

information: (1) a caption at the top of the page stating the following: "Settlement Request Pursuant to DA 99-745;" (2) a list of the parties to the contested proceeding for which settlement is being proposed; (3) a statement indicating the radio service(s) to which the settlement relates; (4) a list of all the FCC file numbers related to the settlement; and (5) a list of all the station call signs related to the settlement. Each request for approval of a settlement agreement also must include either a list of all applications and pleadings that were filed in the contested case or copies of the applications and pleadings. Further, all requests for approval of a settlement agreement must include a brief summary of the contested case that is being settled. Finally, if a settlement agreement concerns a contested case which requires a waiver, the parties must include a request for a waiver at the time of filing.

No settlement agreement will take effect until the Bureau releases a public notice approving the proposed settlement. The Bureau reserves the right to deny a request for approval of a settlement, if we find that a settlement in a particular case would not serve the public interest. Notwithstanding this 90-day waiver, the Commission will continue to take action on pending cases. Accordingly, parties are encouraged to reach settlements and file requests for approval of settlement agreements as expeditiously as possible.

No later than 90 days following publication of this document in the **Federal Register**, an original and four copies of all proposed settlement agreements must be filed with the Commission's Secretary, Magalie Roman Salas, 445 Twelfth Street, SW, TW-A325, Washington, DC 20554, in accordance with section 1.51(c) of the Commission's rules. In addition, one copy of each pleading should be delivered to (1) Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth Street, SW 4-A207, Washington, DC 20554; and (2) Public Reference Room, Federal Communications Commission, 445 Twelfth Street, SW, Washington, DC 20554.

Federal Communications Commission.

**Dianne J. Cornell,**

*Associate Chief, Wireless Telecommunications Bureau.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 20 and 80

[PR Docket No. 92-257; FCC 99-83]

#### Maritime Communications

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** The Commission has denied reconsideration of and corrected portions of the final rules adopted in the *Third Report and Order and Memorandum Opinion and Order* (Third Report and Order) in this proceeding. It clarifies the respective regulatory statuses of services that were and were not addressed in the *Third Report and Order*, deletes a cross-reference to a rule that was removed in the *Third Report and Order*, and clarifies the co-channel interference protection standards for VHF public coast geographic licensees established in the *Third Report and Order*.

**DATES:** Effective June 17, 1999.

**FOR FURTHER INFORMATION CONTACT:** Scot Stone of the Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, at (202) 418-0680 or via E-mail to "sstone@fcc.gov". TTY: (202) 418-7233.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, PR Docket No. 92-257, FCC 99-83, adopted April 26, 1999, and released May 3, 1999. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036, telephone (202) 857-3800, facsimile (202) 857-3805. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or at mcontee@fcc.gov. The full text of the *Memorandum Opinion and Order* can also be downloaded at: <http://www.fcc.gov/Bureaus/Wireless/Orders/1999/fcc9983.txt> or <http://www.fcc.gov/Bureaus/Wireless/Orders/1999/fcc9983.wp>

#### Summary of the Memorandum Opinion and Order

1. The Commission initiated the instant proceeding to update the Maritime Service rules to promote the use of new, spectrally efficient radio communications techniques. In the *Third Report and Order* (63 FR 40059,

July 27, 1998), the Commission adopted rules to simplify the license process for VHF public coast stations. Fred Daniel d/b/a Orion Telecom petitioned for reconsideration of those rules, contending that the 12 dB co-channel interference protection standard was insufficient to protect automated coastal stations, the development of which will be facilitated by the rule changes adopted in the *Third Report and Order*. The Commission finds, however, that the standard is sufficient, and that there is no reason to adopt different standards for automated and manually-operated stations.

2. In addition, on its own motion, the Commission amends the rules to conform the final rules adopted in the *Third Report and Order* to the text of the *Third Report and Order*, and corrects the Final Regulatory Flexibility Analysis.

#### Revised Final Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Second Further Notice of Proposed Rule Making* (62 FR 37533, July 14, 1997) in this proceeding (*Second Further Notice*). The Commission sought written public comment on the proposals in the *Second Further Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

4. *Need for, and Objectives of, the Third Report and Order.* Our objective is to simplify our licensing process for VHF public coast stations. Specifically, this action will: (1) convert licensing of VHF public coast station spectrum from site-by-site licensing to geographic area licensing, (2) simplify and streamline the VHF public coast spectrum licensing procedures and rules, (3) increase licensee flexibility to provide communication services that are responsive to dynamic market demands, and (4) introduce market-based forces into the Maritime Services by using competitive bidding procedures (auctions) to resolve mutually exclusive applications for public coast spectrum. We find that these actions will increase the number and types of communications services available to the maritime community and improve the safety of life and property at sea, and that the potential benefits to the maritime community exceed any negative effects that may result from the promulgation of rules for this purpose. Thus, we conclude that the public interest is served by amending our rules as described above.

5. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were submitted in response to the IRFA. In general comments on the *Second Further Notice*, however, some small business commenters raised issues that might affect small business entities. In particular, some small business commenters argued that geographic licensing should be used only in certain areas; or that incumbent licensees be permitted to expand their systems before any auctions are held; or that license areas should be small enough to permit smaller licensees to participate in auctions, so that small business do not have to bid for territory far exceeding their operating needs. The Commission carefully considered each of these comments in reaching the decision set forth herein.

6. *Description and Estimate of the Number of Small Entities to Which Rules Will Apply.* The rules adopted herein will apply to 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 size data provided by the Small Business Administration does not enable us to make a meaningful estimate of the number of current or prospective public coast station licensees which are small businesses, and no commenters responded to our request for information regarding the number of small entities that use or are likely to use public coast spectrum, 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. There are over 100 public coast station licensees. Based on the proposals contained herein, it is unlikely that more than 50 licensees will be authorized in the future. Therefore, for purposes of our evaluations and conclusions in this FRFA, we estimate that there are approximately 150 public coast station licensees which are small businesses, as

that term is defined by the Small Business Administration.

7. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* All small businesses that choose to participate in the competitive bidding for these services will be required to demonstrate that they meet the criteria set forth to qualify as small businesses, as required under 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 business is in fact small. 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 will have to submit information regarding the ownership of the applicant, any joint venture arrangements or bidding consortia that the applicant has entered into, and financial information demonstrating that a business wishing to qualify for 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 intended to enable a small business working with the information in a bidder information package to file an application on its own. When an applicant wins a license, it will be required to submit an FCC Form 601, 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.

8. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The Commission in this proceeding has considered comments on ways to implement broad changes to the Maritime Services rules. In doing so, the Commission has adopted alternatives which minimize burdens placed on small entities. First, it has decided to establish a presumption that regional licensees are telecommunications carriers, avoiding the need for small telecommunications to provide detailed information about their operations. Also, it has exempted by rule from the Channel 16 safety watch requirement public coast stations whose areas are served by government stations, replacing the prior requirement

that such coast stations individually request an exemption. In addition, the Commission has eased the construction requirements for VHF public coast stations.

9. The Commission considered and rejected several significant alternatives. It rejected the alternative of licensing all VHF public coast spectrum by Coast Guard District. Instead, it will license such spectrum in areas removed from major waterways by inland VHF Public Coast Station Area (VPCs), identical to Economic Areas (EAs), allowing small entities there to participate in the auction without bidding for territory far exceeding their operating needs. The Commission rejected the alternative of delaying the auctions for the inland VPCs by holding frequencies open for public safety applications. Instead, the Commission designated public safety channels in advance. The Commission rejected the alternative of requiring each geographic area licensee to provide detailed information about the services it will offer, so the Commission could determine whether the licensee is a telecommunications carrier. Instead, the Commission established a rebuttable presumption that geographic area licensees are telecommunications carriers, so only those seeking to avoid that classification need submit such information.

10. The Commission will send a copy of the *Third Report and Order and Memorandum Opinion and Order* (63 FR 40059, July 27, 1998), including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Third Report and Order and Memorandum Opinion and Order* to the Chief Counsel for Advocacy of the Small Business. A copy of the *Third Report and Order and Memorandum Opinion and Order* and FRFA (or summaries thereof) will be published in the **Federal Register**. See 5 U.S.C. 604(b).

#### List of Subjects

##### 47 CFR Part 20

Communications common carriers, Radio, Reporting and recordkeeping requirements.

##### 47 CFR Part 80

Communications equipment, Radio, Vessels.

Federal Communications Commission.  
**Magalie Roman Salas,**  
*Secretary.*

**Rule Changes**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 20 and 80 as follows:

**PART 20—COMMERCIAL MOBILE RADIO SERVICES**

1. The authority citation for part 20 continues to read as follows:

**Authority:** 47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

2. § 20.9 is amended by revising paragraph (b) introductory text and (b)(1) to read as follows:

**§ 20.9 Commercial mobile radio service.**  
 \* \* \* \* \*

(b) Licensees of a Personal Communications Service or applicants for a Personal Communications Service license, and VHF Public Coast Station geographic area licensees or applicants, proposing to use any Personal Communications Service or VHF Public Coast Station spectrum to offer service on a private mobile radio service basis must overcome the presumption that Personal Communications Service and VHF Public Coast Stations are commercial mobile radio services.

