

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. sections 603 and 604). Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the Commonwealth's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives

of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the actions proposed in this notice do not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes approval of pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Reporting and recordkeeping, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: June 13, 1997.

John P. DeVillars,

Regional Administrator, EPA Region I.

[FR Doc. 97-18409 Filed 7-11-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 70**

[FRL-5855-2]

Clean Air Act Proposed Final Full Approval of Operating Permits Program and Approval of Delegation of Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final full approval of Iowa's Title V operating permit program to meet the requirements of 40 CFR part 70. In the final rules section of the **Federal Register**, the EPA is approving the state's program as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. An explanation for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule

based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting should do so at this time.

DATES: Comments on this proposed rule must be received in writing by August 13, 1997.

ADDRESSES: Comments may be mailed to Christopher D. Hess, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551-7213.

SUPPLEMENTARY INFORMATION: The EPA granted interim approval to Iowa's Title V program in an action effective October 2, 1995. The state was responsible to make certain revisions within two years of that date in order to receive final full approval. Iowa has made the necessary revisions and now meets the criteria for final full approval. For additional information, please refer to the summary provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: June 24, 1997.

U. Gale Hutton,

Acting Regional Administrator.

[FR Doc. 97-18251 Filed 7-11-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 80**

[PR Docket No. 92-257; FCC 97-217]

Maritime Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a *Second Further Notice of Proposed Rule Making* in PR Docket No. 92-257 which seeks to simplify the licensing process and introduce additional flexibility for public coast stations. Specifically, the Commission has proposed rules to designate geographic licensing regions for very high frequency (VHF) public coast stations, and assign all currently unassigned VHF public correspondence channels on a geographic basis by competitive bidding. The Commission has proposed rules to eliminate the required channel loading showing for high seas public coast stations, and implement competitive bidding procedures for mutually exclusive initial applications on a case-by-case basis; and to eliminate

the current emission restrictions and channel plan, increase the permitted power levels for point-to-point communications, and streamline licensing procedures for Automated Maritime Telecommunications System (AMTS) coast stations. The Commission also seeks comment on allowing private coast stations to share public coast station frequencies in the medium frequency (MF) and high frequency (HF) bands.

DATES: Interested parties may file comments on or before August 25, 1997, and reply comments on or before September 9, 1997.

ADDRESSES: Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Scot Stone, Wireless Telecommunications Bureau, Public Safety & Private Wireless Division, (202) 418-0638 or via E-mail to "sstone@fcc.gov".

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rule Making* in the *Second Report and Order and Second Further Notice of Proposed Rule Making*, PR Docket No. 92-257, FCC 97-217, adopted June 17, 1997, and released June 26, 1997, with Commissioner Ness issuing a statement. The full text of this *Second Report and Order and Second Further Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, N.W., Washington, D.C. 20037, telephone (202) 857-3800. *Summary of the Second Further Notice of Proposed Rule Making in the Second Report and Order and Second Further Notice of Proposed Rule Making*

1. The Commission initiated the instant proceeding to update the Maritime Service rules to promote the use of new, spectrally efficient radio communications techniques. The Commission concluded in the *Second Further Notice of Proposed Rule Making* that it was in the public interest to simplify the license process for VHF public coast stations and to reconsider its treatment of high seas and AMTS public coast stations.

2. First, the Commission proposes to designate ten licensing regions, based on Coast Guard Districts, and authorize a single licensee for all currently unassigned VHF public correspondence channels on a geographic basis, in lieu of the site-based approach presently

used. Geographic area licensing provides significant advantages over site-based licensing for entities providing subscriber-based services because of the greater operational flexibility it gives licensees and the greater ease of administration for the Commission. Coast Guard Districts provide a sufficient amount of contiguous coastline to foster local as well as regional coast station systems, and they reflect regional trading and vessel movement patterns.

3. The Commission proposes to permit the continued operation of incumbent VHF public coast station licensees and private land mobile radio (PLMR) licensees sharing marine spectrum in inland regions indefinitely, and to require incumbents and geographic licensees to afford interference protection to one another. Under the proposal, incumbent licensees will be allowed to renew, transfer, assign, and modify their license in any manner so long as such modifications do not extend the incumbent's service area; proposed modifications that would extend an incumbent's service area or request additional frequencies would be contingent upon an agreement with each affected licensee. If an incumbent fails to construct, discontinues operations, or otherwise has its license terminated, its authorization would automatically revert to the regional licensee.

