategories of records. In lieu thereof carriers would be required to maintain at their general offices a master index of records showing specific records, related retention periods and storage location. As an alternative, the Commission would continue to prescribe a shortened list with shorter retention periods for most records. In addition, regardless of which alternative would be chosen, the Commission is proposing to modify requirements relating to storage media and to eliminate a provision relating to how records should be destroyed and a reporting requirement dealing with the premature destruction of records.

#### II. Background

2. Part 42 of the Commission's Rules contains record retention requirements for communications common carriers. It is intended to ensure the availability of specific records for the Commission's regulatory purposes. Among other things, it requires the designation of supervisory officials, an index of records, standards for record storage on media other than paperstock, specific procedures for the destruction of records, and a detailed listing of specific records carriers are required to maintain and the retention periods for each. The last major revision of this part took place in 1960, and it does not reflect recent changes in recordkeeping technology, business practices, or the communications marketplace.

3. On April 17, 1984, the Commission issued a Notice of Inquiry (NOI), 49 FR 16138 (April 27, 1984), soliciting information on ways to reduce the burdens associated with the record retention requirements of Part 42. The NOI solicited comments on alternative approaches to the Commission's present methods of prescribing and satisfying its record retention requriements; and whether or not and to what extent Part 42 should be revised. In connection with the revision of Part 42, carriers were specifically asked to address the prescribed retention periods, the content of the list of records, and any general instructions imposing burdens to retain records beyond the carriers' needs. The NOI invited comments by May 17, 1984, and reply comments by June 1, 1984. At the request of Bell Communications Research, the Commission granted an extension of time for filing comments and reply comments to July 2, 1984 and August 1, 1984 respectively.

4. In a petition for rulemaking dated January 28, 1985, the Department of Justice requested the Commission to revise Part 42 by extending the retention period for individual telephone toll call records from six months to 18 months. Because of this petition's direct relationship to issues raised in the NOI, the Commission has decided to incorporate it in this proceeding.

## III. Comments

### A. Overview

5. Eleven parties filed comments [1] and five reply comments were filed.[2] All of the parties except ISCC, who wanted only to be a party of record, are in favor of some form of revision of Part 42. Ameritech and the OTCs favored elimination of Part 42, or in the alternative, modification of the requirements. CBT recommended modifications and was the only respondent recommending expansion of Part 42 to include additional items. Other respondents favored a streamlining approach of selectively reducing the number of records to be maintained, shortening the retention period, or some combination of both. In reply comments, MCI also recommended extending the applicability of Part 42 to nonregulated affiliates of carriers and raised questions on the relationship of Part 42 and section 415 of the Communications Act of 1934.

### B. Recommended Elimination of Part 42

6. Ameritech stated that elimination of Part 42 would relieve carriers of burdensome, unnecessary, and expensive compliance requirements. Ameritech mentioned other record retention requirements for tax, securities, labor, employment and occupational safety laws and said that multiple layers of regulation covering the same records merely increase the cost of doing business without any corresponding benefit to the public. Ameritech claimed that records necessary for the efficient operation of company business, would by definition include the records necessary for proceedings before the Commission. Accordingly, Ameritech recommended elimination of Part 42 or, in the alternative, revision of Part 42 to eliminate records not necessary for Commission proceedings.

7. The OTCs described current requirements as often inconsistent, duplicative, overlapping, anachronistic and conflicting with the requirements of other governmental agencies. The OTCs indentified no records that are kept solely because of the Part 42 requirements. They claimed that, since all records are kept in the ordinary course of business or because of other requirements, the Commission would still have access to records if requires for regulatory purposes. They stated that, because these records are maintained for other reasons, the Commission cannot assume that no burden is imposed, and carriers should be allowed flexibility to determine their own record preservation policies. Like Ameritech, they recommended elimination of Part 42 or in the alternative, revisions to reduce burdens on common carriers. In reply comments, the OTCs reaffirmed their position that elimination of Part 42 would be the most efficient way to eliminate burdens on the carriers and would be in consonance with Congressional mandates under the Paperwork Reduction Act.[3]

8. In reply comments, MCI stated that suggestions by Ameritech and the OTCs for the elimination of Part 42 are ill-advised because requirements of other agencies and prevailing business practices change from time to time and are outside the Commission's control.

