## IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 12, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 23, 2009.

**Laura Yoshii,**

*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 paragraphs (c)(345)(i)(C)(*2*) and (c)(350)(i)(E)to read as follows:

### § 52.220 Identification of plan.

* * * * *

(c) * * *

(345) * * *

(i) * * *

(C) Ventura County Air Pollution Control District.

(*2*) Rule 26, "New Source Review—General," Rule 26.2, "New Source Review—Requirements," Rule 26.3, "New Source Review—Exemptions," Rule 26.4, "New Source Review—Emissions Banking," Rule 26.5, "New Source Review—Essential Public Service Bank," and Rule 26.6, "New Source Review—Calculations," originally adopted on October 22, 1991 and now revised on March 14, 2006.

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(350) * * *

(i) * * *

(E) Ventura County Air Pollution Control District.

(*1*) Rule 26.1, "New Source Review—Definitions," originally adopted on October 22, 1991 and now revised on November 14, 2006.

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[FR Doc. 2010–153 Filed 1–8–10; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 25

**[IB Docket No. 07–101; FCC 09–64]**

## Vehicle–Mounted Earth Stations (VMES)

**AGENCY:** Federal Communications Commission.

**ACTION:** Final Rule; announcement of effective date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with Sections 25.132(b)(3), 25.226(a)(6), (b), (c), (d)(1), and (d)(3) of the Commission's rules, and that these rules will take effect as of the date of this notice. On November 4, 2009, the Commission published the summary document of the Report and Order, In the Matter of Amendment of Parts 2 and 25 of the Commission's Rules to Allocate Spectrum and Adopt Service Rules and Procedures to Govern the Use of Vehicle–Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed–Satellite Service, IB Docket No. 07–101, FCC 09–64, at 74 FR 57092. The Report and Order stated that the Commission will publish a notice in the Federal Register announcing when OMB approval for the rule sections which contain information collection requirements has been received and

when the revised rules will take effect. This notice is consistent with the statement in the Report and Order.

**DATES:** 47 CFR 25.132(b)(3), 25.226(a)(6), (b), (c), (d)(1), and (d)(3) are effective on January 11, 2010.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Collins or Howard Griboff, Policy Division, International Bureau, FCC, (202) 418–1460 or via the Internet at: Kathleen.Collins@fcc.gov and Howard.Griboff@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This document announces that, on January 4, 2010, OMB approved, for a period of three years, the information collection requirements contained in Sections 25.132(b)(3), 25.226(a)(6), (b), (c), (d)(1), and (d)(3) of the Commission's rules. The Commission publishes this notice to announce the effective date of these rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554. Please include OMB Control Number 3060–1106 in your correspondence. The Commission also will accept your comments via the Internet if you send them to PRA@fcc.gov. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e–mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202)418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on January 4, 2010, for the information collection requirements contained in the Commission's rules at 47 CFR Sections 25.132(b)(3), 25.226(a)(6), (b), (c), (d)(1), and (d)(3). Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB Control Number. The OMB Control Number is 3060–1106 and the total annual reporting burdens and costs for respondents are as follows:

OMB Control Numbers: 3060–1106.

OMB Approval Date: January 4, 2010.

Expiration Date: December 31, 2012.

Title: Licensing and Service Rules for Vehicle–Mounted Earth Stations (VMES).

Form Number: Not Applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities.

Number of Respondents/Responses: 10 respondents; 10 responses.

Estimated Hours per Response: 0.25 hours – 24 hours per response.

Frequency of Response: On occasion reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Total Annual Burden: 322 hours.

Total Annual Cost: $104,300.

Obligation to Respond: Required to obtain or retain benefits. The Commission has statutory approval for the information collection requirements under Sections 1, 4(i), 4(j), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y) and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), and 308.

Nature and Extent of Confidentiality: There is no need for confidentiality pertaining to the information collection requirements in this collection.

Privacy Act Assessment: No impact(s).

Needs and Uses: On July 31, 2009, the Federal Communications Commission (Commission) released a Report and Order and Order titled, "In the Matter of Amendment of Parts 2 and 25 of the Commission's Rules to Allocate Spectrum and Adopt Service Rules and Procedures to Govern the Use of Vehicle–Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed–Satellite Service" (FCC 09–64), IB Docket No. 07–101(hereinafter referred to as "VMES Report and Order"). The VMES Report and Order adopts Part 2 allocation rules and Part 25 technical and licensing rules for a new domestic Ku–band VMES service. VMES service has the potential to deliver advanced mobile applications through satellite technology, including broadband, which will be beneficial for public safety and commercial purposes.

