

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Maryland?

Maryland is not seeking authority to operate the program on Indian lands, since there are no Federally-recognized Indian Lands in the State.

K. What Is Codification and Is EPA Codifying Maryland's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR 272, subpart V, for this authorization of Maryland's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and, therefore, this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not

make decisions based on environmental health or safety risks.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 F.R. 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 F.R. 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's "Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective July 31, 2001.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and

7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 17, 2001.

Bradley M. Campbell,

Regional Administrator, EPA Region III.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 87, and 101

[WT Docket No. 99-327, FCC 01-151]

24 GHz Service; Licensing and Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: This document responds to two petitions for reconsideration of a previous decision to license the 24 GHz band by Economic Area (EA). Both petitions asked us to consider licensing the 24.25-24.45 GHz and 25.05-25.25 GHz band (24 GHz band) by smaller geographic areas, such as Metropolitan Statistical Areas (MSA) and Rural Statistical Areas (RSA). In this document we deny these petitions because we believe that licensing the 24 GHz band by EA not only offers economies of scale, but also serves a wider range of entities, including both large and small service providers. We further believe that our adoption of a three-tiered approach to bidding credits will enable small entities to participate in the auction. Also, we believe that our partitioning and disaggregation rules will further assist small and rural entities. This document terminates this proceeding.

FOR FURTHER INFORMATION CONTACT:

Nancy M. Zaczek, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, at (202) 418-7590.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in WT Docket 99-327, FCC 01-151, adopted May 2, 2001 and released May 17, 2001. The full text is also available for inspection and copying during normal business hours in the FCC Reference Information Center (Courtyard level), 445 12th Street, SW., Washington DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS Inc.), (202) 857-3800, 445 12th Street, SW., CY-B400, Washington DC 20054. The full text of the Order on Reconsideration may also be

downloaded at <http://www.fcc.gov/Bureaus/Wireless/Orders/2001/FCC-01-151A1.doc>.

Synopsis of Order on Reconsideration

1. This Order on Reconsideration (Order) denies two petitions for reconsideration of the Report and Order in this proceeding (65 FR 59350, October 5, 2000) regarding licensing the 24 GHz band by 176 EAs. In the Report and Order, the Commission decided to license the 24 GHz band by EAs because EAs not only offer economies of scale, but also serve the needs of a wider range of entities, including both large and small service providers. Also, the Commission decided to adopt a three-tiered approach to bidding credits, under which very small businesses receive a 35 percent bidding credit, small businesses a 25 percent bidding credit, and entrepreneurs a 15 percent bidding credit.

2. The Rural Telecommunications Group (RTG) and the Office of Advocacy of the Small Business Administration (SBA) filed petitions for reconsideration objecting to licensing the 24 GHz band by EA. SBA and RTG maintained that EAs are too large and, therefore unaffordable, for either small businesses or rural telephone companies to participate at auction. Both RTG and SBA recommend that the Commission instead license the 24 GHz band by MSA and RSA, which are smaller than EAs and would result in licensing rural areas separately from urban areas. In contrast, EAs encompass both urban and rural areas.

3. Contrary to the position of RTG and SBA on this issue, the Commission believes, based on its experience with the 39 GHz auction, that licensing the 24 GHz band by EAs will not discourage small businesses from participating at the 24 GHz auction. The 39 GHz auction used EA-based service areas. In that auction, small and very small businesses successfully bid for 849 licenses, or almost 40 percent of the licenses sold. In the 24 GHz auction, bidding credits will be made available to small businesses. Moreover, rural telephone companies were successful at the 39 GHz auction. All six qualified bidders that identified themselves in their short-form applications as rural telephone companies were successful in winning licenses, for a total of 52 licenses. We conclude that licensing the 24 GHz band by EA will not discourage either small businesses or rural telephone companies from participating in the 24 GHz auction.

4. RTG and SBA maintain that the Commission's reliance on post-auction partitioning and disaggregation is

misplaced and unworkable because of the costs involved and the reluctance of license holders to carve out portions of their licenses for rural carriers. The Commission notes that none of their comments specifically relate to the 24 GHz band. Thus, the Commission concludes that it is more appropriate to address SBA's and RTG's concerns in the context of the Secondary Markets proceeding, initiated by our Notice of Proposed Rulemaking (65 FR 81475, December 26, 2000) seeking comment on possible changes to our rules and policies allowing greater flexibility through "spectrum leasing."

5. RTG maintains that licensing by EA would guarantee that rural areas of the country would not see the benefits of 24 GHz service because licensees would be able to meet the substantial service standard by serving the urban area within the EA. Instead of the substantial service standard, RTG recommends that the Commission require licensees to provide service to one-third of the population within five years and two-thirds of the population within ten years. In the alternative, RTG recommends the Commission adopt a fill-in policy in which, at the time of renewal, any party can apply for and provide service to any area in which the original licensee is not providing service. The Commission has already considered and rejected using minimum coverage requirements to establish substantial service, and RTG has reiterated the position it took earlier in the proceeding at the Notice of Proposed Rulemaking stage without presenting any new information on this issue. Consequently, the Commission affirms its prior decision in the Report and Order that the substantial service standard, in lieu of specific service requirements, best serves the public interest. The Commission concludes that this approach is consistent with the approach used in other wireless services and is sufficiently flexible to foster expeditious development and deployment of systems.

6. With regard to providing service to rural areas, the Commission recognizes that section 309(j)(4)(B) of the Telecommunications Act of 1934, as amended, stresses the need for the Commission to encourage the rapid deployment of services to rural areas and to promulgate performance requirements that ensure prompt delivery of service to rural areas. In addition, the Commission notes that the statute includes "rural telephone companies" among the wide variety of applicants to which the Commission is to disseminate licenses. The Commission continues to believe,

however, that licensing the 24 GHz band by EAs strikes the best balance among its various policy objectives for the 24 GHz band. The Commission believes that by adopting EA licenses for the 24 GHz band, it has achieved a means of providing service to rural areas while ensuring that the 24 GHz spectrum is put to the highest and best use.

Ordering Clauses

7. Accordingly, *It is Ordered* that pursuant to section 4(i) and 405 of the Communications Act of 1934, 47 U.S.C. 154(i), 405, and § 1.429 of the Commission's rules, 47 CFR 1.429, the Petitions for Reconsideration filed by the Office of Advocacy of the Small Business Administration and the Rural Telecommunications Group *are denied*.

8. *It is Further Ordered*, pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), that the Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of the *Order on Reconsideration* to the Chief Counsel for Advocacy of the Small Business Administration.

9. *It is Further Ordered* that this proceeding *Is Terminated*.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-1271, MM Docket No. 01-53, RM-10040]

Television Broadcast Service; Galesburg, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Northwest Television, Inc., substitutes TV channel 53 for TV channel 67 at Galesburg, Illinois. *See* 66 FR 12922, March 1, 2001. TV channel 53 can be allotted to Galesburg with a zero offset in compliance with the principle community coverage requirements of Section 73.610 and with the criteria set forth in the Commission's Public Notice released on November 22, 1999, DA 99-2605. The coordinates for channel 53 at Galesburg are (41-18-45 N and 90-22-45 W).

With this action, this proceeding is terminated.

DATES: Effective July 9, 2001.