

objectives have been achieved and that all actions specified have been implemented. Pursuant to the Superfund State Contract between EPA and ADEQ executed in March 1992, ADEQ agreed to assume full responsibility for performing Site O&M activities, and the State subsequently agreed to begin those O&M activities after the sampling performed by EPA in 2002. EPA will be providing oversight of all O&M activities.

One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if "all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate." 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of Arkansas, believes that this criterion for deletion has been met. Accordingly, EPA is proposing deletion of this Site from the NPL.

Dated: June 23, 2003.

**Myron O. Knudson,**

*P.E., Director, Superfund Division (6SF).*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 03-151; FCC 03-160]

#### Amendment of the Commission's Rules Regarding AM Directional Antennas

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission issues this document in order to resolve an apparent conflict between §§ 73.62 and 73.1350(d)(2) of the Commission's rules. Both of these rules are invoked when an AM station's directional antenna monitor indications and/or monitoring point field strength measurements exceed the required operating tolerances. Each rule provides for different time periods for AM licensees to take action when their directional antenna operating parameters are found to be out of licensed tolerances. The inconsistent directive leaves AM licensees unclear as to the course of action they must take when they observe excessive monitor measurements. It is important that these rules be clarified because they affect termination of broadcast operation. This document begins a proceeding to harmonize these rules.

**DATES:** Comments are due August 29, 2003 and reply comments are due September 18, 2003.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See

**SUPPLEMENTARY INFORMATION** for filing instructions.

**FOR FURTHER INFORMATION CONTACT:**

Karen A. Kosar, Media Bureau at (202) 418-1053 or via Internet at [kkosar@fcc.gov](mailto:kkosar@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making (NPRM), MB Docket No. 03-151, adopted July 1, 2003 and released July 7, 2003. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, and may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com) or may be viewed via Internet at <http://www.fcc.gov/mb/>.

1. This Notice of Proposed Rule Making (NPRM) proposes to resolve an apparent conflict between §§ 73.62 and 73.1350(d)(2) of the Commission's rules regarding the operation of AM stations with directional antennas. Both of these rules are invoked when an AM broadcast station's directional antenna operating parameters and/or monitoring point field strengths exceed operating tolerances. Section 73.62 of the rules, which specifically governs directional antenna system tolerances, provides that, whenever the operating parameters of a directional antenna cannot be maintained within the tolerances specified in the rule, an AM broadcast station has twenty-four hours within which to identify any excessive monitoring point field strengths followed by three hours to take corrective action. In contrast, § 73.1350(d)(2) of the rules, which addresses transmission system operation, requires that, in the event of any condition of antenna parameters or monitoring points out of tolerance, station operation be terminated within three minutes unless power is reduced sufficiently to eliminate any excess radiation. This inconsistent directive in our rules leaves AM licensees unclear as to the correct course of action they must take when they observe out-of-tolerance indications. Clarity in our rules is especially necessary when the rules may require that broadcast operations

terminate within a matter of minutes. In such situations, termination of operations would be disruptive to programming and, in some cases, broadcast listeners may be deprived of information regarding hazardous weather or other emergency conditions. Moreover, broadcast stations may be faced with fines and forfeitures if found not to be in compliance with our rules.

2. The NPRM recognizes that almost all AM broadcast station directional antenna arrays experience some amount of instability. Unfavorable weather conditions or other environmental factors occasionally may affect monitoring systems to such an extent that these systems experience short-term out-of-tolerance operation. Such out-of-tolerance indications during heavy rain, snow or icing, or during abrupt and substantial changes in temperature or humidity, may not warrant immediate corrective action. Regardless of whether out-of-tolerance indications were caused by these conditions, § 73.1350(d)(2) arguably requires that stations shut down or reduce power within three minutes. In contrast, § 73.62 of the rules, which is narrowly aimed at directional antenna tolerances, provides a reasonable period of time for corrective action.

3. The NPRM tentatively concludes that § 73.1350(d)(2) is excessively stringent and was not intended to apply to instances of minor out-of-tolerance directional antenna operating parameters. The NPRM tentatively concludes that both §§ 73.62 and 73.1350 should be revised and restructured to delineate clearly those situations that require 24-hour, three-hour and/or three minute responses by AM licensees, as well as by FM and TV licensees. The NPRM tentatively concludes that a requirement to terminate operation within three minutes should apply only to catastrophic events that are likely to cause significant disruption to the operation of other stations or that pose a threat to life or property. The NPRM tentatively concludes that a requirement to terminate operation within three hours should apply to instances of out-of-tolerance operation which are likely to result in minor interference to other stations. The NPRM seeks comment on these tentative conclusions as well as comment on other ways to resolve the problem presented by these rules.

#### I. Procedural Matters

##### A. Initial Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory