

Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 13, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2012-25820 Filed 10-19-12; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 15, 74, and 90**

[WT Docket Nos. 08-166, 08-167, ET Docket No. 10-24; DA 12-1570]

**Wireless Microphones Proceeding**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; comments requested.

**SUMMARY:** In this document, the Wireless Telecommunications Bureau and the Office of Engineering and Technology invite interested parties to update and refresh the record pertaining to two specific issues raised in the Commission's 2010 Wireless Microphones further notice of proposed rulemaking.

**DATES:** Interested parties may file comments on or before November 21, 2012, and reply comments on or before December 12, 2012.

**ADDRESSES:** You may submit comments, identified by WT Docket Nos. 08-166, 08-167, ET Docket No. 10-24, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs2/>. Follow the instructions for submitting comments.

- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Bill Stafford, Wireless Telecommunications Bureau, (202) 418-0563, or Alan Stillwell, Office of Engineering and Technology, (202) 418-2470.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice released on October 5, 2012. The full text of the public notice is available for 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 may also 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.bcpiweb.com>; or by calling (800) 378-3160, facsimile (202) 488-5563, or email [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com). Copies of the public notice also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the following docket numbers: WT Docket Nos. 08-166, 08-167, and ET Docket No. 10-24. Additionally, the complete item is available on the Federal Communications Commission's Web site at <http://www.fcc.gov>.

The Wireless Telecommunications Bureau and the Office of Engineering and Technology invite interested parties to update and refresh the record pertaining to two specific issues raised in the Commission's 2010 *Wireless Microphones Further Notice of Proposed Rulemaking*<sup>1</sup>—(1) whether the Commission should provide for a limited expansion of license eligibility that would permit some wireless microphone and other low power auxiliary station users, which currently operate in the TV broadcast spectrum on an unlicensed basis, to operate on a licensed basis under the part 74 rules applicable to low power auxiliary stations (LPAS); and (2) what steps the Commission should take to promote more efficient use of this spectrum by wireless microphones.<sup>2</sup> The Commission asks that these comments take into consideration recent industry developments, including advances in wireless microphone technologies, as

<sup>1</sup> See 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, Amendment of Parts 15, 74 and 90 of the Commission's Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones, ET Docket No. 10-24, *Report and Order and Further Notice of Proposed Rulemaking*, 75 FR 3622, 75 FR 3682, 25 FCC Rcd 643 (2010) (*Wireless Microphones Order and Wireless Microphones Further Notice of Proposed Rulemaking*, respectively).

<sup>2</sup> In the *Incentive Auctions NPRM* adopted on September 28, 2012, the Commission noted that it would be issuing this public notice to refresh the record on expanding eligibility for licensed operations to specified classes of users, and on improved efficiency standards. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, *Notice of Proposed Rulemaking*, FCC 12-118, para. 224 n. 354 (adopted Sept. 28, 2012) (*Incentive Auctions NPRM*).

well as related Commission proceedings that affect use of wireless microphones, including the TV White Spaces proceeding<sup>3</sup> and the Incentive Auctions proceeding proposing auction of spectrum currently allocated to television broadcasting.

### Background

In the *Wireless Microphones Further Notice* adopted in January 2010, the Commission sought comment on the use of wireless microphones and other low power auxiliary stations on an unlicensed basis in the current TV bands (Channels 2–51, excluding Channel 37). Noting that the Commission currently permits such operations pursuant to the waiver granted in the *Wireless Microphones Order*, the Commission specifically proposed that wireless microphones that operate on an unlicensed basis pursuant to that waiver be permitted to operate in the TV bands pursuant to part 15 and certain specified technical rules. In addition, the Commission sought comment on whether it should revise the part 74 low power auxiliary station (LPAS) rules to provide for a limited expansion of the categories of entities that would be eligible for licensed use of wireless microphones and other related LPAS. The Commission also sought comment on possible long-term reform, based in part on technological innovations that would enable wireless microphones to operate more efficiently and with improved immunity to harmful interference, thereby increasing the spectrum available for wireless microphones and other uses.