### C. Recommended Modifications

9. CBT suggested that § 42.9 "List of Records" be restructured into an alphabetical order, and some record retention periods be shortened.[4] CBT also recommended the expansion of Part 42 to include additional items relating to computer software, computer systems divestiture activities, and community and civic activities.[5] In reply comments, AT&T contended that CBT offered no support for its position to expand record retention requirements. Further, AT&T noted that additional items were described in generic terms and no specific records or retention periods were recommended.

10. Nine respondents (AT&T, Ameritech, Contel, the OTCs, GTE, TRT, USTA, and Western Union; and MCI in reply comment) stated that Section 42.9, "List of Records", was outdated and should be revised. Six of these respondents submitted detailed listings of records and recommended retention periods for each (AT&T, Ameritech, GTE, the OTCs, UTS and Western Union).[6] AT&T recommended that the Commission remove from the list of records all records for which the Commission has specified retention periods as "optional". If part 42 was to be retained, Ameritech recommended the elimination of records from § 42.9 which are not routinely needed in regulatory proceedings.[7] In addition, for specific records, Ameritech favored the reduction of retention periods by 50 percent.[8] Contel indicated that all retention periods specified as "permanent" should be eliminated. Western Union and TRT (in reply comments in support of Western Union), would eliminate "permanent" retention periods for selected items. In reply comments, MCI also stated that most permanent retention periods could be eliminated and a six month retention period would seem adequate for most records. GTE and UTS comments indicated that records with retention periods of 25 to 40 years should have these periods substantially reduced. The OTCs recommended shorter retention periods for records [9] and the elimination of duplications with other governmental requirements. USTA stated that the record retention requirements should be revised to assure the availability of carrier records which may be necessary for the fulfillment of the FCC's regulatory responsibilities, but did not suggest specific retention requirements.

11. In comments relating to § 42.4, "Index of Records", the OTCs favored the elimination of requirements for a master index at the carriers' general offices because it duplicates requirements, also contained in § 42.4, to maintain indices at each location where records are stored. In reply comments, MCI indicated the requirement for a master index was a necessity and should not be eliminated as the OTCs recommended. MCI stated that such a requirement was a practical necessity for finding relevant documents of carriers that are maintained at different locations.

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[1] American Telephone and Telegraph Company (AT&T); the Ameritech Operating Companies—Illinois Bell Telephone Company, Indiana Bell Telephone Company, Inc., the Ohio Bell Telephone Company and Wisconsin Bell, Inc. (Ameritech); Cincinnati Bell Telephone Company (CBT); Continental Telecom, Inc. (Contel); GTE Corporation (GTE); the Iowa State Commerce Commission (ISCC); Fourteen Operating Telephone Companies—The Bell Telephone Company of Pennsylvania, the Chesapeake and Potomac Telephone Companies, the Diamond State Telephone Company, the Mountain States Telephone and Telegraph Company, Nevada Bell, New England Telephone and Telegraph Company, New Jersey Telephone Company, New York Telephone Company, Northeastern Bell Telephone Company, Pacific Bell, Pacific Northwest Bell Telephone Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, and Southwestern Bell Telephone Company (OTCs); TRT Telecommunications Corporation (TRT), the United States Telephone Association (USTA), United Telephone System, Inc. on behalf of the twenty operating companies comprising the United Telephone System (UTS) and the Western Union Telegraph Company (Western Union).

[2] AT&T, Ameritech, MCI Telecommunications (MCI), the OTCs, and TRT.

[3] 44 U.S.C. 3501 *et seq.*

[4] CBT Comments at p. 2.

[5] Id. at p. 9.

