

environmental impact statement is not required under the National Environmental Policy Act of 1969. Because the Department, by removing these regulations, is simply relying on more comprehensive internal regulations which are already in place, the Department for good cause, within the meaning of 5 U.S.C. 553(b)(B), finds that notice and public comment on the rule are not required. Finally, the DOI has determined that the rule has no federalism implications affecting the relationship between the national government and the states, as outlined in Executive Order 12612.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary author of this document is Gregory G. Haller, Quarters Program Manager, Administrative Service Center.

#### List of Subjects

##### 41 CFR Part 114-51

Government property management, Housing.

##### 41 CFR Part 114-52

Administrative practice and procedure, Government employees, Government property management, Housing, Reporting and recordkeeping requirements.

##### Robert J. Lamb,

*Acting Assistant Secretary—Policy, Management and Budget.*

For the reasons set forth in the preamble, under the authority at 5 U.S.C. 5911(f), 41 CFR chapter 114 is amended as set forth below.

#### PART 114-51—GOVERNMENT FURNISHED QUARTERS

1. The authority citation for part 114-51 continues to read as follows:

**Authority:** 5 U.S.C. 301.

2. The heading of part 114-51 is revised as set forth above.

##### Subpart 114-51.1—General

3. The heading of subpart 114-51.1 is revised as set forth above.

4. Section 114-51.100 is revised to read as follows:

##### § 114-51.1000 Departmental Quarters Handbook.

The Office of Acquisition and Property Management (PAM) has prepared the Departmental Quarters Handbook (DQH), 400 DM, which provides detailed guidelines governing administration, management and rental rate establishment activities relating to

Government furnished quarters (GFQ). Officials responsible for administration and management of quarters shall implement and comply with the provisions of the DQH, and shall ensure its availability for examination by all employees.

##### § 114-51.101 [Removed]

5. Section 114-51.101 is removed.

##### § 114-51.102 [Removed]

6. Section 114-51.102 is removed.

##### Subpart 51.2 [Removed]

7. Subpart 51.2 is removed.

##### Subpart 51.3 [Removed]

8. Subpart 51.3 is removed.

##### Part 114-52 [Removed]

9. Part 114-52 is removed.

[FR Doc. 95-1111 Filed 1-17-95; 8:45 am]

BILLING CODE 4310-RF-M

#### Bureau of Land Management

##### 43 CFR Public Land Order 7112

[CA-940-1430-01; CACA 24052]

#### Withdrawal of Public Land for Indian Creek Recreation Area; California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order withdraws 2,104.42 acres of public land from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect recreation improvements and resources within the Indian Creek Recreation Area. The land has been and will remain open to mineral leasing.

**EFFECTIVE DATE:** January 18, 1995.

**FOR FURTHER INFORMATION CONTACT:** Duane Marti, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location or entry under general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the recreation improvements and resources within the Indian Creek Recreation Area:

##### Mount Diablo Meridian

T. 10 N., R. 20 E.,

Sec. 3, W $\frac{1}{2}$  lot 5, W $\frac{1}{2}$  lot 6, lot 7, E $\frac{1}{2}$  lot 8, E $\frac{1}{2}$ W $\frac{1}{2}$  lot 8, W $\frac{1}{2}$  lot 9, W $\frac{1}{2}$ E $\frac{1}{2}$  lot 9, lots 10 and 11, E $\frac{1}{2}$  lot 12, E $\frac{1}{2}$ W $\frac{1}{2}$  lot 12, W $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ , and E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 4, S $\frac{1}{2}$ W $\frac{1}{2}$  lot 5, S $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$  lot 6, S $\frac{1}{2}$ E $\frac{1}{2}$  lot 6, W $\frac{1}{2}$  lot 6, lots 7 and 8, E $\frac{1}{2}$  lot 9, E $\frac{1}{2}$  lot 10, E $\frac{1}{2}$  lot 11, lots 17 and 18, SW $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 9, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 10, W $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

The area described contains 2,104.42 acres in Alpine County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: January 6, 1995.

##### Bob Armstrong,

*Assistant Secretary of the Interior.*

[FR Doc. 95-1225 Filed 1-17-95; 8:45 am]

BILLING CODE 4310-40-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 22

[CC Docket No. 92-115]

##### Public Mobile Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; suspension of effectiveness.

**SUMMARY:** On September 9, 1994, the Commission release a Report and Order revising its Part 22 Rules governing the Public Mobile Services. The instant Order responds to requests for stay of certain of these rules, which went into effect on January 1, 1995. Specifically, the Order suspends the effective date of certain Part 22 Rules affecting the processing of 931 MHz paging applications, stays a new policy prohibiting two different licensees from sharing the same transmitter, and denies a request for stay of a new rule designed

to prevent fraudulent use of cellular electronic serial numbers. The intent of the foregoing suspension and stay is to achieve the objectives of updating, streamlining, and expediting the procedures in its licensing process without the subsequent consequences of delay and operational, administrative burden on service providers and the Commission.

