

from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

#### List of Subjects in 41 CFR Part 101-49

Decorations, medals, awards, Government property, Government property management.

For the reasons set forth in the preamble, 41 CFR Part 101-49 is amended to read as follows:

#### PART 101-49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

1. The authority citation for Part 101-49 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

#### Subpart 101-49.2—Utilization of Foreign Gifts and Decorations

2. Section 101-49.201-1 is amended by adding paragraph (a)(11) as follows:

##### § 101-49.201-1 Gifts and decorations required to be reported.

(a) \* \* \*

(11) Each gift or decoration must indicate the Administration in which it was received (e.g., Clinton Administration).

\* \* \* \* \*

3. Section 101-49.201-2 is amended by revising paragraph (a) to read as follows:

##### § 101-49.201-2 Gifts and decorations not to be reported.

(a) The following gifts and decorations shall not be reported to GSA:

(1) Gifts and decorations returned to the donor;

(2) Gifts and decorations below the minimal value deposited by the employee recipient with the employing agency or retained by the employee recipient with the approval of the employing agency;

(3) Gifts and decorations above minimal value retained by the employing agency for official use, except upon termination of the official use;

(4) Intangible gifts, including checks, money orders, bonds, shares of stock, and other securities and negotiable instruments (see § 101-49.205);

(5) Cash, currency, and money, except those with possible historic or numismatic value (see § 101-49.205); and

(6) Gifts and decorations received by a Senator or an employee of the Senate disposed of by the Commission on Art

and Antiquities of the United States (see § 101-49.106).

\* \* \* \* \*

4. Section 101-49.202 is amended by revising paragraph (a) to read as follows:

##### § 101-49.202 Transfers to other Federal agencies.

(a) Gifts and decorations will be made available for transfer for a period of 21 calendar days following receipt by GSA of the Standard Form 120 to activities specified in § 101-43.309-1. Transfers will be made as considered appropriate by GSA, generally on a first-come-first-served basis.

\* \* \* \* \*

5. Section 101-49.203 is revised to read as follows:

##### § 101-49.203 Costs incident to transfer.

All transfers of gifts and decorations will be made without reimbursement, except that direct costs incurred by the employing agency in actual packing, preparation for shipment, loading, and transportation may be recovered by the employing agency from the transferee agency if billed by the employing agency. (See § 101-43.310-1.)

Dated: May 7, 1997.

**David J. Barram,**

*Acting Administrator of General Services.*

[FR Doc. 97-13626 Filed 5-22-97; 8:45 am]

BILLING CODE 6820-24-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 87-267; FCC 97-68]

#### Implementation of the AM Expanded Band Allotment Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petitions for reconsideration; correction.

**SUMMARY:** The Federal Communications Commission published in the **Federal Register** of April 29, 1997, page 23176, a document concerning Implementation of the AM Expanded Band Allotment Plan, FCC 97-68. The Final Regulatory Flexibility Analysis was inadvertently omitted. This document corrects that error.

**EFFECTIVE DATE:** March 17, 1997.

**FOR FURTHER INFORMATION CONTACT:** Peter H. Doyle, Audio Services Division, Mass Media Bureau, (202) 418-2625.

**SUPPLEMENTARY INFORMATION:** The Final Regulatory Flexibility Analysis should have appeared on page 23176, in the second column, in the Supplementary

Information following the first paragraph.

#### Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603 (RFA) an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Review of the Technical Assignment Criteria for the AM Broadcast Service, 5 FCC Rcd 4381 (1990) (Technical Assignment Criteria Rulemaking). The Commission sought written public comments on the proposals in Technical Assignment Criteria Rulemaking, including the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in Report and Order, Review of the Technical Assignment Criteria for the AM Broadcast Service, 6 FCC Rcd 6273 (1991) (Report and Order) was issued prior to enactment of the amendments to the RFA Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which was enacted as Title II of the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104-121, 110 Stat. 847 (1996).<sup>1</sup> This FRFA is limited to matters raised in response to the Commission's action on reconsideration of Report and Order in Comments in Response to Reconsideration of Implementation of the AM Expanded Band and Allotment Plan, 11 FCC Rcd 12444 (1996) and addressed in this Memorandum Opinion and Order.

#### I. Need for and Objectives of this Memorandum Opinion and Order

This proceeding was initiated to improve the quality of AM broadcasting by permitting the migration of existing band stations experiencing significant levels of interference to the expanded AM band, *i.e.*, 1605-1705 kHz. The actions taken in the Memorandum Opinion and Order are consistent with this goal. Specifically, the Memorandum Opinion and Order modifies the frequency preclusion computer program to follow the federal travelers information station interference standards previously specified in this proceeding. It also clarifies the second harmonic interference standard incorporated in the frequency preclusion program. Lastly, the order conforms the revised allotment plan to Region 2 treaty requirements and eliminates software coding errors in the frequency preclusion and allotment plan programs.