Subsequently, in the *TV White Spaces Second MO&O* adopted in September 2010, the Commission took additional steps to make unused spectrum in the TV bands available for use by unlicensed TV band devices (referenced herein as “white space devices”) and addressed the operations of both licensed and unlicensed wireless microphones with respect to unlicensed white space devices. The Commission generally excluded white space devices from two of the unused channels in the UHF TV band near Channel 37 so that if these channels were available they could be used for wireless microphones. In addition, the Commission provided that LPAS licensees could register their

wireless microphones (and related low power auxiliary station operations) in the TV bands databases so that they may be protected from interference from unlicensed white space devices on available channels at specified times. The Commission, subject to its approval, also permitted certain unlicensed microphone users (e.g., those operating at major events where wireless microphone operations cannot be accommodated on channels not available for white space devices) to register their wireless microphone operations in the TV bands databases. More recently, in the *Incentive Auctions NPRM* adopted on September 28, 2012, the Commission proposed to repack television stations. Noting that this action may reduce the spectrum available in the TV bands for secondary use by licensed and unlicensed wireless microphones as well as for unlicensed white space devices, the Commission sought comment on various proposals that would affect each of these operations. Specifically, the Commission sought comment on what additional steps it could take to promote more efficient and effective operation of wireless microphones in the spectrum that remained for TV broadcast.

### Updating and Refreshing the Record

Considering the time that has passed since the Commission issued the *Wireless Microphones Further Notice*, and in light of the *TV White Spaces Second MO&O* and the recently issued *Incentive Auctions NPRM*, the Commission asks that interested parties refresh and update the record on the following issues.

*Expansion of Part 74 eligibility.* In the *Wireless Microphones Further Notice*, the Commission sought comment on whether to revise its rules to provide for a “limited” expansion of eligibility under part 74, subpart H of the rules to provide additional categories of users eligible for licensed use of wireless microphones or other low power auxiliary stations. In the *Wireless Microphones Further Notice*, the Commission noted that wireless microphones and other low power auxiliary station devices had been recognized as necessary and beneficial to broadcast productions, and had expanded the list of entities eligible for a part 74 license over time to include motion picture and television producers and certain cable television operators, reasoning that these entities had requirements similar to those of broadcast licensees. The Commission asked extensive questions about whether to authorize licensed wireless microphone use at certain large theaters,

entertainment complexes, sporting arenas, and religious facilities, because these venues might need the assurance of interference protections afforded part 74 LPAS licensees. The Commission underscored the need to balance the needs of potential new classes of wireless microphone licensees with those of other users in the TV bands and expressed particular concern that any “broad expansion” of eligibility could undercut that balance by significantly reducing the amount of spectrum available for other uses, such as by white space devices. The Commission also indicated that it would take into consideration whether it would be practical for any new licensees to comply with the requirement that part 74 licensees coordinate frequencies and provide up-to-date information on venues and times of operations to the TV bands database system on an ongoing basis so that they do not otherwise block use to others at times when there is no need.

In the subsequently released *TV White Spaces Second MO&O*, the Commission determined that only a small subset of unlicensed wireless microphone users would qualify for registration in the TV bands database system. Specifically, the Commission stated that “[a]s a general matter, we \* \* \* find that it would be inappropriate to protect unlicensed wireless microphones against harmful interference from other unlicensed devices, and in particular TV bands devices” and observed that the “overwhelming majority” of wireless microphone use does not merit registration in the TV bands database. The Commission noted that in the vast majority of markets, or to the extent that the number of wireless microphones needed is relatively low, the operator of unlicensed microphones can avoid receiving harmful interference from TV white space devices by using the two reserved channels as well as the other channels in each market where white space devices are not allowed to operate. The Commission nonetheless provided that “[e]ntities operating or otherwise responsible for the audio systems at major events where large numbers of wireless microphones will be used and cannot be accommodated in the available channels at that location may request registration of the site in the TV bands databases.” The Commission further indicated that “major sporting contests” and “live theatrical productions/shows” are examples of major events that might qualify for registration. Such entities may request Commission approval so

<sup>3</sup> Unlicensed Operation in the TV Broadcast Bands, ET Docket No. 04–186, Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band, ET Docket No. 02–380, *Second Memorandum Opinion and Order*, 75 FR 75814, 25 FCC Rcd 18661 (2010) (*TV White Spaces Second MO&O*). See also Unlicensed Operation in the TV Broadcast Bands, ET Docket No. 04–186, *Third Memorandum Opinion and Order*, 77 FR 29236, 27 FCC Rcd 3692 (2012).

