accepted after the Commission's Sunshine Notice is issued announcing initiation, by either a notice of inquiry or notice of proposed rule making that will be considered by the Commission at a public meeting, of a proceeding pertaining to that service or technology. Alternatively, if the Commission initiates a new proceeding pertaining to a specific new spectrum-based service or technology by notation, pioneer's preference requests will not be accepted after such notice is submitted to the Commission for vote.

(d) Pioneer's preference requests complying with the requirements and procedures in paragraphs (a) through (c) of this section will be accepted for filing and listed by file number in a notice of proposed rule making addressing the new service or technology proposed in the request, if such a notice of proposed rule making is adopted. A final determination on a request for pioneer's preference and its scope will normally be made in a report and order adopting new rules for the service or technology proposed in the request, if such rules are adopted. If awarded, the pioneer's preference will provide that the preference applicant's application for a construction permit or license will not be subject to mutually exclusive applications. If granted, the construction permit or license will be subject to the conditions in paragraphs (f) and (g) of this section.

(e) Any interested person may file a statement in support of or in opposition to a request for pioneer's preference listed in a notice of proposed rule making, and a reply to such statements, subject to filing deadlines that shall be published in the notice of proposed rule making. Statements on the merits of pioneer's preference requests must be filed separate from, and not part of, any comments on the rules proposed in the notice of proposed rule making. Statements on pioneer's preference requests will not be accepted prior to issuance of the notice of proposed rule making.

(f) As a condition of its license grant, a pioneer's preference grantee will be required to construct a system that substantially uses the design and technologies upon which its pioneer's preference award is based within a reasonable time, as determined by the Commission, after receiving its license. Failure to comply with this provision will result in revocation of the pioneer grantee's license, and transfer of the license will be prohibited until this requirement is met.

(g) In services in which licenses are assigned by competitive bidding, any parties receiving pioneer's preferences will be required to pay for their licenses in accord with the payment formula specified in the General Agreement on Tariffs and Trade legislation, Public Law 103–465. This formula requires that pioneers pay in a lump sum or in installment payments over a period of not more than five years 85 percent of the average price paid for comparable licenses. Comparable licenses will be determined by the Commission on a case-by-case basis.

* * * * *

3. Section 1.403 is revised to read as follows:

§ 1.403 Notice and availability.

All petitions for rule making (other than petitions to amend the FM, Television, and Air-Ground Tables of Assignments) meeting the requirements of § 1.401 will be given a file number and, promptly thereafter, a ''Public Notice'' will be issued (by means of a Commission release entitled ''Petitions for Rule Making Filed'') as to the petition, file number, nature of the proposal, and date of filing. Petitions for rule making are available at the Commission's Dockets Reference Center (1919 M Street NW., Room 239, Washington, DC).

PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

1. The authority citation for part 5 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

2. Section 5.207 is revised to read as follows:

§ 5.207 Experiments performed in conjunction with pioneer's preference applications.

An applicant for a pioneer's preference pursuant to § 1.402 of this chapter may file an experimental license application for a limited geographical area, generally including no more than one Metropolitan Statistical Area. In order to be eligible for a preference at the time of a report and order in a proceeding addressing a new service or technology, the experimental applicant must demonstrate the technical feasibility of its proposal by summarizing its experimental results in its preference application, unless it instead submits an acceptable showing of technical feasibility. If a pioneer's preference applicant wishes the Commission to consider in conjunction with the application experimental material filed subsequent to the application, the applicant must summarize this material and submit the summary to the Commission prior to the Sunshine Notice announcing that a report and order pertaining to the new service or technology will be considered by the Commission at a public meeting, or—if a report and order is considered by notation—prior to submission of the report and order to the Commission for vote. All experimental material must be summarized and its relevance to the pioneer's preference application explained in order for it to be considered by the Commission.

[FR Doc. 95–6081 Filed 3–13–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 61

[CC Docket No. 90–132; FCC 95–2]

Competition in the Interstate Interexchange Marketplace

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Memorandum Opinion and Order, the Commission responded to petitions for reconsideration filed in response to the Interexchange Order addressing the remaining issues raised on reconsideration. The Interexchange Order examined the state of competition in the interstate interexchange marketplace. At that time, the Commission concluded that most business services were subject to substantial competition, and therefore lifted or streamlined certain regulatory restrictions on AT&T and other Interexchange Carriers (IXCs). In this Memorandum Opinion and Order, the Commission generally affirmed the various regulatory reforms adopted in the Interexchange Order, with certain minor clarifications and modifications.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Kevin Werbach at (202) 418–1580, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration adopted January 3, 1995, and release February 17, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M

Street NW., Suite 140, Washington, DC 20037.

Summary of Order

1. On August 1, 1991, the Commission adopted the Interexchange Order (56 FR 55235 (Oct. 25, 1991)), concluding an examination of the state of competition in the interstate interexchange marketplace and adapting its regulatory policies in light of this competition. The Commission in the Interexchange Order found that most business services are subject to substantial competition. Based on this conclusion, the Commission further streamlined its regulation of most of AT&T's business services, while retaining price cap regulation for two services that were found to be less competitive—800 services and analog private line services. The Commission also authorized all interexchange carriers (IXCs) to offer service pursuant to individually-negotiated contract rates that are generally available to similarly situated customers. In addition, the Commission eliminated nondiscrimination reporting requirements for AT&T services subject to further streamlining, and the requirement that AT&T submit annually an independent audit report on its installation and maintenance procedures. Finally, the Commission eliminated the comparably efficient interconnection (CEI) filing requirements and CEI parameters for AT&T's provision of enhanced services that rely exclusively on basic services subject to further streamlining.

2. Eleven parties filed petitions seeking reconsideration of the Interexchange Order. The Commission addressed reconsideration requests relating to the bundling of 800 services and inbound services with other services in prior orders. This Memorandum Opinion and Order on Reconsideration responds to the remaining issues on reconsideration, and reaffirms the Interexchange Order with certain minor modifications.

3. The Commission affirmed its decision to permit IXCs to offer services pursuant to individually-negotiated contracts. The Commission rejected arguments that such ''contract carriage'' violated the Communications Act of 1934, that contract carriage would lead to predatory behavior by AT&T, that the presumption of lawfulness accorded AT&T's contract-based tariffs was inconsistent with prior Commission statements, that contract-based tariff filings would provide insufficient information about rates, and that additional safeguards should be imposed upon AT&T for its contract-based service offerings.

4. The Commission clarified its decision to apply the ''substantial cause'' test to tariff revisions that alter material terms and conditions of a long-term contract. In the Interexchange Order, the Commission noted that tariff revisions by dominant carriers altering material terms and conditions of a long-term service tariff are considered reasonable only if the carrier can make a showing of substantial cause for the revisions. The Commission cited earlier decisions as holding that the same test applies to tariff revisions that alter material terms and conditions of a long-term contract. In response to petitions for reconsideration, the Commission first noted that it was unlikely that AT&T would seek to unilaterally modify a contract-based tariff, as such action could damage its relationship with its customers. The Commission then explained that it would consider on a case-by-case basis in light of all relevant circumstances whether a substantial cause showing has been made. The Commission concluded that commercial contract law principles are highly relevant—but not necessarily determinative—to such a decision.

5. The Commission refused to impose additional safeguards to ensure that AT&T's provision of ''customized'' services, such as Tariff 12 and contract services, does not impede competition in the customer premises equipment (CPE) marketplace. The Commission concluded that no party had demonstrated that customers are unaware of the relevant CPE bundling rules, and that it has not been presented with any evidence that systems integrators have been denied access to customized service arrangements.

6. The Commission modified its decision in the Interexchange Order to eliminate comparably efficient interconnection (CEI) requirements for AT&T's provision of enhanced services that rely exclusively on basic services subject to further streamlined regulation. The Commission concluded that the distinction made in the Interexchange Order between streamlined services that are coupled with nonstreamlined services, and those that are not, was without a valid basis and should be abandoned. Consequently, the Commission lifted CEI requirements for any streamlined service provided by AT&T. AT&T was required to file a CEI plan explaining how it will comply with CEI parameters for nonstreamlined services only, for any enhanced service that AT&T proposes to provide that relies on both streamlined and nonstreamlined services.

7. The Commission denied requests that it prohibit AT&T from including nonstreamlined services in its Tariff 12 offerings, or that the Commission apply its bundling restrictions on 800 and inbound services to other nonstreamlined services. The Commission noted that its rationale for prohibiting AT&T from including 800 and inbound services in future contract-based tariffs or Tariff 12s pending 800 number portability was based on specific findings about AT&T ability to leverage its competitive advantage in the 800 marketplace. There are sufficient distinctions, the Commission concluded, between 800 services and other nonstreamlined services, and between contract-based tariffs and Tariff 12 offerings, to justify the policies adopted in the Interexchange Order.