<sup>1</sup> Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. 601 *et seq.*

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

As previously disclosed, no comments have been submitted in this proceeding in response to the IRFA. Out of an abundance of caution we have reconsidered the conclusions previously reached in the FRFA even though this proceeding will directly impact less than one percent of licensed commercial radio stations and less than thirteen percent of the stations eligible to migrate to the expanded band. Nineteen stations have changed frequencies from the second to third allotment plans and nine stations listed in the second allotment plan can no longer be accommodated.

## III. Description and Estimate of the Number of Small Entities To Which the Memorandum Opinion and Order Will Apply

The Small Business Administration defines a radio broadcasting station that has \$5 million or less in annual receipts as a small business.<sup>2</sup> A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.<sup>3</sup> Included in this industry are commercial, religious, educational, and other radio stations.<sup>4</sup> Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.<sup>5</sup> The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than \$5 million in revenue in 1992.<sup>6</sup> Currently, there are more than 12,000 operating, licensed radio stations.<sup>7</sup>

The Commission previously determined that 710 AM licensees and permittees were eligible to migrate to the expanded band, based on timely expressions of interest in these frequencies. This list excludes daytime-only stations whose calculated interference reduction improvement factor is zero. The third allotment plan, which is being released simultaneously with the Memorandum Opinion and Order, lists eighty-eight of these stations

that are eligible to apply for expanded band authorizations. Nine stations listed on the second allotment plan cannot be accommodated under the new plan. Ten new stations have been added. Many, if not most of the eighty-eight potential migrators are small business entities. Because the decision to file a construction permit application and, following grant, to construct an AM broadcast station which operates on an expanded band frequency is wholly voluntary, it is impossible to predict how many stations will be directly impacted by this proceeding. To the extent that eligible stations elect to migrate to the expanded band, an unknown number of the approximately 4,900 operating, licensed AM broadcast stations could experience some reduced level of interference and congestion in the existing band. Most of these existing band stations also would qualify as "small entities."

Alternative Classification of Small Stations. An alternative way to classify small radio stations would be based on the number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity Rule (EEO) for broadcasting.<sup>8</sup> Thus, radio (and television) stations with fewer than five full-time employees are exempted from certain EEO reporting and record keeping requirements.<sup>9</sup> We estimate that

<sup>8</sup> The Commission's definition of a small broadcast station for purposes of applying its EEO rules was adopted prior to the requirement of approval by the SBA pursuant to Section 3(a) of the Small Business Act, 15 U.S.C. 632(a), as amended by Section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992, Public Law 102-366, 222(b)(1), 106 Stat. 999 (1992), as further amended by the Small Business Administration Reauthorization and Amendments Act of 1994, Public Law 103-403, 301, 108 Stat. 4187 (1994). However, this definition was adopted after the public notice and the opportunity for comment. See Report and Order in Docket No. 18244, 23 FCC 2d 430 (1970).

<sup>9</sup> See, e.g., 47 CFR 73.3612 (Requirement to file annual employment reports on Form 395 applies to licensees with five or more full-time employees); First Report and Order in Docket No. 21474 (Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395), 70 FCC 2d 1466 (1979). The Commission is currently considering how to decrease the administrative burdens imposed by the EEO rule on small stations while maintaining the effectiveness of our broadcast EEO enforcement. Order and Notice of Proposed Rule Making in MM Docket No. 96-16 (Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines), 11 FCC Rcd 5154 (1996). One option under consideration is whether to define a small station for purposes of affording such relief as one with ten or fewer full-time employees.

the total number of broadcast stations with 4 or fewer employees is approximately 4,239<sup>10</sup> and that most of these are radio stations.

## IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

Stations listed in the third allotment plan will be afforded 90 days to file feeable applications for construction permits on the allotted channels. These applications will be placed on cut-off lists following their acceptance for filing to permit the filing of petitions to deny. Each station, following grant of its construction permit application, will have eighteen months to complete station construction and file a feeable application for covering license. To satisfy these requirements it is likely that each of these stations will require the use of professional legal and engineering services.

## V. Significant Alternatives and Steps Taken By Agency To Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

As noted above, the revised expanded band allotment plan would permit less than thirteen percent of eligible AM station licensees and permittees to migrate to the expanded band. Stations electing to apply for and construct expanded band facilities are subject to essentially the same license processing requirements as any applicant seeking a new broadcast station. The changes adopted in the Memorandum Opinion and Order were necessary given technical considerations and international treaty requirements.

## VI. Report to Congress

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 97-13625 Filed 5-22-97; 8:45 am]

**BILLING CODE 6712-01-P**

<sup>10</sup> Compilation of 1994 Broadcast Station Annual Employment Reports (FCC Form 395B), Equal Opportunity Employment Branch, Mass Media Bureau, FCC.

<sup>2</sup> 13 CFR 121.201, SIC 4832.

<sup>3</sup> Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

<sup>7</sup> *FCC News Release*, No. 72140 (released February 5, 1997) (announcing that 4,854 AM, 5,429 FM and 1,868 noncommercial educational FM broadcast stations were licensed as of January 31, 1997).