

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 27, 2008.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

■ 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes ^a
AZ	Iron King Mine—Humboldt Smelter	Dewey-Humboldt.	*
CO	Nelson Tunnel/Commodore Waste Rock	Creede.	*
FL	Flash Cleaners	Pompano Beach.	*
NC	Aberdeen Contaminated Ground Water	Aberdeen.	*
OH	East Troy Contaminated Aquifer	Troy.	*
TX	Old Esco Manufacturing	Greenville.	*

^a A = Based on issuance of health advisory by Agency for Toxic Substance and Disease Registry (HRS score need not be ≥ 28.50).

C = Sites on Construction Completion list.

S = State top priority (HRS score need not be ≥ 28.50)

P = Sites with partial deletion(s).

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 2, 15, 27, and 74**

[WT Docket Nos. 08–166, 08–167; FCC 08–188]

Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698–806 MHz Band; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission imposes a freeze on the filing of new license applications that seek to operate on any 700 MHz Band frequencies (698–806 MHz) after the end

of the DTV transition, February 17, 2009 as well as on granting any request for equipment authorization of low power auxiliary station devices that would operate in any of the 700 MHz Band frequencies. The Commission also holds in abeyance, until the conclusion of this proceeding, any pending license applications and equipment authorization requests that involve operation of low power auxiliary devices on frequencies in the 700 MHz Band after the end of the DTV transition.

DATES: The effective date of the abeyance and the freezes is August 21, 2008.

FOR FURTHER INFORMATION CONTACT: Bill Stafford, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau at (202) 418–0563 or Bill.Stafford@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's interim rules noted in the Notice of Proposed Rulemaking and Order in WT Docket Nos. 08–166 and 08–167, FCC 08–188, adopted August 15, 2008, and released on August 21, 2008. This summary

should be read with its companion document, the notice of proposed rulemaking summary published elsewhere in this issue of the **Federal Register**. The full text of the Notice of Proposed Rulemaking and Order is available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; the contractor's Web site, <http://www.bcpweb.com>; or by calling (800) 378–3160, facsimile (202) 488–5563, or e-mail FCC@BCPIWEB.com. Copies of the public notice also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket numbers, WT Docket No. 08–166 and WT Docket No. 08–167. Additionally, the complete item is available on the Federal Communications Commission's Web site at <http://www.fcc.gov>.

Synopsis of the Order Section of the Notice of Proposed Rulemaking and Order Introduction

The Digital Television Transition and Public Safety Act of 2005 (DTV Act) set a firm deadline for the end of the digital television (DTV) transition of February 17, 2009, at which time the spectrum in the 698–806 MHz Band (700 MHz Band), currently occupied by television broadcasters in TV Channels 52–69, will be fully available for public safety as well as commercial wireless services. As the Commission has recognized, it is incumbent on the Commission to take all steps necessary to make this spectrum effectively available both to public safety and commercial licensees at the end of the DTV transition.

1. In the Order below, the Commission imposes a freeze, effective August 21, 2008, on the filing of new license applications that seek to operate on any 700 MHz Band frequencies (698–806 MHz) after the end of the DTV transition, February 17, 2009. In addition, the Commission imposes a freeze, effective August 21, 2008, on granting any request for equipment authorization of low power auxiliary station devices that would operate in any of the 700 MHz Band frequencies. The Commission also holds in abeyance, beginning August 21, 2008 until the conclusion of this proceeding, any pending license applications and equipment authorization requests that involve operation of low power auxiliary devices on frequencies in the 700 MHz Band after the end of the DTV transition.

Order

2. In light of the Commission's tentative conclusion not to permit the operation of low power auxiliary stations on 700 MHz Band frequencies (698–806 MHz) following the end of the DTV transition, the Commission also finds that continuing to accept new license applications for low power auxiliary station licenses that involve the operation of such stations on this spectrum after February 17, 2009 would impair the objectives that the Commission is proposing in this proceeding. In addition, the Commission imposes a freeze on granting any request for equipment authorizations of low power auxiliary station devices that would operate in any of the 700 MHz Band frequencies. Accordingly, the Commission hereby suspends acceptance of license applications and equipment authorizations for low power auxiliary stations that seek to operate on 700 MHz Band frequencies after February 17,

2009. This suspension is effective immediately and until further notice and applies to applications received on or after August 21, 2008. Any applications received on or after this date will be returned as unacceptable for filing. The Commission takes this action to permit orderly and effective resolution of issues in this proceeding.

3. In addition, the Commission will not process such pending license applications and equipment authorization requests if they would involve operation in the 700 MHz Band after the end of the DTV transition. Pending applications and equipment authorization requests will be held in abeyance until the conclusion of this proceeding, whereupon the Commission will determine, in accordance with such new rules as are adopted, whether to process or return any such pending applications and equipment authorization requests. The Commission notes that entities with pending applications and equipment authorization requests to operate in the spectrum that would include the 700 MHz Band are free to modify their applications and requests to exclude operation in this band, and these applications and requests could then proceed with being processed.

Procedural Matters

1. *Ex Parte* Requirements

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.¹ Parties making oral *ex parte* presentations in this proceeding are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.² More than a one- or two-sentence description of the views and arguments presented is generally required.³

2. Initial Paperwork Reduction Act of 1995 Analysis

4. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002,

Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

3. Initial Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),⁴ the Federal Communications Commission (Commission) has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules considered in the Notice of Proposed Rulemaking and Order (NPRM), WT Docket No. 08–166 and WT Docket No. 08–167.⁵ (This IRFA can also be found in its entirety in the companion summary document noted previously in this supplementary information section.) Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided on page one of the NPRM. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).⁶ In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.⁷

Ordering Clauses

6. Accordingly, *it is ordered*, pursuant to sections 1, 2, 4(i), 4(j), 301, 302, 303, 304, 307, 308, 309, 316, 332, 336, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 302a, 303, 304, 307, 308, 309, 316, 332, 336, and 337 that this *notice of proposed rulemaking and order* in WT Docket No. 08–166 and WT Docket No. 08–167 *is hereby adopted*.

7. *It is further ordered* that, pursuant to 5 U.S.C. 553(b)(A), (B), (d), and sections 4(i), 4(j) and 303(r) of the Communications Act, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), the acceptance of applications for low power auxiliary stations that seek to operate on 698–806 MHz after February 17, 2009, *is suspended*, effective August 21, 2008.

8. *It is further ordered* that, pursuant to 5 U.S.C. 553(b)(A), (B), (d), and

⁴ *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

⁵ Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698–806 MHz Band, WT Docket No. 08–166, Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition, WT Docket No. 08–167.

⁶ *See* 5 U.S.C. 603(a).

⁷ *Id.*

¹ *See* 47 CFR 1.1200(a), 1.1206.

² *See* Commission Emphasizes the Public's Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd 19945 (2000).

³ *See* 47 CFR 1.1206(b)(2). Other rules pertaining to oral and written presentations are also set forth in section 1.1206(b). *See* 47 CFR 1.1206(b).

sections 4(i), 4(j) and 303(r) of the Communications Act, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), pending applications for low power auxiliary stations that seek to operate on frequencies 698–806 MHz after February 17, 2009, *will not be processed*, and will be held in abeyance until the conclusion of this proceeding initiated by this

notice of proposed rulemaking and order.

9. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *notice of proposed rulemaking and order*, including the Initial Regulatory Flexibility Analysis, to the Chief

Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

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