4. The Commission proposes to authorize a single regional licensee to operate on all unassigned public correspondence frequencies within its District for a ten-year license term. The Commission proposes to permit each regional licensee to place stations anywhere within its region to serve vessels or units on land, so long as marine-originating traffic is given priority and incumbent operations are protected. Base stations and land units would be blanket licensed under the regional license, except that individual licensing would be required for base stations that require submission of an Environmental Assessment under 47 CFR 1.1307 or international coordination, or would affect the radio frequency quiet zones described in 47 CFR 80.21.

5. The Commission seeks comment on whether the current construction requirement for VHF public coast stations (i.e., that the station be placed in operation within eight months of the license grant) should be retained, or replaced with a requirement that the station provide substantial service within ten years (or some lesser level of service within a shorter time). The

Commission proposes to permit partitioning and disaggregation of the geographic licenses, with partitionees and disaggregatees to hold their licenses for the remainder of the original licensee's term and to have a renewal expectancy.

6. Second, the Commission proposes to eliminate the required showing of channel loading for high seas public coast stations. Like the now-eliminated VHF band loading criteria, these requirements were intended to prevent channel warehousing and ensure efficient use of the maritime spectrum, but continuing to impose loading requirements on high seas public coast stations could unfairly impair the ability of providers to compete. Efficient use of high seas public coast station spectrum is more appropriately monitored through construction requirements. The Commission proposes extending the construction requirement from eight months to twelve months.

7. Third, the Commission proposes to introduce additional flexibility for AMTS coast stations. The Commission proposes extending the construction requirement from eight months to two years for new systems and from eight months to one year for subsequently licensed stations that extend the geographic area served by the system; and eliminating the current emission restrictions and channel plan. The Commission seeks comments concerning ways to streamline licensing and regulatory procedures while continuing to protect television reception from interference, and concerning increasing the permitted power levels for AMTS point-to-point communications.

8. Fourth, the Commission proposes to use competitive bidding procedures to resolve mutually exclusive initial applications for VHF geographic licenses and for high seas and AMTS public coast station licenses, in light of its previous determination that public coast stations provide a commercial mobile radio service and, thus, public coast station licenses are auctionable, pursuant to 47 U.S.C. 309(j). The Commission seeks comments regarding the establishment of a "small business" definition for the public coast service, and on what small business provisions, i.e., installment payment plans and bidding credits, should be offered to public coast small business applicants.

9. Finally, the Commission proposes allowing private coast stations to share public coast station frequencies in the MF/HF bands, and seeks comments regarding how the channels would be shared and how to resolve mutually

exclusive initial applications for such frequencies.

10. In order to permit the orderly and effective resolution of the issues in this proceeding, the *Second Further Notice of Proposed Rule Making* suspends the acceptance of public coast station applications to use VHF spectrum, and PLMR applications proposing to share that spectrum, for new licenses, amendments to such new license applications, applications to modify existing licenses, and amendments thereto; except applications involving renewals, transfers, assignments, and modifications that propose neither to expand a station's service area nor to obtain additional public coast VHF band spectrum. This suspension applies to applications received on or after June 17, 1997, and is effective until March 17, 1998, provided that the Commission has not taken any action in this proceeding before that time.

11. Public coast station applications to use VHF spectrum that were filed prior to the deadline stated above and which are pending will be processed provided that they are not mutually exclusive with other applications as of the deadline stated above, and the relevant period for filing competing applications has expired as of the deadline stated above. Previously filed public coast station applications to use public coast VHF spectrum not meeting these criteria will be held in abeyance until the conclusion of this proceeding. Previously filed PLMR applications to use such spectrum will be processed.

Regulatory Flexibility Act

Initial Regulatory Flexibility Analysis

12. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in the *Second Further Notice of Proposed Rule Making*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this *Second Further Notice of Proposed Rule Making* provided in the item.

