

extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 8, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(279)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(279) * * *
(i) * * *

(B) Monterey Bay Unified Air Pollution Control District.

(1) Rule 404, Monterey Bay Unified APCD, adopted on March 22, 2000.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket 99-231; FCC 01-158]

Spread Spectrum Devices; and Wi-LAN, Inc. Application

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies Wi-LAN's Application for Review and grants a waiver request for equipment certification for Wi-LAN's Wideband Orthogonal Frequency Division Multiplexing (W-OFDM) system and similar systems that operate in the 2.4-2.483 GHz band if they meeting the

existing rules for direct sequence spread spectrum systems. We take this action to serve the public interest.

DATES: Effective June 12, 2001.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418-2408, TTY (202) 418-2989, e-mail: nmcneil@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making and Order*, ET Docket 99-231, FCC 01-158, adopted May 10, 2001 and released May 11, 2001. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this document also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of Order

1. Wi-LAN Application for Review. On February 17, 2000, Wi-LAN filed an application for equipment certification for its Wideband Orthogonal Frequency Division Multiplexing (W-OFDM) transmitter under the rules for direct sequence spread spectrum systems. The Commission's Office of Engineering and Technology ("OET") denied that application on the basis that Wi-LAN's W-OFDM device did not meet the definition of a direct sequence spread spectrum system as set forth in § 2.1 of the rules. Subsequently, OET denied Wi-LAN's Petition for Reconsideration of that decision for the same reasons. Wi-LAN filed an Application for Review of the staff action. In this filing, Wi-LAN argues that its device meets all the technical requirements explicitly stated in the rules for direct sequence spread spectrum systems and should be granted certification. We find that OET acted properly in denying Wi-LAN's application for certification. In this regard, we agree with OET that Wi-LAN's W-OFDM device does not meet the definition of a direct sequence spread spectrum system as set forth in § 2.1 of the rules. The Wi-LAN system does however, resemble a spread spectrum system in its spectrum characteristics. Notwithstanding our finding that Wi-LAN's W-OFDM system is not a spread spectrum system as defined in our rules, we find that it will serve the public interest to allow grant of equipment certification now for this system and similar systems that operate in the 2.4-2.483 GHz band if they meet the existing rules for direct sequence spread spectrum systems in 47 CFR

15.247(a), (b), (c), and (d), conditioned on their compliance with any final rules that may be adopted in this proceeding. Accordingly, the Commission will waive, on an interim basis, the restriction of 47 CFR 15.247(a) that limits operation pursuant to the remaining portions of 47 CFR 15.247 to frequency hopping and direct sequence spread spectrum systems. We find that there is good cause to waive the cited rule during the pendency of this proceeding because such devices have generally the same emission mask as currently authorized devices and thus will not undermine the existing rules. Digital modulation systems closely resemble spread spectrum systems in terms of their spectrum occupancy characteristics, and therefore are not likely to pose any increased risk of interference over that posed by spread spectrum systems. We believe that compliance with the rules, which address spectrum occupancy, power, out-of-band emissions, and antennas, will ensure that digital modulation systems operating in the 2.4 GHz band will operate with the same spectrum occupancy characteristics as spread spectrum systems. We also observe that such systems appear to offer capabilities in terms of broadband data transmission capacity that are likely to make them more desirable than traditional spread spectrum systems for many users. Allowing authorization of digital modulation systems now will avoid the delays otherwise imposed by our rulemaking process and thereby substantially speed the process for implementation of these new system designs. In this regard, our decision to waive the restrictions which prevent authorization of such systems reflects our view that it is appropriate and desirable to take steps wherever possible to facilitate the timely and efficient introduction of new technologies and equipment, and particularly those that will support the development and deployment of broadband infrastructure without threat to incumbent operations and devices. For the reasons indicated in this *Further Notice of Proposed Rule Making and Order* (FNPRM and Order) that the Commission released on May 11, 2001, we believe that authorization of Wi-LAN's device and other digital modulation systems prior to our adoption of final rules will not result in harm to other radio operations. Consistent with Wi-LAN's application for equipment certification, we will require that any devices granted prior to the adoption of new rules pursuant to the provisions of paragraph 26 of the

FNPRM and Order comply with a maximum peak output power limit of 100 mW. In addition, any devices so conditionally authorized will have to comply with whatever rules we ultimately adopt for digital modulation systems in the 2.4 MHz band.