The PRA information collection requirements contained in the VMES Report and Order are as follows:

1. 47 CFR 25.132(b)(3)

VMES applicant seeking to use antenna that does not meet standards of section 25.209(a) and (b), pursuant to procedures set out in section 25.226, shall submit manufacturer's range test plots of antenna gain patterns.

2. 47 CFR 26.226(a)(6)

VMES licensee shall maintain and provide data (record of vehicle location, transmit frequency, channel bandwidth and satellite used for each relevant VMES transmitter) to Commission, NTIA, FSS operator, FS operator, or frequency coordinator within 24 hours upon request.

3. 47 CFR 25.226(b)(1)(i) OR 47 CFR 25.226(b)(1)(ii)

(i) Any VMES applicant filing an application pursuant to paragraph (a)(1) of this section shall file three tables showing the off–axis EIRP level of the proposed earth station antenna in the direction of the plane of the GSO; the co–polarized EIRP in the elevation plane, that is, the plane perpendicular to the plane of the GSO; and cross–polarized EIRP. Each table shall provide the EIRP level at increments of 0.1° for angles between 0° and 10° off–axis, and at increments of 5° for angles between 10° and 180° off–axis.

OR

4. (ii) A VMES applicant shall include a certification, in Schedule B, that the VMES antenna conforms to the gain pattern criteria of § 25.209(a) and (b), that, combined with the maximum input power density calculated from the EIRP density less the antenna gain, which is entered in Schedule B, demonstrates that the off–axis EIRP spectral density envelope set forth in paragraphs (a)(1)(i)(A) through (a)(1)(i)(C) of this section will be met under the assumption that the antenna is pointed at the target satellite.

5. 47 CFR 25.226(b)(1)(iii)

(iii) A VMES applicant proposing to implement a transmitter under paragraph (a)(1)(ii)(A) of this section shall provide a certification from the equipment manufacturer stating that the antenna tracking system will maintain a pointing error of less than or equal to 0.2° between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna and that the antenna tracking system is capable of ceasing emissions within 100 milliseconds if the angle between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna exceeds 0.5°.

6. 47 CFR 25.226(b)(1)(iv)(A), (B)

A VMES applicant proposing to implement a transmitter under paragraph (a)(1)(ii)(B) of this section shall:

(A) declare, in its application, a maximum antenna pointing error and demonstrate that the maximum antenna pointing error can be achieved without exceeding the off–axis EIRP spectral–density limits in paragraph (a)(1)(i) of this section; and (B) demonstrate that the VMES transmitter can detect if the transmitter exceeds the declared maximum antenna pointing error and can cease transmission within 100 milliseconds if the angle between the orbital location of the target satellite and

the axis of the main lobe of the VMES antenna exceeds the declared maximum antenna pointing error, and will not resume transmissions until the angle between the orbital location of the target satellite and the axis of the main lobe of the VMES antenna is less than or equal to the declared maximum antenna pointing error.

7. 47 CFR 25.226(b)(2)(i), (ii), (iii), (iv)

A VMES applicant proposing to implement a transmitter under paragraph (a)(2) of this section and using off–axis EIRP spectral–densities in excess of the levels in paragraph (a)(1)(i) of this section shall provide the following certifications and demonstration as exhibits to its earth station application:

(i) A statement from the target satellite operator certifying that the proposed operation of the VMES has the potential to create harmful interference to satellite networks adjacent to the target satellite(s) that may be unacceptable.

(ii) A statement from the target satellite operator certifying that the power–density levels that the VMES applicant provided to the target satellite operator are consistent with the existing coordination agreements between its satellite(s) and the adjacent satellite systems within 6° of orbital separation from its satellite(s).

(iii) A statement from the target satellite operator certifying that it will include the power–density levels of the VMES applicant in all future coordination agreements.

(iv) A demonstration from the VMES operator that the VMES system is capable of detecting and automatically ceasing emissions within 100 milliseconds when the transmitter exceeds the off–axis EIRP spectral–densities supplied to the target satellite operator.