13. Need for and Objectives of the Proposed Rule. The purpose of this item is to determine whether it is in the public interest, convenience, and necessity to amend our rules to simplify our licensing process for VHF public coast stations, to reconsider our treatment of high seas public coast stations, and to introduce additional flexibility for AMTS public coast stations. These proposals include: (1)

Converting licensing of VHF public coast station spectrum for which the principal use will involve, or is reasonably likely to involve, "subscriber-based" services, from site-by-site licensing to geographic area licensing, (2) simplifying and streamlining the VHF public coast spectrum licensing procedures and rules, (3) increasing licensee flexibility to provide communication services that are responsive to dynamic market demands, and (4) employing competitive bidding procedures (auctions) to resolve mutually exclusive applications for public coast spectrum for which the principal use will involve, or is reasonably likely to involve, "subscriber-based" services. In addition, we temporarily suspend the acceptance and processing of certain public coast spectrum applications, with the exception of applications in a few noted categories. These proposed rules and actions should increase the number and types of communications services available to the maritime community. Additionally, these proposals should improve safety of life and property at sea.

14. Legal Basis. Authority for issuance of this item is contained in Sections 4(i), 4(j), 7(a), 302, 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 157(a), 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c).

15. Description and Estimate of the Number of Small Entities to Which Rule Will Apply. The proposed rules would affect licensees using public coast spectrum. The Commission has not developed a definition of the term "small entity" specifically applicable to public coast station licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration rules applicable to radiotelephone service providers. This definition provides that a small entity is any entity employing less than 1,500 persons. See 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small entities that may choose to provide public coast services and is unable at this time to make a meaningful estimate of the number of potential public coast service providers which are small businesses.

16. The size data provided by the Small Business Administration does not enable us to make a meaningful estimate

of the number of public coast station licensees which are small businesses. Therefore, we used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of Census, which is the most recent information available. This document shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.

17. We seek comment on the number of small entities that use public coast station spectrum. Further, we seek comment on the number of small entities that are likely to apply for licenses under the various proposals described herein. Because any entity that is capable of providing radiotelephone service is eligible to hold a public coast license, the proposals herein could prospectively affect any small business in the United States. In other words, the universe of prospective or possible public coast spectrum users is all small businesses.

18. Reporting, Recordkeeping, and Other Compliance Requirements. Again, we note that we have requested comment regarding the establishment of a small business definition for public coast spectrum. If we use competitive bidding to award licenses, as proposed, and also establish a small business definition for the purpose of competitive bidding, then all small businesses that choose to participate in these services will be required to demonstrate that they meet the criteria set forth to qualify as small businesses, as required under part 1, subpart Q of the Commission's Rules, 47 CFR part 1, subpart Q. Any small business applicant wishing to avail itself of small business provisions will need to make the general financial disclosures necessary to establish that the small business is in fact small.

19. If this occurs, prior to auction each small business applicant will be required to submit an FCC Form 175, OMB Clearance Number 3060-0600. The estimated time for filling out an FCC Form 175 is 45 minutes. In addition to filing an FCC Form 175, each applicant must submit information regarding the ownership of the applicant, any joint venture arrangements or bidding consortia that the applicant has entered into, and financial information which demonstrates that a small business wishing to qualify for installment payments and bidding credits is a small business. Applicants that do not have audited financial statements available will be permitted to certify to the validity of their financial showings. While many small businesses have

chosen to employ attorneys prior to filing an application to participate in an auction, the rules are proposed so that a small business working with the information in a bidder information package can file an application on its own. When an applicant wins a license, it will be required to submit an FCC Form 494 (common carrier) which will require technical information regarding the applicant's proposals for providing service. This application will require information provided by an engineer who will have knowledge of the system's design.

20. Federal Rules That May Duplicate, Overlap, or Conflict with the Proposals. None.

21. Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives. The *NPRM* solicits comment on a variety of alternatives set forth herein. Any significant alternatives presented in the comments will be considered. As noted, we have requested comment regarding the establishment of a small business definition for the public coast service. We also seek comment generally on the existence of small entities in the public coast service and how many total entities, existing and potential, would be affected by the proposed rules in the *NPRM*. Finally, we request that each commenter identify whether it is a "small business" under the SBA definition of employing fewer than 1,500 employees.

22. IRFA Comments. We request written public comment on the foregoing IRFA. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in the item.

Ex Parte Rules

23. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, 1.1206(a).

Paperwork Reduction Act

24. This *Second Further Notice of Proposed Rule Making* does not contain either a proposed or modified information collection.