**EFFECTIVE DATE:** December 30, 1994.

**FOR FURTHER INFORMATION CONTACT:** B.C. "Jay" Jackson, Jr., R. Barthen Gorman, Commercial Radio Division; and David H. Siehl, Policy Division, Wireless Telecommunications Bureau, (202) 418-1310.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Order in CC Docket No. 92-115, FCC 94-357, adopted December 30, 1994, and released January 10, 1995.

The complete text of this Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

### Synopsis of Order

1. The Commission recently adopted a Report and Order in this docket, completely revising Part 22 of its Rules and providing for the new Rules to go into effect on January 1, 1995. Report and Order, CC Docket No. 92-115, 9 FCC Rcd 6513 (1994), 59 FR 59502, Nov. 17, 1994 (Part 22 Order). The Commission has received stay requests from the Personal Communications Industry Association (PCIA) and the Mobile and Personal Communications 800 Section of the Telecommunications Industry Association (TIA) with respect to the effective date of certain aspects of the Part 22 Order. PCIA requests that the Commission stay implementation of the Part 22 Order with respect to (1) new application processing rules for 931 MHz paging, and (2) its policy prohibiting two Part 22 licensees from sharing a single transmitter. TIA requests that the Commission stay implementation of Section 22.919 of its Rules, which conditions type-acceptance of new cellular telephone equipment on use of electronic serial numbers (ESNs) that cannot be altered once they are set by the manufacturer.

#### 931 MHz Paging Rules

2. In the Part 22 Order, the Commission adopted new procedures for processing of 931 MHz paging

applications, based on frequency-specific applications and use of competitive bidding to select licensees in the event of mutually exclusive applications. The Commission further stated that all 931 MHz applicants with applications pending at the time the new rules went into effect would be given 60 days to amend their applications in accordance with these procedures.

3. The Commission has decided not to address the merits of PCIA's petition at this time, but instead will temporarily suspend implementation of the new 931 MHz application procedures on its own motion. This temporary suspension of the new procedures arises directly from the discussion of 931 MHz paging in the Part 22 Order. In the Part 22 Order, the Commission observed that certain paging applications that had previously been granted, denied, or dismissed under the old rules remained before it in the form of petitions for reconsideration and applications for review. The Commission concluded that these cases should be decided, to the extent possible, under its existing paging rules before the effective date of the new rules. The Commission further stated that if all pending petitions relating to 931 MHz applications were not acted upon by January 1, 1995, it would stay the effect of new Section 22.541 of our Rules concerning 931 MHz applications and also stay the 60-day amendment procedure for all pending 931 MHz applications until the cases were resolved by order.

4. The Commission has determined that additional time is required to resolve certain of these cases, and it is, therefore, suspending Section 22.541 of the Rules and the 60-day amendment procedure for pending 931 MHz applications until further notice. This order also suspends implementation of Section 22.131, which superseded Section 22.541 as of January 2, 1995, insofar as it affects 931 MHz paging applications. See Third Report and Order. Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, FCC 94-212, adopted August 9, 1994, released September 23, 1994; 59 FR 59945, Nov. 21, 1994. Consequently, the Commission concludes that action on PCIA's request to stay the effective date of the 931 MHz application processing rules is unnecessary for the time being, and therefore, is deferring consideration of PCIA's petition until further notice.

#### Sharing of Transmitters

5. In the Part 22 Order, the Commission stated that as a matter of

policy, it intended to prohibit two or more Part 22 licensees from sharing a single transmitter. The concern in establishing this policy was that shared use of the same transmitter by two different licensees could raise questions regarding the control of and responsibility for the transmitter. PCIA requests a stay of this policy on the grounds that it is inconsistent with the past Commission practice and that implementation of the policy would cause irreparable harm to existing licensees and the public.

6. The Commission concludes that a stay is justified in this case, because it has allowed dual licensing of Part 22 transmitters in the past, and continues to allow dual licensing in the private services. The Commission is concerned that reversing this policy with respect to Part 22 services could result in inconsistent treatment of similar services, in violation of the principle of regulatory parity. Among other reasons, the Commission also concludes that a stay of the new policy will not cause harm to other parties to the proceeding or the public. Therefore, the Commission concludes that implementation of its policy against dual licensing of transmitters should be stayed pending reconsideration.

