

first installment is due, the participant receives a second loan equal to \$1,245, with that March loan to be repaid in 20 quarterly installments of \$78 each. On June 30, 2005, when the second installment is due on the January loan and the first installment is due on the March loan, the participant receives a third loan equal to \$1,323 (which is the sum of the \$1,245 installment and the \$78 installment then due), with that June loan to be repaid in 20 quarterly installments of \$82 each. On September 30, 2005, when the third installment is due on the January loan, the second installment is due on the March loan, and the first installment is due on the June loan, the participant receives a fourth loan equal to \$1,405 (which is the sum of the \$1,245 installment, the \$78 installment and the \$82 installment then due), with that September loan to be repaid in 20 quarterly installments of \$88 each. On December 31, 2005, when the fourth installment is due on the January loan, the third installment is due on the March loan, the second installment is due on the June loan, and the first installment is due on the September loan, the participant receives a fifth loan equal to \$1,493 (which is the sum of the \$1,245 installment, the \$78 installment, the \$82 installment, and the \$88 installment then due), with that December loan to be repaid in 20 quarterly installments of \$93 each.

(ii) Under paragraph (a)(3) of this Q&A-20, the participant has deemed distributions on June 30, 2005 equal to \$1,323 (which is the amount of the June loan), on September 30, 2005 equal to \$1,405 (which is the amount of the September loan), and on December 31, 2005 equal to \$1,493 (which is the amount of the December loan) because on each of these dates the participant had previously received two loans from the plan during the year.

\* \* \* \* \*

A-22: \* \* \*

(d) *Effective date for Q&A-19(b)(2) and Q&A-20.* Paragraph (b)(2) of Q&A-19 and Q&A-20 of this section apply to loans made on or after the first January 1 that is at least 6 months after publication of final regulations in the **Federal Register**, except that paragraph (b)(2) of Q&A-19 of this section does not apply to loans, whenever made, under an insurance contract that is in effect before the date that is 12 months after publication of final regulations in the **Federal Register** under which the insurance carrier is required to offer loans to contractholders that are not secured (other than being secured by the participant's or beneficiary's benefit under the contract).

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*  
[FR Doc. 00-18816 Filed 7-28-00; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-6840-8]

#### Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule.

**SUMMARY:** Virginia has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Virginia. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by August 30, 2000.

**ADDRESSES:** Send written comments to Joanne Cassidy, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-3381. You can examine copies of the materials submitted by Virginia during normal business hours at the following locations: EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-5254; or Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219, Phone number: (804) 698-4213; or Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia 24019, Phone number: (540) 562-6700.

**FOR FURTHER INFORMATION CONTACT:** Joanne Cassidy at the above address and phone number.

**SUPPLEMENTARY INFORMATION:** For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: July 17, 2000.

**Bradley M. Campbell,**

*Regional Administrator, Region III.*

[FR Doc. 00-19115 Filed 7-28-00; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 21 and 74

[MM Docket 97-217; FCC 00-244]

#### MDS and ITFS Two-Way Transmissions

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Previously, the Commission adopted a series of legal and technical rule changes to enhance the ability of Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") licensees to provide non-video services, including transmission of high speed computer data applications such as Internet access. We later expanded the streamlined application processing system to cover all major modifications of ITFS facilities, modified certain rules related to interference issues, modified certain other rules related to the obligations of ITFS licensees and clarified certain other rules. The FCC is taking two actions. The first action, a rule, which is published elsewhere in this issue of the **Federal Register**, modifies rules related to ITFS leases, modifies some technical rules and clarifies other rules. The second action, which is described in detail below, is the proposed rulemaking. The proposed rulemaking is limited to addressing the issue of possible Gaussian noise interference that can occur in certain limited circumstances.

**DATES:** Comments due on or before August 21, 2000. Reply comments are due on or before August 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dave Roberts (202) 418-1600, Video Services Division, Mass Media Bureau.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order on Further Reconsideration and Further Notice of Proposed Rulemaking ("Further Notice of Proposed Rulemaking")*, MM Docket, 97-217, FCC 00-244, adopted July 7,

2000 and released July 20, 2000. The full text of this *Further Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY-A257, Portals II, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS"), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