8. Finally, the Commission addressed concerns related to its treatment of analog private line service. The Commission denied requests to reconsider what it meant by the term ''analog private line service.'' The Commission did, however, order AT&T to remove analog private line services provided to government entities through contractual arrangements from Basket 3. This modification was designed to limit AT&T's ability to subsidize rate decreases in some Basket 3 services with rate increases in other analog private line rate elements. In light of this decision, the Commission recalibrated the price cap index (PCI) and the actual price index (API) for Basket 3 to reflect the removal of all analog private line services provided under contract to government entities from this basket.

Ordering Clauses

1. Accordingly, pursuant to authority contained in sections 1, 4, 201–205, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 405, It Is Ordered that the policies, rules and requirements set forth herein Are Adopted, and Part 61 of the Commission's Rules, 47 CFR Part 61, Is Amended as set forth in below, effective April 13, 1995.

2. It is further ordered That the petitions for reconsideration of AT&T, Ad Hoc, ARINC, Alascom, Broadcast Coalition, Citicorp, CompTel, IDCMA, MCI, Sprint and WilTel are Granted in Part and Denied in Part.

List of Subjects in 47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Amendatory Text

Title 47 of the Code of Federal Regulations, Part 61 is amended as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403, unless otherwise noted.

2. Section 61.42(b)(3) is revised to read as follows:

§ 61.42 Price cap baskets and service categories.

* * * * *

(b) * * *

(3) The business services basket shall contain analog private lines, including analog voice grade private line, unless provided under contract to a government entity, and terrestrial television transmission service.

* * * * *

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–5786 Filed 3–13–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–267]

Organization and Delegation of Powers and Duties Delegations to the Federal Railroad Administrator

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule delegates the Secretary of Transportation's authority to the Federal Railroad Administrator to provide financial assistance for high-speed rail corridor planning and technology improvements, to promulgate necessary safety regulations, and to effectuate the redemption of outstanding obligations and liabilities with respect to the Columbus and Greenville Railway. This rule is necessary to reflect the delegation in the Code of Federal Regulations.

EFFECTIVE DATE: This rule becomes effective March 14, 1995.

FOR FURTHER INFORMATION CONTACT: Gareth W. Rosenau, Attorney, Office of Chief Counsel, Federal Railroad Administration, (202) 366–0620, or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement (C–50), (202) 366–9306, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This document delegates authority to the Federal Railroad Administrator to implement the ''Swift Rail Development Act of 1994,'' being Title I—High-Speed Rail of Public Law 103–440 (108 Stat. 4615) (the ''Act''). The Act provides for high-speed rail assistance for corridor planning and technology improvements and authorizes appropriations for fiscal years 1995 through 1997. The Act provides for the promulgation of such safety regulations as may be necessary for high-speed rail services. The Act also provides for the redemption of outstanding obligations and liabilities with respect to the Columbus and Greenville Railway under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively). Since this rule relates to departmental management, organization, procedure, and practice, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least 30 days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Therefore, this rule is effective on the date of its publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organizations and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; Public Law 101–552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.49 is amended by adding a new paragraph (jj) to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(jj) Exercise the authority vested in the Secretary by the Swift Rail Development Act of 1994, being Title I—High-Speed Rail of Public Law 103–440 (108 Stat. 4615), as it relates to the provision of financial assistance for high-speed rail corridor planning and technology improvements, the promulgation of necessary safety regulations, and the redemption of outstanding obligations and liabilities with respect to the Columbus and Greenville Railway under Sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

Issued at Washington, DC this 3rd day of March 1995.

Federico Peña,

Secretary of Transportation.

[FR Doc. 95–6222 Filed 3–13–95; 8:45 am]

BILLING CODE 4910–62–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–87; Notice 2]

RIN 2127–AF03

Federal Motor Vehicle Safety Standards; Metric Conversion

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends selected Federal Motor Vehicle Safety Standards (FMVSS) by converting English measurements specified in those standards to metric measurements. This rulemaking is the first of several that NHTSA will undertake to implement the statutory Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of the affected FMVSS.

DATES: This final rule is effective March 14, 1996. Optional early compliance with the changes made in this final rule is permitted beginning March 14, 1995.

Petitions for reconsideration of this final rule must be filed by April 13, 1995.

ADDRESSES: Petitions for reconsideration of this final rule should refer to the docket and notice number cited in the heading of this final rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required, that 10 copies be submitted.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Mr. Cavey's telephone number is: (202) 366–5271.

SUPPLEMENTARY INFORMATION: Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100–418), makes it United States policy that the metric system of measurement is the