

document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

#### List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

**William F. Caton,**  
*Acting Secretary.*

#### Proposed Rules

Part 25 of Title 47 of the Code of Federal Regulations is proposed to be amended, as follows:

#### PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

**Authority:** Sections 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 416–427, 47 U.S.C. 701–744; 47 U.S.C. 554.

2. Section 25.104 is revised to read as follows:

#### § 25.104 Preemption of local zoning of earth stations.

(a) Any state or local land-use, building, or similar regulation that substantially limits reception by receive-only antennas, or imposes substantial costs on users of such antennas, is preempted unless the promulgating authority can demonstrate that such regulation is reasonable in relation to:

(1) A clearly defined, and expressly stated health, safety, or aesthetic objective; and

(2) The federal interest in fair and effective competition among competing communications service providers.

(b) Any regulation covered by paragraph (a) of this section shall be presumed unreasonable if it affects the installation, maintenance, or use of:

(1) A satellite receive-only antenna that is two meters or less in diameter and is located or proposed to be located in any area where commercial or industrial uses are generally permitted by local land-use regulation; or

(2) A satellite receive-only antenna that is one meter or less in diameter in any area.

(c) Any presumption arising from paragraph (b) of this section may be rebutted upon a showing that the regulation in question:

(1) Is necessary to accomplish a clearly defined and expressly stated health or safety objective;

(2) Is no more burdensome to satellite users than is necessary to achieve the health or safety objective;

(3) Is specifically applicable to antennas of the class mentioned in paragraph (b) of this section.

(d) Regulation of satellite transmitting antennas is preempted to the same extent as provided in paragraph (a) of this section, except that state and local health and safety regulations relating to radio frequency radiation of transmitting antennas are not preempted by this rule.

(e) Any person aggrieved by the application or potential application of a state or local zoning or other regulation in violation of paragraph (a) of this section may, after exhausting all nonfederal administrative remedies, file a petition with the Commission requesting a declaration that the state or local regulation in question is preempted by this section. Nonfederal administrative remedies, which do not include judicial appeals of administrative determinations, shall be deemed exhausted when

(1) The petitioner's application for a permit or other authorization required by the state or local authority has been denied and any administrative appeal has been exhausted;

(2) The petitioner's application for a permit or other authorization required by the state or local authority has been pending with that authority for ninety days;

(3) The petitioner has been informed that a permit or other authorization required by the state or local authority will be conditioned upon the petitioner's expenditure of an amount greater than the aggregate purchase and installation costs of the antenna; or

(4) A state or local authority has notified the petitioner of impending civil or criminal action in a court of law and there are no more nonfederal administrative steps to be taken.

(f) Any state or local authority that wishes to maintain and enforce zoning or other regulations inconsistent with this section may apply to the Commission for a full or partial waiver of this section. Such waivers may be granted by the Commission in its sole discretion, upon a showing by the applicant that local concerns of a highly specialized or unusual nature create an overwhelming necessity for regulation inconsistent with this section. No application for waiver shall be considered unless it includes the particular regulation for which waiver is sought. Waivers granted according to this rule shall not apply to later-enacted or amended regulations by the local

authority unless the Commission expressly orders otherwise.

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#### 47 CFR Parts 80, 90, and 95

[WT Docket No. 95–56, FCC 95–174]

#### Low Power Radio and Automated Maritime Telecommunications Systems Operations in the 216–217 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission had adopted a Notice of Proposed Rule Making which seeks to permit the shared use of the 216–217 MHz band, on a secondary, non-interference basis, for a new Low Power Radio Service to include law enforcement tracking systems, auditory assistance devices for the hearing-impaired, and health care assistance devices for disabled and ill persons. Further, the Commission seeks to permit Automated Maritime Telecommunications Systems (AMTS) coast stations to also share this band on a secondary, non-interference basis for point-to-point network control communications. This action stems from the Commission's Notice of Proposed Rule Making and Notice of Inquiry in PR Docket 92–257 which sought to compile a record of viable, alternative uses for this one megahertz of maritime mobile spectrum. Thus, the proposed rules should aid law enforcement efforts in the recovery of stolen goods, further the goals of the Americans With Disabilities Act of 1990 (ADA), increase access to educational and health care opportunities for persons with disabilities and illnesses, increase the number of channels available to the AMTS for operational control communications, and promote the efficient use of maritime spectrum.