Comment Filing Procedures

25. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you

must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. You also may file informal comments by electronic mail. You should address informal comments to "mayday@fcc.gov". You must put the docket number of this proceeding ("PR Docket No. 92-257") on the subject line. You must also include your full name and Postal Service mailing address in the text of the message. Formal and informal comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

List of Subjects in 47 CFR Part 80

Communications equipment, Radio, Vessels.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

47 CFR Part 80 is proposed to be amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.25(b) is revised to read as follows:

§ 80.25 License term.

* * * * *

(b) Licenses other than ship stations in the maritime services will normally be issued for a term of ten years from the date of original issuance, major modification, or renewal.

* * * * *

3. Section 80.49 is revised to read as follows:

§ 80.49 Construction and regional service requirements.

(a) *Public coast stations.* Each VHF public coast station licensee must demonstrate that it is providing substantial service within its region or service area (subpart P) within ten years of the initial license grant. For LF, MF, and HF band and AMTS public coast station licensees, when a new license has been issued or additional operating

frequencies have been authorized, if the station or frequencies authorized have not been placed in operation within twelve months from the date of the grant, the authorization becomes invalid and must be returned to the Commission for cancellation.

(b) *Public fixed stations.* When a new license has been issued or additional operating frequencies have been authorized, if the station or frequencies authorized have not been placed in operation within twelve months from the date of the grant, the authorization becomes invalid and must be returned to the Commission for cancellation.

4. Section 80.215(h)(5) is revised to read as follows:

§ 80.215 Transmitter power.

* * * * *

(h) * * *

(5) The transmitter power, as measured at the input terminals to the station antenna, must be 50 watts or less.

* * * * *

5. Section 80.303(b) is revised to read as follows:

§ 80.303 Watch on 156.800 MHz (Channel 16).

* * * * *

(b) A coast station is exempt, by rule, from compliance with the watch requirement when Federal, State, or Local Government stations maintain a watch on 156.800 MHz over 95% of the coast station's service area. Each licensee exempted by rule must notify the appropriate Coast Guard District office at least thirty days prior to discontinuing the watch, or in the case of new stations, at least thirty days prior to commencing service.

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6. Section 80.357(b)(2)(ii) introductory text is revised to read as follows:

§ 80.357 Morse code working frequencies.

* * * * *

(b) * * *

(2) * * *

(ii) Frequencies above 5 MHz may be assigned primarily to stations serving the high seas and secondarily to stations serving inland waters of the United States, including the Great Lakes, under the condition that interference will not be caused to any coast station serving the high seas.

* * * * *

§ 80.361 [Amended]

7. Section 80.361 is amended by redesignating paragraph (a)(1) as paragraph (a) and removing paragraph (a)(2).

8. Section 80.371 is amended by removing paragraph (b)(4) and revising paragraph (c) introductory text to read as follows:

§ 80.371 Public correspondence frequencies.

* * * * *

(c) *Working frequencies in the marine VHF 156–162 MHz band.* The frequency pairs listed below are available for assignment to a single licensee in each of the following ten regions: the First, Fifth, Seventh, Eighth, Ninth, Eleventh, Thirteenth, Fourteenth, and Seventeenth United States Coast Guard Districts, as they are defined in 33 CFR part 3. Each regional licensee may place stations anywhere within its region so long as it provides protection to co-channel incumbent licensees, as defined

in subpart P. For purposes of this section, co-channel incumbent licensees include public coast stations and Industrial and Land Transportation stations authorized under part 90 of this chapter on a primary basis. Each regional licensee may also operate on offset frequencies in areas where the regional licensee is authorized on both frequencies adjacent to the offset frequency. Regional licensees that share a common border may either distribute the available frequencies upon mutual agreement or request that the Commission assign frequencies along the common border. Operation along international borders is subject to coordination with foreign administrations.

* * * * *

§ 80.374 [Amended]

9. Section 80.374 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b).

10. Section 80.481 is added to read as follows:

§ 80.481 Alternative technical parameters for AMTS transmitters.

In lieu of the technical parameters set forth in this part, AMTS transmitters may utilize any modulation or channelization scheme so long as emissions are attenuated, in accordance with 47 CFR 80.211, at the band edges of each station's assigned channel group or groups.

[FR Doc. 97–18292 Filed 7–11–97; 8:45 am]

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