

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting incorrect text in the IBR section of a previous rulemaking. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). 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, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in the September 21, 2001, rule, approving Montana's transportation conformity rules.

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of December 19, 2001. EPA will submit a report containing this rule 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 of the rule in the **Federal Register**. This correction to the identification of plan for Montana is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Accordingly, 40 CFR part 52, subpart BB of chapter I, title 40 is corrected by making the following amendments:

PART 52—[CORRECTED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 52.1370 Identification of plan.

2. Revise § 52.1370(c)(47)(i)(A) to read as follows:

* * * * *

(c) * * *
(47) * * *
(i) * * *

(A) Administrative Rules of Montana 17.8.1301, 17.8.1305, 17.8.1306, 17.8.1310 through 17.8.1313, effective June 4, 1999; and 17.8.1304 effective August 23, 1996.

Dated: November 2, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 01-28853 Filed 11-16-01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-2592, MM Docket No. 01-85, RM-9039]

Television Broadcast Service; Boise, ID

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of KM Communications, Inc., an applicant for a construction permit for a new television station at Boise, Idaho, substitutes channel 39 for channel 14 at Boise. See 66 FR 20127, April 19, 2001. TV channel 39 can be allotted to Boise, Idaho, with a zero offset in compliance with the principle community coverage requirements of Sections 73.610 and 73.698 of the Commission's Rules and with the criteria set forth in the Commission's Public Notice released on November 22, 1999, DA 99-2605. The coordinates for channel 39 at Boise are North Latitude 43-45-18 and West Longitude 116-05-52. With is action, this proceeding is terminated.

DATES: Effective December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-85, adopted November 6, 2001, and released November 14, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Idaho, is amended by removing TV channel 14 and adding TV channel 39 at Boise.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-28882 Filed 11-18-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 96-18; PR Docket No. 93-253; DA 01-2650]

Interim Licensing Rules for Shared Paging Channels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerns the interim licensing rules for lower band shared paging channels and the five 929 MHz shared paging channels (Shared Paging Channels). The intended effect is to remove the interim licensing rules with respect to filing applications for licenses at new sites on the Shared Paging Channels and to allow any qualified entity to submit applications

for licenses on these channels at any location.

DATES: Effective November 19, 2001.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Cyndi Thomas, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Commission, at (202) 418-0620.

SUPPLEMENTARY INFORMATION: This is a summary of the *Order* ("Order") in WT Docket No. 96-18 and PR Docket No. 93-253, DA 01-2650, adopted November 13, 2001, and released November 14, 2001. The full text of this decision is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth Street, SW, Room CY-A257, Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 445 Twelfth Street, SW., Room CY-B402, Washington, DC. The complete text is also available under the file name da012650.doc on the Commission's Internet Web site at www.fcc.gov.

Synopsis of Order

Under the Commission's current interim licensing rules for lower band shared paging channels and the five 929 MHz shared paging channels (Shared Paging Channels), incumbent licensees may file applications for new sites at any location. Non-incumbent entities may file applications on these Shared Paging Channels, but only for private, internal-use systems. In its *Third Report and Order* ("Third R&O") (64 FR 33762, June 24, 1999) in this proceeding, the Commission directed the Wireless Telecommunications Bureau (Bureau) to remove these interim licensing rules as applied to Shared Paging Channels once warning language about the consequences of failing to meet construction requirements had been added to FCC Form 601, the Application for Wireless Telecommunications Bureau Radio Service Authorization. Having added the language to FCC Form 601, by this Order, the Bureau removes the Commission's interim licensing rules with respect to filing applications for licenses at new sites on the Shared Paging Channels. Any qualified entity may submit applications for licenses on these channels at any location.

I. Interim Licensing Rules and FCC Form 601 Fraud-Warning Language

In early 1996, the Commission suspended acceptance of new applications for paging channels during

the pendency of its rulemaking proceeding to establish geographic area licensing and competitive bidding rules for paging services. Mindful, however, that an across-the-board freeze on applications might impair the ability of licensees to maintain adequate services for their customers, the Commission established interim licensing rules initially permitting non-nationwide incumbent licensees to add sites to existing systems or modify existing sites, provided the additions or modifications did not expand the composite interference contour of the licensee's existing system.

Later that same year, in its *First Report and Order* ("First R&O") (61 FR 21380, May 10, 1996), the Commission affirmed its decision to maintain the freeze on paging applications and to retain the interim licensing rules. The Commission, in large part, based its decision to maintain the freeze and, specifically, the limitation on incumbent applications under the interim licensing rules on its concern that lifting the freeze or allowing non-incumbents to file applications on either exclusive frequencies or the Shared Paging Channels would lead to a flood of speculative applications and increase opportunities for application mills to promote fraudulent investment schemes. The Commission, however, did relax the interim licensing rules to allow non-nationwide incumbent licensees on exclusive frequencies or the Shared Paging Channels to file applications for new sites outside the licensee's composite interference contour. Proposed sites that would expand a service area contour had to be located within forty (40) miles of a site for which the licensee had filed an application. Under this 40-mile requirement, the application for the original site must have been filed as of September 30, 1995. The Commission further exempted Special Emergency Radio Service providers from the paging freeze, allowing those providers to file applications on the Shared Paging Channels.

In 1997, in the *Second Report and Order and Further Notice of Proposed Rulemaking* ("Second R&O") (62 FR 11616, March 12, 1997) and ("FNPRM") (62 FR 11638, March 12, 1997), the Commission concluded that the Shared Paging Channels should not be subject to geographic area licensing or competitive bidding procedures. Still concerned about consumer fraud and license application speculation on those channels, however, the Commission sought comment on how to change licensing and frequency coordination procedures to resolve the problems of