## Synopsis of Report and Order on Further Reconsideration and Further Notice of Proposed Rulemaking

### I. Introduction

1. This *Further Notice of Proposed Rulemaking* is adopted by the Commission after receiving petitions for further reconsideration of its *Reconsideration Order*, 64 FR 63727 (November 22, 1999), in this docket. Previously, the *Two-Way Order*, 63 FR 65087 (November 25, 1998), was issued following a notice of proposed rulemaking, which arose from a petition for rulemaking filed by a group of 111 educators and participants in the wireless cable industry (collectively, "Petitioners"), comprised of MDS and ITFS licensees, wireless cable operators, equipment manufacturers, and industry consultants and associations. In the *Two-Way Order*, the Commission amended parts 21 and 74 of our rules to provide MDS and ITFS licensees with substantially increased operational and technical flexibility. Traditionally, the MDS service traditionally functioned as a one-way point-to-multipoint video transmission service that is often referred to as "wireless cable," whereas ITFS licensees ordinarily used their frequencies for one-way transmission of educational and instructional material to students.

2. The *Two-Way Order* (1) Permitted both MDS and ITFS licensees to provide two-way services on a regular basis; (2) permitted increased flexibility on permissible modulation types; (3) permitted increased flexibility in spectrum use and channelization, including combining multiple channels to accommodate wider bandwidths, dividing 6 MHz channels into smaller bandwidths, and channel swapping; (4) adopted a number of technical parameters to mitigate the potential for interference among service providers and to ensure interference protection to existing MDS and ITFS services; (5) simplified and streamlined the licensing process for stations used in cellularized systems; and (6) modified the ITFS programming requirements in a digital

environment. Following the release of the *Two-Way Order*, we received petitions for reconsideration which focused primarily on requests that we expand our new streamlined processing system to cover all ITFS modifications; formalize an interference complaint process; modify some rules regarding ITFS leased capacity and make certain technical clarifications to our rules. In the *Reconsideration Order*, we expanded on some of our MDS/ITFS rules and clarified others. In response to that decision, we received further petitions for reconsideration, asking that we: (1) Permit certain lease provisions; (2) review the treatment of boosters stations and receive sites; and (3) further refine our technical rules. The *Further Reconsideration* section of this document is published elsewhere in this issue of the **Federal Register**. The *Further Reconsideration* section makes additional modifications and clarifications to our MDS/ITFS rules in order to facilitate further the provision of these services to the public. This *Further Notice of Proposed Rulemaking* is limited to addressing the issue of possible Gaussian noise interference that can occur in certain limited circumstances.

### II. Further Notice of Proposed Rulemaking

3. The Wireless Communications Association ("WCA") raises a concern that there may be some uncertainty with respect to the proper interpretation of §§ 21.909(m) and 74.939(o), in particular the meaning of a phrase common to those sections which states that "Radiation of an unmodulated carrier and other unnecessary transmissions are forbidden." WCA asks that the Commission clarify the meaning of this language so that it requires that a response station's transmitter "must be biased off so that no RF Gaussian noise will be emitted when the station is not engaged in communications." WCA argues that this interpretation is needed in order to assure that "the noise floor of adjacent channel and adjacent market licensees is protected against unnecessary emissions from transceivers." In an *ex parte* filing, WCA proposed to set the permissible level of Gaussian noise at the following levels: (1) 10 microvolts/meter per 1 MHz bandwidth at a distance of 3 meters for response stations utilizing antennas with 6 dB or less gain over isotropic; and, (2) 10 microvolts/meter  $\times$   $10^{\exp[(\text{antenna gain} - 6 \text{ dB})/20]}$  per 1 MHz bandwidth at a distance of 3 meters for stations utilizing antennas with more than 6 dB gain over isotropic.

4. We agree with WCA that a clarification of this issue is needed, however, because of the importance and potential impact of such a clarification, we believe that all interested parties should be given an opportunity to submit comments and replies. We request that commenting parties address, at a minimum, the following issues:

(1) Should we establish a numerical standard for the maximum permissible radiation level of a response station transmitter which is in the "off" state, *i.e.*, when it is powered up but not in the act of transmitting a signal to the response hub?

(2) If there should be a maximum off-state radiation level, what should that level be and how should it be defined? Should it be defined in terms of the transmitter power output into the antenna, or in terms of the radiated field strength? Should it be a function of antenna gain and/or antenna height?

(3) To what extent, and how, should a maximum off-state radiation level take into account the number of response station transmitters likely to be active in a 2-way system? Should the off-state radiation levels for multiple transmitters be directly additive or are there alternative ways to apportion among the response stations the total amount of permissible off-state radiation from a 2-way system?