that they can register unlicensed microphones at particular venues and specified times in the TV bands database system and obtain the same protection from interference from unlicensed white space devices afforded licensed wireless microphone operations.<sup>4</sup>

The Commission requests that interested parties update and refresh the record on whether the Commission should expand license eligibility under part 74, subpart H for certain operators of unlicensed wireless microphones or other low power auxiliary devices at specified venues. The Commission asks that commenters advocating an expansion of the eligibility requirements for part 74 LPAS licensing be as specific as possible. To the extent that the Commission chooses to expand license eligibility only for certain users that have wireless microphone requirements substantially similar to those of broadcasters, precisely which class(es) of users and uses would fall into this category? More specifically, which type(s) or class(es) of entities and which type(s) of venues or events—whether by type of event, level of quality of service necessary for the event (*e.g.*, “professional quality”), number of microphones needed, number of seats in auditorium, or some other qualification or measure—should become eligible to hold a license. Should, for example, the Commission expand license eligibility for some or all of the users or entities that are permitted to register venues for unlicensed wireless microphone use in the TV bands database system? Examples might include entities responsible for major production events that take place at such venues as Madison Square Garden or Broadway theaters in New York City, the Kennedy Center in Washington, DC, and the Grand Ole Opry in Nashville. Consistent with this approach, what other concrete examples would qualify? If the Commission were to expand part 74 license eligibility for all of these entities operating at such venues, how, precisely, would the Commission define or classify such class(es) of entities in its eligibility rules?

<sup>4</sup> 47 CFR 15.713(h)(9). We note also that OET and WTB have announced the initial launch of the unlicensed wireless microphone registration system, and have provided guidance on aspects of the registration process. See Office of Engineering and Technology and Wireless Telecommunications Bureau Announce the Initial Launch of Unlicensed Wireless Microphone Registration System, Registration Open in East Coast Region: New York, New Jersey, Pennsylvania, Delaware, Maryland, Washington, DC, Virginia, and North Carolina, ET Docket No. 04–186, *Public Notice*, DA 12–1514 (OET/WTB, released Sept. 19, 2012) (*Public Notice on Registration of Unlicensed Wireless Microphones*).

Should the Commission establish more specific criteria for eligibility for a low power auxiliary station license at a specified venue? For instance, the Commission could require that an entity applying for a license establish each of the following—(1) that the specified venue periodically hosts events that require the same level of “professional” high production-quality audio as the type needed for broadcast productions; (2) that these events involve a live production, with an audience in attendance, or a rehearsal for such events; and (3) that the venue size meets specified criteria depending on the type of venue or event (*e.g.*, for theaters used for professional productions or house of worship venues, a minimum of 1,000 fixed seats; for auditoriums or convention centers, a space capacity-rated for 3,000 people; for sports venues, a minimum of 10,000 seats for indoors, and 25,000 seats for outdoors)? The Commission asks for comment on this or similar approaches. If the Commission were to take this type of approach, how would it determine which entities meet the first criterion regarding a need for “professional” quality production? To the extent the venue uses a professional production company or professional frequency coordinator, would this be sufficient to establish that the venue merits licensing? To what extent should the Commission consider the need to operate at part 74 technical parameters (*e.g.*, higher power)? As for the third element, the Commission asks that commenters be specific when discussing which categories of venue (*e.g.*, stadium or amphitheater) or capacity measurements (*e.g.*, number of seats) would be appropriate. To what extent should the Commission also require that an entity show that it would have need for a specified minimum number of microphones (*e.g.*, 100 or more) at a venue? The Commission seeks comment on these various proposals.

The Commission also seeks comment on which type(s) of entities would hold the license for operations at a specified venue. Should the Commission only license specific venues? Under such an approach, a venue (or a responsible party for the venue) would be licensed, the venue could be registered in the TV bands database system, and the venue operator, or professional audio companies that act as agents under a venue’s license when carrying out their engineering responsibilities, could then work directly with the TV database administrators to register the needed wireless microphone channels for

particular events and times. Alternatively, might the Commission license professional production companies for operations at specified venues? The Commission seeks comment on these or other approaches.