[6] Because of the volume and detail of these listings, we have limited descriptions to key elements. In addition, as discussed later in this NPRM, the scope of our proposal makes a more detailed discussion of these comments pertaining to § 42.9 unnecessary at this time.

[7] Id., Appendix.

[8] Id., Appendix.

[9] OTCs comments at Appendix A.

12. Six parties commented on the use of alternative storage methods such as microfilm and microfiche (AT&T, Ameritech, Contel, GTE, MCI, and UTS). AT&T, Ameritech and UTS, propose that carriers should be allowed under § 42.5, "Preparation and Preservation of Reproductions of Original Records," to store information in the medium of their choice. Contel wants the Commission to pursue a detailed inquiry on magnetic data storage. GTE believes that computer data bases should be considered only after a new list of items and their retention periods have been developed. MCI believes the provisions of § 42.5 are adequate, and already permit reproductions in any generally accepted media.

13. Section 42.6, "Destruction of Records," requires precautions to be taken to destroy the legibility of records the content of which cannot be divulged to unauthorized persons by law. Section 42.7, "Premature Destruction", requires that a certified statement be filed with the Commission listing the records destroyed and circumstances of premature destruction, accidential or otherwise. The statement is to be filed within 90 days of discovery of the destruction.

14. The OTCs recommended removal of the precautionary language in Section 42.6, and recommended annual reporting on the premature destruction of records, instead of within 90 days of discovery, as § 42.7 requires. MCI agreed with the annual reporting concept but added that such reports, when filed, should be kept (presumably at the Commission) at least as long as the retention periods applicable to the documents destroyed.

*D. Other Matters*

Extended Applicability

15. MCI in its reply comments recommended that Part 42 should be made applicable to AT&T Information Systems (ATTIS). MCI stated that AT&T might abuse its control over ATTIS, an offerer of services not subject to tariff. MCI believes that the recordkeeping requirements should be extended to ATTIS in order to detemine whether the expectations of how it will be operated prove justified by actual experience. MCI believes also that this requirement should be extended to other nonregulated affiliates of operating telephone companies to facilitate the audit of costs between the regulated entity and nonregulated entities, thus eliminating the possibility of cross-subsidization.

Part 42—Relationship to Section 415 of the Act

16. MCI stated that the most difficult question is whether the statute of limitations of two years in Section 415 of the Communications Act [10] implies a requirement to maintain all foreseeably relevant documents for that length of time. MCI believes there is no need to lengthen existing requirements for the purposes of section 415, but by the same token, no shortening of retention periods that are now two years or less would be justified for records that are needed in disposing of complaints.

Periodic Reviews

17. Although not directly addressed in the NOI, five commenters, AT&T, Ameritech, Contel, the OCTs and TRT, express the need for periodic reviews to update and streamline Part 42 record retention requirements. AT&T, and TRT indicated that the responsibility of undertaking such a review was up to the Commission. Contel believes the Commission should share the responsibility with industry representatives by forming a Records and Information Management Review Committee. Ameritech and the OTCs agreed that periodic reviews of Part 42 should be performed but did not indicate who should do the review.

The Department of Justice (DOJ) Petition

18. Subsequent to the filing of comments and reply comments to the NOI, a petition for rulemaking was received from the DOJ. The DOJ requested that the Commission's record retention requirement for Item 73(a) in the List of Records be increased so that communication common carriers maintain telephone toll records for 18 months instead of the six months currently prescribed. The DOJ claims that telephone toll records are often essential to the successful investigation and prosecution of today's sophisticated criminal conspiracies relating, for example, to terrorism, narcotics trafficking, organized crime and espionage. The DOJ states that in the investigation of sophisticated criminal activity, law officials do not always discover the need for telephone records, much less the existence of a criminal enterprise, until well after the six-month period has expired. The DOJ Petition cited support by the Advisory Committee for United States Attorneys, the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Postal Service, and the Immigration and Naturalization Service.