**DATES:** Comments must be filed on or before July 18, 1995, and reply comments must be filed on or before August 17, 1995.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Roger Noel of the Wireless Telecommunications Bureau at (202) 418–0680.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, WT Docket No. 95–56, FCC 95–174, adopted April 25, 1995, and released, May 16, 1995. The

full text of this 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, NW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Washington, DC 20037, telephone (202) 857-3800.

### Summary of Notice of Proposed Rule Making

1. The Commission initiated the instant proceeding to explore alternative uses of the 216-217 MHz band. Presently, this one megahertz of spectrum is allocated on a primary basis to the AMTS. In 1992, however, the Commission reallocated one megahertz of radio spectrum from the AMTS to the Interactive Video and Data Service (IVDS), effectively "orphaning" the 216-217 MHz band. Thus, in PR Docket 92-257, the Commission sought alternative uses for the spectrum that would not cause harmful interference to adjacent Television Channel 13 operations 9210-216 MHz).

2. The Commission proposes to permit a new Low Power Radio Service and AMTS coast station to share this one megahertz of spectrum on a secondary basis. Low Power Radio Services would include law enforcement tracking system, auditory assistance devices for the hearing impaired, and health care assistance devices for disabled and ill persons. A law enforcement tracking system includes extremely small radio transmitters attached to money and goods that are likely to be stolen. When activated, the small transmitters emit a low power signal that can be tracked by direction finding equipment, allowing authorities to quickly recover the stolen money or goods. An auditory assistance system consists of a short range transmitter and special receivers that allow persons with hearing disabilities to enjoy educational or entertaining audio presentations. Similarly, low power health care aids could be used for short range, one-way medical telemetry. Finally, AMTS coast stations could utilize highly directional antennas to transmit network control communications, thereby increasing system efficiencies.

3. There are forty, 25 kHz channels available in the 216-217 MHz band. The Commission proposes to allocate thirty channels (216.0125-216.7375 MHz) to the Low Power Radio Service and ten channels (216.7625-216.9875 MHz) for AMTS point-to-point communications. The twenty channels closest to TV Channel 13 would be limited to 100

milliwatts transmitter output power, and the other twenty channels would be limited to 1 watt. The Low Power Radio Service (excluding two channels set aside exclusively for law enforcement tracking systems) would be administered under Part 95 of the Commission's Rules, 47 CFR part 95. The exclusive tracking system channels would be administered under the Police Radio Service in Part 90. Further, the AMTS channels would be administered under the maritime service rules in Part 80.

4. Under the proposed rules, authorizations in the Low Power Radio Service would be granted based on Metropolitan Statistical Areas (MSAs) and Rural Statistical Areas (RSAs). The Commission did not propose to place a limit on the number of licensees per MSA and RSA or the total number of licenses a single entity could obtain. AMTS coast stations would simply add the new channels to their current station authorization. The Commission seeks specific comments concerning the proposed rule amendments.

### 5. Initial Regulatory Flexibility Analysis

#### Reason for Action

The Commission proposes to allow low power devices to share Automated Maritime Traffic System frequencies in the 216-217 MHz band.

#### Objectives

We seek to make better use of currently unused portions of the spectrum while taking advantage of alternative low power technologies.

#### Legal Basis

The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

#### Reporting, Recordkeeping and Other Compliance Requirements

Our proposed addition of 47 CFR 95.1031 would require the low power transmitters to be type accepted by the Commission.

#### Federal Rules Which Overlap, Duplicate or Conflict with These Rules

None.

#### Description, Potential Impact, and Small Entities Involved

Allowing low power devices to be licensed in the 216-217 MHz band would use the radio spectrum more efficiently, assist law enforcement organizations, and facilitate implementation of the provisions of the Americans with Disabilities Act of 1990.

### Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

None.

### Lists of Subjects

#### 47 CFR Part 80

Communications equipment, Radio, Reporting and recordkeeping requirements.

#### 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

#### 47 CFR Part 95

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 580

### Petition for Rulemaking; Iowa Automobile Dealers Association

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This notice denies a petition by the Iowa Automobile Dealers Association to amend the provision of the agency's Odometer Disclosure regulations (49 CFR part 580) requiring both the buyer and seller of a vehicle to print their names, along with their written signatures on the odometer statements made on the vehicle title in connection with the transfer of ownership of the vehicle. 49 CFR 580.5(c). The petition is denied because the agency finds that the hand-printing requirement serves a law enforcement need and because the petitioner cited no particular burden arising from the requirement.

#### FOR FURTHER INFORMATION CONTACT:

Eileen T. Leahy, Attorney, Office of the Chief Counsel, NHTSA, 400 Seventh Street, SW., Room 5219, Washington, DC 20590; 202-366-5263.