Accordingly, we are instructing the Commission's Office of Engineering and Technology ("OET") to re-examine the Wi-LAN application for certification of its W-OFDM system for its compliance with the above listed portions of 47 CFR 15.247 of the rules and the power limits indicated. OET shall also accept applications for equipment certification under 47 CFR 15.247 for other devices using digital modulation techniques if the equipment complies with the provisions stated in the *FNPRM and Order*. Such applications submitted pursuant to the provisions of the *FNPRM and Order* need not be accompanied by a formal waiver request, but should state that they fall within the terms of the *FNPRM and Order* as to the waiver. Any such applications will be subjected to the conditions set forth in the *FNPRM and Order*, including that operation is conditioned on compliance with any final rules that may be adopted in this proceeding.

2. Pursuant to sections 4(i), 301, 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), and 303(r), the Application for Review filed by Wi-LAN, Inc., on September 20, 2000 is hereby DENIED.

List of Subjects in 47 CFR Part 15

Communications equipment.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-14525 Filed 6-11-01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 00-203; FCC 01-177]

Blanket Licensing for Small Aperture Terminals in the C-Band and Routine Licensing of 3.7 Meter Transmit and Receive Stations at C-Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules that are designed to provide wider access to electronic commerce in

underserved rural areas of America by facilitating the deployment of small antenna terminals in C-band satellite networks under a single authorization, with prior frequency coordination.

DATES: Effective July 12, 2001.

FOR FURTHER INFORMATION CONTACT:

Edward R. Jacobs, Planning and Negotiations Division, International Bureau, (202) 418-0624 or via electronic mail: ejacobs@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order in IB Docket No. 00-203, FCC 01-177, adopted May 23, 2001 and released May 25, 2001. The Notice of Proposed Rulemaking (NPRM) in IB Docket No. 00-203, FCC 00-369, was adopted October 13, 2000 and released October 24, 2000. 65 FR 70541, November 24, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257) 445 12th Street, SW., Washington, DC and may also be purchased from the Commission copy contractor, International Transcription Services (ITS), Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

Summary of the First Report and Order

In the First Report and Order in this proceeding, the Commission amends part 25 of its rules to give operators the option of obtaining licenses for a limited class of small aperture terminal earth station networks in the C-band (CSAT), under a single authorization. This option is available only to those seeking licensing of CSAT networks that use no more than 40 MHz of C-band spectrum for each of no more than three satellite locations within the visible geostationary satellite arc. That is, this option provides for streamline licensing of a system that uses no more than 20 MHz of uplink and 20 MHz of downlink spectrum for each of a maximum of 3 satellites. The 20 MHz of uplink and 20 MHz of downlink spectrum may be different for each of the 3 satellites. Among other things, these procedures require CSAT applicants to complete frequency coordination for each individual earth station before bringing it into use. The Commission finds that these changes will promote more efficient and equitable use of C-band spectrum shared by the fixed service (FS) and fixed-satellite service (FSS). In those cases where these streamlined procedures can be used, it will also alleviate concerns that individual licensing of earth stations in a network of small aperture terminal earth stations could result in longer overall license

processing times, increased consumer costs, and additional administrative burdens. In addition, where CSAT earth stations have been coordinated, the streamlined rules allow providers to operate on a conditional basis until final approval, facilitating deployment of systems and service to the public.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the *FWCC/Onsat/Hughes NPRM*. 65 FR 70541, November 24, 2000. The Commission sought written public comments on the proposals in the *FWCC/Onsat/Hughes NPRM* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Rules

In this *First Report and Order*, the Commission provides for a streamlined licensing procedure that will allow the licensing of large networks of small earth station terminals in the 4 and 6 GHz bands. These streamlined procedures will better enable the rapid delivery of earth station services, including broadband access, to rural Americans.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were submitted in direct response to the IRFA.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 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 Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."