[10] Section 415 of the Communications Act of 1934 deals with the limitation periods for certain actions. These include such actions as those by carriers for recovery of their lawful charges, complaints against carriers for the recovery of damages not based on overcharges, etc.

IV. Discussion

*A. Elimination of Part 42*

19. After considering the comments of Ameritech and the OTCs, we are not persuaded that elimination of Part 42 would be in the public interest. In carrying out its regulatory responsibilities the Commission must have some mechanism at its disposal that provides instructions for the retention of records and enables it to take corrective actions when recordkeeping practices of carriers are unsatisfactory. We are aware, however, that other legal requirements and modern business practices require the maintenance of most records now contained in Part 42. Nevertheless, for the foreseeable future, our regulatory responsibilities under the Act, particularly under section 415, make Part 42 a necessity. We are not proposing the elimination of Part 42 here.

*B. Proposed Modification*

20. In connection with § 42.9, "List of Records", we are proposing to eliminate what one respondent characterized as a "laundry list" approach: the item by item identification of specific records and retention periods contained in § 42.9. With the exception of telephone toll records to be discussed in connection with the DOJ Petition, we are proposing to eliminate the List of Records. However, we are proposing to retain a modified requirement that each carrier maintain a master index identifying records, retention periods and location which would be subject to review by Commission representatives. Further, the Commission would retain the right to order the addition to new records or lengthen retention periods upon finding that retention periods are insufficient. We are proposing these changes because the detailed list imposes a substantial burden on the carriers to track records on an item by item basis in a pattern which may not achieve the most efficient results. This is especially true when many of these records serve a variety of different legal and business needs. We would still anticipate that in any implementation of this proposal carriers would still maintain lists of specific records, but the proposal is intended to permit carriers a greater freedom to develop more efficient systems and thereby greatly reduce the burdens the Commission imposes in this area.[11] In connection

[11] CBT would be free to add any records it felt necessary under this plan.

with the implementation of this increased reliance on the master index we are requesting comment on how the Commission should assure itself that essential records are retained. Among the alternatives would be a requirement to file a copy of the index and subsequent modifications with the Commission; reliance on periodic reviews by Commission representatives; or simply requiring modifications of the index as problems arise.

21. In § 42.4, "Index of Records", and for the reasons stated on the preceding paragraph and subject to the conditions discussed therein, we are proposing to retain the requirement for a master index at the general offices. We have noted the duplication mentioned by the OTCs between the master index at the general offices and the indices required to be maintained at locations where records are stored. Upon consideration, however, such a requirement does seem to be a practical necessity given the geographic dispersion of carrier facilities and the need for Commission staff to inspect records in a timely manner. Accordingly, we propose to retain the requirement for an index at each location where records are maintained.

22. In connection with § 42.5 "Preservation and Protection of Reproductions of Original Records", the comments indicated that this Section did not permit those subject to Part 42 the freedom to implement technological advances in alternative storage media (microfilm, microfiche and machine-readable media). In order to give the carriers a greater opportunity to take advantage of technological advances, we are proposing to amend § 42.5 to permit them to use the preservation media of their choice subject to certain conditions. First, we would not require the creation of a paper or microfilm record when the record is initially prepared in a machine-readable format. But carriers must retain records in such a manner that they are easily accessible; and the carrier shall have the facilities available to locate, identify and reproduce records in readable form without loss of clarity. Second, microfilm (including microfiche and aperture cards) must be a quality that can be easily read and that can be reproduced in paper similar in size to the original, without loss of clarity or detail. Like machine-readable data, carriers shall have the facilities available to locate, identify and read the microfilm, and reproduce it in paper form. Third, whether the record is in a machine readable format or on microfilm, it must be accompanied by a certificate attesting to its completeness and accuracy.