*Expanding eligibility for operations at nuclear facilities.* In the *Wireless Microphones Further Notice*, the Commission also sought comment on possible expansion of license eligibility for the special case involving the use of low power auxiliary station operations at nuclear power plant facilities. Specifically, it sought comment on the possibility of expanding eligibility to allow nuclear power plant operators to obtain licenses under part 90 to operate certain low power auxiliary station equipment, certificated for use under subpart H of part 74 of the rules, inside nuclear facilities. The Commission takes this opportunity to allow commenters to refresh the record on expanding eligibility to include such applications for these operators. For example, commenters may wish to address whether any additional means of meeting the operational communications needs of nuclear facilities have become available. If the Commission were to expand eligibility for part 74 licensing to nuclear power plant owners and operators, should it restrict operation of the equipment to indoor use or should use be permitted anywhere within the plant’s security perimeter? If outdoor use is permitted, should it be limited to particular plant operations such as fuel handling?

*More efficient wireless microphones through technological advancements.* As discussed above, in the *Wireless Microphones Further Notice*, the Commission expressed its intent to develop longer-term solutions that would help ensure that wireless microphones operate more efficiently and effectively on spectrum available for their use, and sought comment on potential technological innovations that would promote more efficient wireless microphone operations and thereby increase the availability of spectrum for wireless microphone and other uses. In the *TV White Spaces Second MO&O*, the Commission observed that wireless microphones generally have operated inefficiently, and noted that while wireless microphone users may believe they need access to more spectrum, any such needs “must be accommodated through improvements in spectrum efficiency.” In the *Incentive Auctions NPRM*, the Commission again noted the importance of more efficient wireless microphone operations, and sought comment on steps it should take to ensure that any broadcast spectrum

available after repacking is used efficiently and effectively by wireless microphones. The Commission seeks to refresh and update the record on potential longer term solutions to the operation of wireless microphones.

As the Commission observed in the *Wireless Microphones Further Notice*, the majority of wireless microphones that currently operate in the UHF TV bands are frequency modulated analog devices that operate with a bandwidth of up to 200 kHz. Because of a number of factors, including the need to avoid intermodulation interference among the devices, the maximum number of wireless microphones that these analog devices can operate simultaneously in a 6 megahertz TV channel may be as few as six or eight. Accordingly, with the use of these analog wireless microphones, only between 1.2 and 1.6 megahertz of the 6 megahertz TV channel may be used while the remainder is effectively left fallow. This constitutes very inefficient use of valuable spectrum. As the Commission noted, most other radio communications services have shifted from analog to digital technology to improve spectrum efficiency and resistance to interference.

The Commission asks that commenters update the record on advances in the wireless microphone technologies that are enabling more efficient use of spectrum. In particular, the Commission asks that commenters provide detailed information on the use of more efficient advanced digital technologies. The Commission notes that Shure recently introduced digital wireless microphones that operate in the UHF band that can support up to 14–15 systems on a single 6 megahertz TV channel. Sennheiser has similarly announced its new digital microphone for the UHF band, which uses technology that allows operation of up to 12 wireless microphones on a six megahertz channel. The Commission seeks comment on the state of development of digital technologies from these and other wireless microphone manufacturers, and further development that is anticipated over the next few years. The Commission asks that commenters present information on the production values, interference implications, and performance impact of these new microphones. What bandwidth efficiencies are achievable while still maintaining adequate performance for the specific use? What are the interference implications, particularly as they relate to intermodulation interference on packing more microphones into less bandwidth? Are there filters available to mitigate these effects? How does the fidelity and

latency of these new microphones compare to existing equipment and are they adequate for professional musical and theatrical performances?

What steps should the Commission take to require or encourage further development of digital wireless microphones? For example, to accommodate more efficient use, should the Commission implement a requirement to reduce the bandwidth below 200 kHz over an appropriate period of time, and if so what timeframe would make sense from an equipment development and user transition point of view? The Commission notes that the Commission has adopted requirements to promote spectrum-efficient technology for other operations, and the Commission asks that in updating the record in this proceeding commenters address whether the Commission should adopt efficiency standards for wireless microphones to encourage spectral efficiency. If so, how should the Commission establish those standards, and what timeframes would be appropriate to transition to any such standards? The Commission also seeks comment on whether and how the Commission should facilitate a transition to digital wireless microphones.