(4) What degree of protection from off-state radiation should be afforded to neighboring systems? Should hub station receiver noise floors receive the same, more, or less protection from off-state radiation than from co-and adjacent channel interference as currently provided in the rules?

We also ask that parties include where possible an analysis of the relative costs and benefits of their proposals.

### III. Initial Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Further Notice of Proposed Rulemaking*. 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 as set forth in paragraph 44 of the *Further Notice of Proposed Rulemaking*. The Commission will send a copy of the *Further Notice of Proposed Rulemaking*, including this IRFA, to the Chief Counsel for Advocacy of the Small

Business Administration. See 5 U.S.C. 603(a). In addition, the *Further Notice of Proposed Rulemaking* and IRFA (or summaries thereof) will be published in the **Federal Register**. *Id.*

#### A. Need for, and Objectives of, the Proposed Rules

6. The goal of the rulemaking aspect of this proceeding is to clarify the meaning of the language contained in two Commission rules which states, "Radiation of an unmodulated carrier and other unnecessary transmissions are forbidden." Wireless Communications Association ("WCA") proposes that the Commission require that a response station's transmitter "must be biased off so that no RF Gaussian noise will be emitted when the station is not engaged in communications." The *Further Notice of Proposed Rulemaking* seeks comments on WCA's proposal and requests responses to a number of questions related to the proposal. The overall intent of this inquiry is to clear up ambiguities surrounding the Commission's rules and improve the effectiveness of the service.

#### B. Legal Basis

7. Authority for actions proposed in the *Further Notice of Proposed Rulemaking* may be found in: Sections 4(i) and (j), 301, 303(f), 303(g), 303(h), 303(r), 308(b), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(f), 303(g), 303(h), 303(j), 308(b), 403, and 405.

#### C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

8. The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act ("SBA"). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. 15 U.S.C. 632.

9. The Commission has defined "small entity" for the auction of MDS as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years. 47 CFR 21.961(b)(1). This definition of a small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493

basic trading areas. Of 67 winning bidders, 61 qualified as small entities. One of these small entities, O'ahu Wireless Cable, Inc., was subsequently acquired by GTE Media Ventures, Inc., which did not qualify as a small entity for purposes of the MDS auction.

10. MDS is also heavily encumbered with licensees of stations authorized prior to the auction. The SBA has developed a definition of small entities for pay television services, which includes all such companies generating \$11 million or less in annual receipts. 13 CFR 121.201. This definition includes multipoint distribution systems, and thus applies to MDS licensees and wireless cable operators which did not participate in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of \$11 million annually. Therefore, for purposes of this IRFA, we find there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules, and some of these providers may be affected by the proposed change to our rules.

11. There are presently 2032 ITFS licensees. All but 100 of these licenses are held by educational institutions (these 100 fall in the MDS category, above). Educational institutions may be included in the definition of a small entity. See 5 U.S.C. 601 (3)-(5). ITFS is a non-pay, non-commercial broadcast service that, depending on SBA categorization, has, as small entities, entities generating either \$10.5 million or less, or \$11.0 million or less, in annual receipts. See 13 CFR 121.210 (SIC 4833, 4841, and 4899). However, we do not collect, nor are we aware of other collections of, annual revenue data for ITFS licensees. Thus, we find that up to 1932 of these educational institutions are small entities that may be affected by the proposed change to our rules.

#### D. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. None.

#### E. Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives

13. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the

clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any party thereof, for small entities.

14. The Commission expects that the proposed rule amendments will have a minimal impact on small entities. Moreover, the *Further Notice of Proposed Rulemaking* does not propose any reporting requirements applicable to small entities. We tentatively conclude that our proposals in the *Further Notice of Proposed Rulemaking* would impose minimum burdens on small entities. We encourage comment on this tentative conclusion.

#### F. Federal Rules that Duplicate, Overlap, or Conflict With Proposed Rules:

15. None.

### IV. Procedural Matters

#### A. Ordering Clauses

16. *Notice is Hereby Given and Comment is Sought* on the proposed clarification described in the *Further Notice of Proposed Rulemaking*.

17. The Commission's Office of Public Affairs, Reference Operations Division, *Shall Send* a copy of this *Report and Order on Further Reconsideration and Further Notice of Proposed Rulemaking*, including the Supplemental Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

##### 47 CFR Part 21

Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Television.

##### 47 CFR Part 74

Communications equipment, Education, Reporting and Recordkeeping requirements, Television.

Federal Communications Commission.

**Magalie Roman Salas,**  
Secretary.

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