23. After considering the comments in relation to Section 42.6 "Destruction of Records," we are of the tentative view that there is no need for the precautionary language advising carriers to "macerate or destroy the legibility of records the content of which is forbidden by law to be divulged to unauthorized persons". The destruction of such records is a common event in business and does not seem to need reinforcement in Part 42. Nor do we believe there is any need to advise carriers that they may destroy other records in any manner they elect. This NPRM, therefore, proposes the elimination of § 42.6 and conforming changes to § 42.2 "Designation of Supervisory Official", which refer to the destruction of records.

24. We are proposing to eliminate the requirement in § 42.7 "Premature Destruction", which requires reporting of premature destruction of records within 90 days of discovery. In the past, this provision called attention to the premature destruction of records. It is now our intention to seek more direct ways of satisfying our regulatory needs. The elimination of this provision that we are proposing should not be construed as relieving carriers of their obligation to retain records in a manner consistent with their index.

*C. Commission Alternative*

25. While not embodied in the proposed rule, the Commission is soliciting comment on whether or not continuing to specify a List of Records would be preferable to the heavy reliance the proposed rule would place on the carriers' master index of records. If retaining the List of Records in Part 42 is preferable, the Commission would consider adopting a generic list with retention periods suited to our current needs. The list would be formulated based on the comments received in response to the NOI and any additional comments in response to this NPRM. If a List of Records specified by the Commission is preferable, the proposed modifications related to storage media (§ 42.5), destruction of records (§ 42.6), and the premature destruction of records (§ 42.7), would be unaffected.

*D. Other Matters*

26. MCI argued that the applicability of Part 42 should be extended to include ATTIS and other nonregulated affiliates of operating telephone companies. This is an area which gives the Commission some concern. Transactions between regulated and nonregulated affiliates will be closely monitored in the coming years; and since the Commission has also indicated elsewhere that complaint proceedings will play an important role, availability of records will be an important issue. The Commission will entertain recommendations in this rulemaking on a satisfactory resolution of its concerns. But the Commission, at this time, is not proposing in the attached proposed rule to extend the applicability of Part 42 to unregulated affiliates of telephone companies.

27. MCI addressed the relationship of Part 42 to section 415 of the Act and in this NPRM the Commission is proposing to place greater reliance on the master index of records as formulated by the carriers. We do not believe such reliance will bring Part 42 into conflict with the two year statute of limitations in section 415. As stated earlier, the Commission is retaining the right to review and order the modification of the master index. We believe this should be sufficient, but as an additional precaution we have added to the proposed § 42.7, a requirement for carriers to add to the index of records, any records relevant to complaint proceedings that are not already contained in the index. Section 42.7 would also require that the records be added to the index as soon as a complaint is filed, and that the records be retained until final disposition of the complaint. We would also add the same requirements when an inquiry or proceeding is instituted by the Commission.

28. We have included for comment the DOJ recomendation to extend the retention period for telephone toll records, which would be incorporated as a separate section. This separate section is necessary because we are also proposing elimination of § 42.9 "List of Records" where the toll record requirement is now contained. We believe that DOJ has made a *prima facie* case that such a requirement is in the public interest.

29. In view of the scope of the reduction in detailed recordkeeping requirements the Commission is proposing here it will address the suggestions for ongoing periodic reviews of recordkeeping requirements in the final rule.

30. Finally, we are also soliciting comment on the continuing usefulness the current § 42.8, "Extention of Period of Retention of Telegraph Messages," which has not been included in the proposed rule.

31. The Commission believes that the elimination of recordkeeping and reporting requirements it is proposing would be in furtherance of the

Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Under this Act an agency is required to review its Rules and Regulations and determine whether they are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. The Commission believes that the recordkeeping and reporting modifications discussed in the NPRM are in compliance with the Paperwork Reduction Act of 1980. However, implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

32. In compliance with the provisions of section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we certify that the revisions to Part 42 of the Commission's Rules and Regulations can be readily implemented by all carriers without significant economic impact, and, in fact, will ease the recordkeeping and reporting requirements of these carriers, both large and small. The rationale for the proposed changes is outlined in the preceding discussion.

33. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments, pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation on the day of oral presentation. That written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy of the Commission's official receiving the oral presenatation. Each *Ex parte* presentation discussed above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, § 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

34. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

## V. Ordering Clauses

35. Accordingly, it is ordered, that pursuant to the provision of section 4(i) and 219, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 218, 219 and 220, there is hereby instituted a notice of proposed rulemaking to amend Part 42, Preservation of Records of Communication Common Carriers as set forth in the attached Appendix.

36. It is further ordered, that all interested persons may file comments on the specific proposals discussed in the NPRM on or before August 23, 1985. Reply comments shall be filed on or before September 9, 1985. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the documents will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Washington, D.C.

37. It is further ordered, that pursuant to section 220(i) of the Communications Act, 47 U.S.C. 220(i) that the Secretary shall cause a copy of this Notice to be served on each state commission.

Federal Communications Commission.

William J. Tricarico,

*Secretary.*

## APPENDIX

The Federal Communications Commission is proposing to amend Part 42, *Preservation of Records of Communication Common Carriers* to read:

1. Part 42 is proposed to be revised in its entirety as follows:

## PART 42—PRESERVATION OF RECORDS OF COMMUNICATION COMMON CARRIERS

### Applicability

Sec.
42.01 Applicability

### General Instructions

42.1 Scope of the regulations in this part.
42.2 Designation of a supervisory official.
42.3 Protection and storage of records.
42.4 Index of records.
42.5 Preparation and preservation of reproductions of original records.
42.6 Retention of telephone toll records.
42.7 Retention of other records.

Authority: Sec. 4, 48 Stat. 1066, as amended, 47 U.S.C. 154. Interprets or applies sec. 220, 48 Stat. 1078, 47 U.S.C. 220.

### Applicability

**§ 42.01 Applicability.**

This part is prescribed and promulgated as the regulations governing the preservation of records of communication common carriers, subject to the jurisdiction of the Commission, engaged in furnishing telephone, wire telegraph, ocean cable, or radiotelegraph service. As used in the part, the term "telephone carriers" refers to those carriers primarily engaged in furnishing telephone service and the term "telegraph carriers" refers to those carriers primarily engaged in furnishing wire-telegraph, ocean-cable, or radiotelegraph service.

### General Instructions

**§ 42.1 Scope of the regulations in this part.**

(a) The regulations in this part apply to all accounts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the carrier as well as those which come into its possession in connection with the acquisition of property, such as by purchase, consolidation, merger, etc.

(b) The regulations in this part shall not be construed as requiring the preparation of accounts, records, or memoranda not required to be prepared by other regulations, such as the Commission's Uniform System of Accounts, except as provided hereinafter.

(c) The regulations in this part shall not be construed as excusing compliance with any other lawful requirement for the preservation of records.

**§ 42.2 Designation of supervisory official.**

Each carrier subject to the regulations in this part shall designate one or more

officials to supervise the preservation of its records.

**§ 42.3 Protection and storage of records.**

The carrier shall protect records subject to the regulations in this part from damage from fires, floods, and other hazards and, in the selection of storage spaces, safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.

**§ 42.4 Index of records.**

Each carrier shall maintain at their general offices a master index of records. The master index shall identify the records retained, the related retention period, and the locations where the records are maintained. The master index shall be subject to review by Commission staff and the Commission shall reserve the right to add records, or lengthen retention periods upon finding that retention periods may be insufficient for its regulatory purposes. At each office of the carrier where records are kept or stored, such records shall be arranged, filed, and currently indexed so that they may be readily identified and made available to representatives of the Commission.

**§ 42.5 Preparation and preservation of reproductions of original records.**

(a) Each carrier may use a retention medium of their choice to preserve records in lieu of original records, provided that they observe the requirements of paragraphs (b) and (c) of this section.

(b) A paper or microfilm record need not be created to satisfy the requirements of this part if the record is initially prepared in machine-readable medium such as punched cards, magnetic tapes, and disks. Each record kept in a machine-readable medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it is complete and accurate. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner so that they are easily accessible, and the carrier shall have the facilities available to locate, identify and reproduce the records in readable form without loss of clarity.