*Other issues.* The *Wireless Microphones Further Notice* raised several other issues (e.g., authorizing unlicensed wireless microphone operations in the TV bands pursuant to particular rules, or taking steps additional to authorize wireless microphone operations outside of the TV band under other rules). To the extent necessary or appropriate, commenters should feel free to refresh or update the record on other issues raised in the *Wireless Microphones Further Notice* that have been affected by more recent developments or by the two related proceedings if this would help ensure that the Commission can fully address the issues raised in the *Wireless Microphones Further Notice*.

#### Procedural Matters

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in

the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

■ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

■ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

■ All hand-delivered or messenger-delivered paper filings for the

Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People With Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Federal Communications Commission.

**Ruth Milkman,**

*Chief, Wireless Telecommunications Bureau.*

**Julius Knapp,**

*Chief, Office of Engineering and Technology.*

[FR Doc. 2012-25825 Filed 10-19-12; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Parts 107, 172, 173, 175, and 178

[Docket No. PHMSA-2011-0158 (HM-233C)]

RIN 2137-AE82

#### Hazardous Materials: Incorporation of Certain Special Permits and Competent Authorities Into Regulations

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The Pipeline and Hazardous Materials Safety Administration is proposing to amend the Hazardous Materials Regulations to incorporate provisions contained in certain widely used or longstanding special permits and certain competent authority approvals ("approvals") that have established safety records. Special permits allow a company or individual to package or ship a hazardous material

in a manner that varies from the regulations provided an equivalent level of safety is maintained. An approval is a written consent (document) required under an international standard (i.e., International Maritime Dangerous Goods (IMDG) Code, International Civil Aviation Organization (ICAO)), or is specifically provided for in the HMR, and is issued by the Associate Administrator for Hazardous Materials Safety. These proposed revisions are intended to provide wider access to the regulatory flexibility offered in special permits and approvals and eliminate the need for numerous renewal requests, reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety. Additionally, this rulemaking will address three petitions for rulemaking regarding the continued use of renewal applications for long standing special permits.

**DATES:** Written comments should be submitted on or before December 21, 2012.

**ADDRESSES:** You may submit comments by identification of the docket number (PHMSA-2011-0158; HM-233C) by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* To Docket Operations, Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the agency name and docket number for this notice at the beginning of the comment. All comments received will be posted without change to the Federal Docket Management System (FDMS), including any personal information.

*Docket:* For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> or DOT's Docket Operations Office (see **ADDRESSES**).

*Privacy Act:* Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if

submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

**FOR FURTHER INFORMATION CONTACT:** Steven Andrews, Office of Hazardous Materials Safety, Standards and Rulemaking Division, (202) 366-8553, or, Diane LaValle, Office of Hazardous Materials Safety, Approvals and Permits Division, (202) 366-4535, Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

- I. Executive Summary
- II. Background
- III. Overview of Proposed Amendments
- IV. Summary Review of Amendments
- V. Regulatory Analyses and Notices

#### I. Executive Summary

PHMSA is proposing to amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) to incorporate several long standing special permit and competent authorities into the HMR. The identified special permits and competent authorities have a long history of safety. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the hazardous materials regulations (HMR) provided an equivalent level of safety is maintained. A competent authority (CA) approval is a written consent (document) required under an international standard (i.e., International Maritime Dangerous Goods (IMDG) code or International Civil Aviation Organization (ICAO)) and is issued by the Associate Administrator for Hazardous Materials Safety.

In 2009, an audit of the Special Permits program by the Office of the Inspector General identified a need for an ongoing review of all open special permits with an outlook towards identifying those that should be made part of the HMR to reduce the overall economic burden to both affected industry and the government. Four rulemakings, HM-233A (75 FR 27205), HM-245 (76 FR 5483), and HM-216B (77 FR 37962) have successfully codified certain special permits into the HMR. These revisions provided wider access to the regulatory flexibility offered in special permits and eliminate the need for numerous renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety.

This notice of proposed rulemaking (NPRM), HM-233C, continues this