(1) The applicant or licensee (who must file an application to modify its authorization) seeking authority to dedicate a portion of the spectrum for private mobile radio service, must include a certification that it will offer Personal Communications Service or VHF Public Coast Station service on a private mobile radio service basis. The certification must include a description of the proposed service sufficient to demonstrate that it is not within the definition of commercial mobile radio service in § 20.3. Any application requesting to use any Personal Communications Service or VHF Public Coast Station spectrum to offer service on a private mobile radio service basis will be placed on public notice by the Commission.

\* \* \* \* \*

**PART 80—STATIONS IN THE MARITIME SERVICES**

3. The authority citation for part 80 continues to read as follows:

**Authority:** Secs. 4, 303, 307(e), 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309, and 332, 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.

4. § 80.371 is amended by revising the table in paragraph (c)(1)(i) to read as follows:

**§ 80.371 Public correspondence frequencies.**

\* \* \* \* \*  
 (c) \* \* \*  
 (1)(i) \* \* \*

**WORKING CARRIER FREQUENCY PAIRS IN THE 156–162 MHz BAND<sup>1</sup>**

Channel designator	Carrier frequency (MHz)	
	Ship transmit	Coast transmit
24 .....	157.200	161.800
84 .....	157.225	161.825
25 .....	157.250	161.850
85 <sup>2</sup> .....	157.275	161.875
26 .....	157.300	161.900
86 .....	157.325	161.925
27 .....	157.350	161.950
87 .....	157.375	161.975
28 .....	157.400	162.000
88 <sup>3</sup> .....	157.425	162.025

<sup>1</sup>For special assignment of frequencies in this band in certain areas of Washington State, the Great Lakes and the east coast of the United States pursuant to arrangements between the United States and Canada, see subpart B of this part.

<sup>2</sup>The frequency pair 157.275/161.875 MHz is available on a primary basis to ship and public coast stations. In Alaska it is also available on a secondary basis to private mobile repeater stations.

<sup>3</sup>Within 120 km (75 miles) of the United States/Canada border, in the area of the Puget Sound and the Strait of Juan de Fuca and its approaches, the frequency 157.425 MHz is available for use by ship stations for public correspondence communications only. One hundred twenty kilometers (75 miles) from the United States/Canada border 157.425 MHz is available for intership and commercial communications. Outside the Puget Sound area and its approaches and the Great Lakes, 157.425 MHz is available for communications between commercial fishing vessels and associated aircraft while engaged in commercial fishing activities.

\* \* \* \* \*

5. Revise § 80.751 to read as follows:

**§ 80.751 Scope.**

This subpart specifies receiver antenna terminal requirements in terms of power, and relates the power available at the receiver antenna terminals to transmitter power and antenna height and gain. It also sets forth the co-channel interference protection that VHF public coast station geographic area licensees must provide to incumbents and to other VHF public coast station geographic area licensees.

6. Add new paragraph (c) to § 80.773 to read as follows:

**§ 80.773 Co-channel interference protection.**

\* \* \* \* \*

(c) VHF public coast station geographic area licensees are prohibited from exceeding a field strength of +5 dBu (decibels referenced to 1 microvolt per meter) at their service area boundaries, unless all the affected VHF public coast station geographic area licensees agree to the higher field strength.

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 24**

[WT Docket No. 97–82; FCC 99–66]

**Installment Payment Financing for Personal Communications Services (PCS) Licenses**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission denies petitions for reconsideration of the *Order on Reconsideration of the Second Report and Order* and amends the Commission's rules to apply construction requirements for 10 MHz licensees to licensees of 15 MHz blocks resulting from the disaggregation restructuring option available to certain C block Personal Communications Services ("PCS") licensees. The Commission also considers and denies requests for clarification and/or waiver of the cross default provisions in F block notes.

**EFFECTIVE DATE:** July 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jill Pender of the Wireless Telecommunications Bureau, Auctions and Industry Analysis Division, Legal Branch, at (202) 418–1546 or email [jpender@fcc.gov](mailto:jpender@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This document is a summary of the Commission's *Second Order on Reconsideration of the Second Report and Order*, WT Docket No. 97–82, FCC 99–66, adopted March 31, 1999, and released, April 5, 1999. The full text of this *Second Order on Reconsideration of the Second Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 Twelfth St., S.W., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 1231 20th Street, N.W., Washington,