(c) Records may be retained on microfilm (including microfiche, computer output microfilm and aperture cards).

(1) The microfilm shall be of a quality that can be easily read and that can be reproduced in paper similar in size to an original without loss of clarity or detail.

(2) Microfilm records shall be indexed and retained in such a manner as will render them readily accessiable, and the company shall have facilities available to locate, identify and read the microfilm and reproduce in paper form.

(3) Any significant characteristic, feature, or other attribute which microfilm will not preserve shall be clearly indicated at the beginning of each roll of film or series of microfilm records if applicable to all records on the roll or series, or on the individual record, as appropriate.

(4) The printed side of printed forms need not be microfilmed for each record if nothing has been added to the printed matter common to all such forms, but an identified specimen of the form shall be on the film for reference.

(5) Each roll of film or series of microfilm records shall include a microfilm of a certificate stating that the photographs are direct and facsimile reproductions of the original records and they have been made in accordance with prescribed regulations. Such a certificate shall be executed by a person having personal knowledge of these facts. Where the microfilm is computer output, the microfilm certificate states that the information is complete and accurate.

(6) The carrier shall be prepared to furnish at its own expense appropriate standard facilities for both reading and copying the reproductions. If the Commission so requests, the carrier shall furnish printed reproductions of records stored on any storage media.

**§ 42.6 Retention of telephone toll records.**

Each telephone carrier shall be required to preserve for a period of 18 months, all tickets, lists, or other detailed records of individual telephone toll calls used as a basis for billing to customers.

**§ 42.7 Retention of other records.**

Except as specified in § 42.6, carriers shall retain records identified in the master index of records for the period established therein. Records relevant to complaint proceedings not already contained in the index of records should be added to the index as soon as a complaint is filed and retained until final disposition of the complaint. Records the carriers are directed to retain as the result of a proceeding or inquiry by the Commission to the extent not already contained in the index will also be added to the index and retained until final disposition of the proceeding or inquiry.

[FR Doc. 85-18407 Filed 8-1-85; 8:45 am]
BILLING CODE 6712-01-M

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**47 CFR Part 100**

**[MM Docket No. 85-32]**

## Amendment of the Rules With Respect to Technical Standards for Direct Broadcast Satellite Service; Order Extending Time for Filing Comments and Reply Comments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment/reply comment period.

**SUMMARY:** This Order extends the time for filing comments in MM Docket No. 85-32, concerning technical standards for Direct Broadcast Satellite Service, in response to a Motion for Extension of Time filed by the Direct Broadcast Satellite Association (DBSA).

**DATES:** Comments must be filed on or before December 6, 1985, and reply comments on or before January 10, 1986.

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

**FOR FURTHER INFORMATION CONTACT:** Bernard Gorden, Policy and Rules Division, Mass Media Bureau, (202) 632-9660.

**SUPPLEMENTARY INFORMATION:** The Proposed Rule was published in the Federal Register on February 19, 1985, 50 FR 6971.

### Order Extending Time for Filing Comments to Notice of Proposed Rule Making

In the Matter of amendment of Subpart C of Part 100 of the Commission's rules and regulations with respect to technical Standards for Direct Broadcast Satellite Service; MM Docket No. 85-32.

Adopted: July 19, 1985.
Released: July 23, 1985.
By the Chief, Mass Media Bureau.

1. The deadlines for filing comments and reply comments in this proceeding, as extended by an earlier *Order*, are now June 30, 1985, and July 15, 1985, respectively. On June 24, 1985, the Direct Broadcast Satellite Association (DBSA), the principal industry coordinating party in this proceeding, filed a request that more time be allowed for submission of comments on the recommended "voluntary" standards as outlined in the *Notice of Proposed Rule Making (Notice)*.

2. In support of this request DBSA stated that it is desirable to use the rule