

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)
)
Comprehension of the FCC Rules) OA Docket No. 05-331
)
)

NOTICE OF PROPOSED RULEMAKING

Adopted: December 12, 2005

Released: December 13, 2005

COMMENT DATE: [30 days after publication in Federal Register]

REPLY COMMENT DATE: [45 days after publication in Federal Register]

By the Commission:

1. In response to a Petition for Rulemaking filed by Mr. Scott Adams, the Commission hereby proposes to adopt the following new rules to Subpart A (General Rules of Practice and Procedure) of Part 1 of the FCC Rules.

2. Proposed Rules.

1.121(a): **Threatened Comprehension of the FCC Rules.** If any radio system owner, or radio system operator, or group of associated radio system owners or radio system operators, becomes aware of, or realizes, or detects, or discovers, or finds, that he, or she, or they, are, or have been beginning to, or are about to understand the Federal Communication Commission Rules or Regulations or any of its provisions, (he) (she) (they) must immediately, within three (3) days of such discovery or awareness, notify, in writing, the Administrator.

1.121(b): **Log of Notifications to the Administrator.** Any person or party coming within the provision of Section 1.121(a) shall maintain a written log of all notifications to the Administrator. This log shall be kept for a period of at least two years after said Notifications, and must be made available to any authorized Commission representative, upon demand, at any time, whether during normal business hours or not, and regardless of whether the notifying party's station is on or off the air.

1.121(c): **Required Action of the Administrator.** Upon receipt of any such above notice of impending comprehension, the Administrator shall promptly cause said Federal Communication Commission Rules and/or Regulations to be rewritten in such a form and manner as to completely and totally eliminate any further possibility of comprehension by any radio system owner, or radio system operator, or person or persons acting on the direction, or suggestion, or supervision, of any radio system owner or radio system operator.

1.121(d): **Authority to Require Remedial Instruction Classes.** The Administrator may, at his or her option, require any radio system owner, or radio system operator, or person or persons acting on the direction, or suggestion, or supervision, of any radio system owner, or radio system operator, who

commit(s), or attempt(s) to commit, or exhibit(s) any propensity to commit, the offense of understanding or comprehending the Federal Communication Commission Rules and/or Regulations, or any part thereof, to attend courses of remedial instruction in said Rules and/or Regulations, until such time as said radio system owner, or radio system operator, or person or persons acting on the direction, or suggestion, or supervision, of radio system owner, or radio system operator, demonstrate that they are no longer capable of exhibiting any comprehension or understanding of anything.

3. *Administrative Matters.*

4. *Ex Parte Rules.* This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's Rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

5. *Comment Information.* Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before [**30 days after publication in the Federal Register**], and reply comments on or before [**45 days after publication in the Federal Register**]. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Accessible formats (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer & Governmental Affairs Bureau, at (202)418-7426, TTY (202) 418-7365, or at bmillin@fcc.gov.

6. If filing comments by mail, send to:

Office of the Administrator
Federal Communications Commission
Docket Number OA 05-331
445 SW 12th Street, NW
Big Gray Building
Third Floor, Second Door on Right
Desk 4, In-Basket 7
Near Wastebasket
Washington, D.C. 20554-1.414-2.718

7. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers are referenced in the caption of the comments, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of the comment, commenters 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 (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper

filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 8:05 a.m., so you had better not be late. All hand deliveries must be held together with alternating color, non-allergenic rubber bands or fasteners. Any envelopes must be disposed of before entering the building; failure to comply, or littering, authorizes federal marshals to use lethal force. 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.

8. *Initial Paperwork Reduction Act Analysis.* This document contains proposed [new or modified] information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due ***[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]***. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

9. *Regulatory Flexibility Act.* As required by the Regulatory Flexibility Act,¹ the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this Notice of Proposed Rulemaking. The IRFA is set forth in Appendix A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the Notice, and they should have a separate and distinct heading designating them as responses to the IRFA.

10. *Additional Information.* For additional information on this proceeding, please contact Dr. Jack Kervorkian, Office of the Administrator, at (202) 418-1111.

11. *Ordering Clauses.* Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 2(a), 4(i) & (j), 7, and 303 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 152(a), 154(i) & (j), 157, and 303, this Notice of Proposed Rule Making IS ADOPTED.

¹ *See* 5 U.S.C. § 603.

12. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.²

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

² See 5 U.S.C. § 603(a).

APPENDIX A
INITIAL REGULATORY FLEXIBILITY ANALYSIS

As required by the Regulatory Flexibility Act of 1980, as amended (“RFA”),³ 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 this Notice of Proposed Rulemaking (“Notice”). 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 on the Notice provided above in paragraph 11. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.⁴ In addition, the Notice and IRFA (or summaries thereof) will be published in the Federal Register.⁵

A. Need for and Objectives of the Proposed Rules. As described in the Notice, the changes to the rules being considered in this proceeding are intended to ensure the continued lifetime employment of all attorneys practicing before the FCC.

B. Legal Basis. The authority for the action proposed in this rulemaking is contained in Sections 4(i) & (j), 303, 307, 309 and 336 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) & (j), 303, 307, 309 and 336.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules.⁶ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental entity.”⁷ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁸ 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”).⁹

All FCC licensees. Rules adopted in this proceeding would apply all Commission licensees, everywhere, in all radio services, including Part 15.

³See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

⁴See 5 U.S.C. § 603(a).

⁵See *id.*

⁶5 U.S.C. § 603(b)(3).

⁷5 U.S.C. § 601(6).

⁸5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

⁹15 U.S.C. § 632.

Computer Manufacturers. These proposed rules would especially impact computer manufacturers, and especially Microsoft Corporation, in just retribution for all incomprehensively worded instruction manuals.

Description of Projected Reporting, Recordkeeping and other Compliance Requirements. At this time, we do not expect that the rule changes being considered in this proceeding would impose any significant additional recordkeeping or recordkeeping requirements, except, perhaps, the required Notification to the Administrator log. But, too bad.

D. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered. 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 (among others): (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 part thereof, for small entities.¹⁰

The rule changes under consideration in this proceeding would ensure no "Eureka" moments regarding parties subject to, or possibly subject to at a future date, any possible FCC Rule or Regulation. Since this is such a laudable goal, it would not be right to consider any alternatives.

F. Federal Rules Which Duplicate, Overlap, or Conflict with the Commission's Proposals. Virtually all. You got a problem with that?

¹⁰ 5 U.S.C. § 603.