#### Cellular Electronic Serial Numbers

7. To combat the problem of cellular fraud, the Commission adopted a new rule in the Part 22 Order requiring cellular telephone manufacturers to install unalterable electronic serial numbers (ESNs) in all new cellular telephone equipment for which type-acceptance is sought after January 1, 1995. The new § 22.919(c) of the Rules provides that the ESN must be factory set and must not be "alterable, transferable, removable or otherwise able to be manipulated." The purpose of this requirement is to prevent the reprogramming of cellular telephones with unauthorized or "cloned" ESNs.

8. TIA requests a stay of § 22.919(c), and argues that requiring the use of unalterable or "hardened" ESNs will impose significant new costs on manufacturers and will cause customer dissatisfaction by preventing manufacturer's authorized agents from making routine repairs and upgrades of cellular equipment in the field that involve changing the ESN. TIA also contends that the requirement is effective in combating fraud. The Cellular Telecommunications Industry Association (CTIA) opposed TIA's motion for stay.

9. On review of the pleadings, the Commission concludes that TIA has not met the legal standard for granting a

stay. First, without prejudging a separate petition for reconsideration filed by TIA, the Commission concludes that TIA has not shown that the petition is likely to prevail on the merits. In particular, TIA's argument that the Commission should adopt anti-fraud rules based on authentication procedures does not require abandonment of ESN protection rules; instead, if TIA's alternative methodology proves effective, it offers a potentially complementary level of protection against fraud rather than a substitute for ESN regulation.

10. Second, the Commission is not persuaded that either manufacturers or cellular customers will be irreparably harmed if the stay motion is not granted. The new ESN rule applies only to new equipment receiving type acceptance after January 1, 1995. Thus, manufacturers may continue to produce equipment under previous type-acceptances without being required to install hardened ESNs. Finally, the cost of allowing ESN "cloning" to go virtually unchecked is far greater than the cost of implementing the new rule. The Commission therefore concludes that TIA's motion for stay should be denied.

#### Ordering Clauses

11. Accordingly, *it is ordered* that the effective date of new Section 22.541 of our Rules, the application of new Section 22.131 of our Rules insofar as it applies to 931 MHz paging applications, and the 60-day amendment procedure for all pending 931 MHz paging applications described in paragraph 98 of the *Part 22 Order* are stayed, effective as of the adoption date of this Order, until further notice.

12. *It is further ordered* That action on the Petition for Partial Stay filed by the Personal Communications Industry Association on December 19, 1994, with respect to implementation of new 931 MHz processing rules is deferred until future notice.

13. *It is further ordered* That the effective date of the policy prohibiting two licensees from sharing a single transmitter, as described in paragraph 71 of the *Part 22 Order*, is stayed, effective as of the adoption date of this order, until further notice.

14. *It is further ordered* That the Motion for Stay filed by the Mobile and Personal Communications 800 Section of the Telecommunications Industry Association on December 19, 1994, is denied.

#### List of Subjects in 47 CFR Part 22

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

For the reasons set forth in the preamble, 47 CFR part 22 is amended as follows:

#### PART 22—PUBLIC MOBILE SERVICES

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

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

2. Section 22.541 is stayed until further notice.

[FR Doc. 95-1218 Filed 1-13-95; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 92-148; RM-8022]

#### Radio Broadcasting Services; Ludlow, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 261B1 to Ludlow, California, as that community's second local FM broadcast service, in response to a petition for rule making filed on behalf of Miracle Broadcasting. See 57 FR 31996, July 20, 1992. Coordinates used for Channel 261B1 at Ludlow are 34-47-31 and 116-03-56. Ludlow is located within 320 kilometers (199 miles) of the Mexican border, and therefore, concurrence of the Mexican government to this proposal was obtained. With this action, the proceeding is terminated.

**DATES:** Effective date:

February 27, 1995. The window period for filing applications on Channel 261B1 at Ludlow, California, will open on February 27, 1995, and close on March 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process for Channel 261B1 at Ludlow, California, should be addressed to the Audio Services Division, FM Branch, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 92-148, adopted January 4, 1995, and released January 12, 1995. The full text of this

Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW, Room 246, or 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 261B1 at Ludlow.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95-1155 Filed 1-17-95; 8:45 am]

BILLING CODE 6712-01-F

#### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AC23

#### Endangered and Threatened Wildlife and Plants; *Gymnoderma Lineare* (Rock Gnome Lichen) Determined To Be Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines the lichen *Gymnoderma lineare* (rock gnome lichen) to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). This lichen, which is limited to 25 populations in North Carolina and 7 populations in Tennessee, is threatened by collection, logging, and habitat disturbance due to heavy use by hikers and climbers. It is also indirectly threatened by exotic insect pests and possibly air pollution, which are contributing to the demise of the Fraser fir forests at higher elevations in the