8. 47 CFR 25.226(b)(3)

A VMES applicant proposing to implement a VMES system under paragraph (a)(3) of this section and using variable power–density control of individual simultaneously transmitting co–frequency VMES earth stations in the same satellite receiving beam shall provide the following certifications and demonstration as exhibits to its earth station application:

(i) The applicant shall make a detailed showing of the measures it intends to employ to maintain the effective aggregate EIRP–density from all simultaneously transmitting co–frequency terminals operating with the same satellite transponder at least 1 dB below the EIRP–density limits defined in paragraphs (a)(1)(i)(A)–(C) of this section. In this context the term "effective" means that the resultant co–polarized and cross–polarized EIRP–density experienced by any GSO or non–GSO satellite shall not exceed that produced by a single VMES transmitter operating at 1 dB below the limits defined in paragraphs (a)(1)(i)(A)–(C) of this section. The International Bureau will place this showing on Public Notice along with the application.

(ii) An applicant proposing to implement a VMES under (a)(3)(ii) of this section that uses off–axis EIRP spectral–densities in excess of the levels in paragraph (a)(3)(i) of this section shall provide the following certifications, demonstration and list of satellites as exhibits to its earth station application:

(A) A detailed showing of the measures the applicant intends to employ to maintain the effective aggregate EIRP–density from all simultaneously transmitting co–frequency terminals operating with the same satellite transponder at the EIRP–density limits supplied to the target satellite operator. The International Bureau will place this showing on Public Notice along with the application.

(B) A statement from the target satellite operator certifying that the proposed operation of the VMES has the potential to create harmful interference to satellite networks adjacent to the target satellite(s) that may be unacceptable.

(C) A statement from the target satellite operator certifying that the aggregate power density levels that the VMES applicant provided to the target satellite operator are consistent with the existing coordination agreements between its satellite(s) and the adjacent satellite systems within 6° of orbital separation from its satellite(s).

(D) A statement from the target satellite operator certifying that it will include the aggregate power–density levels of the VMES applicant in all future coordination agreements.

(E) A demonstration from the VMES operator that the VMES system is capable of detecting and automatically ceasing emissions within 100 milliseconds when an individual transmitter exceeds the off–axis EIRP spectral–densities supplied to the target satellite operator and that the overall system is capable of shutting off an individual transmitter or the entire system if the aggregate off–axis EIRP spectral–densities exceed those supplied to the target satellite operator.

(F) An identification of the specific satellite or satellites with which the VMES system will operate.

(iii) The applicant shall acknowledge that it will maintain sufficient statistical and technical information on the individual terminals and overall system operation to file a detailed report, one year after license issuance, describing the effective aggregate EIRP–density levels resulting from the operation of the VMES system.

9. 47 CFR 25.226 (b)(4)

There shall be an exhibit included with the application describing the geographic area(s) in which the VMESs will operate.

10. 47 CFR 25.226(b)(5)

Any VMES applicant filing for a VMES terminal or system and planning to use a contention protocol shall include in its application a certification that will comply with the requirements of paragraph (a)(4) of this section.

11. 47 CFR 25.226(b)(6)

Application shall include the point of contact with authority and ability to cease all emissions from VMES terminals, as required in paragraph (a)(5) of this section.

12. 47 CFR 25.226 (b)(7)

Any VMES applicant filing for a VMES terminal or system shall include in its application a certification that will comply with the requirements of paragraph (a)(6) of this section.

13. 47 CFR 25.226 (b)(8)

Applicant must submit a radio frequency hazard analysis to determine whether VMES terminals will produce power densities that will exceed the Commission's radio frequency exposure criteria; applicant with terminals that exceed the guidelines in section 1.1310 for radio frequency radiation exposure shall provide a plan for mitigation.

14. 47 CFR 25.226(c)(1)

Licensee shall notify the Commission after completing coordination with NASA and NTIA on current TDRSS sites.

15. 47 CFR 25.226(c)(3)

Licensee shall notify the Commission after completing coordination with NASA and NTIA on future TDRSS sites.

16. 47 CFR 25.226(d)(1)

Operations of VMES licensees in the 14.47–14.5 frequency band are subject to coordination with the National Science Foundation (NSF) and licensee shall notify the Commission's International Bureau and shall submit the coordination agreement once it has completed coordination with NSF for RAS sites listed in paragraph (d)(2) of this section.

17. 47 CFR 25.226(d)(3)

Licensee shall notify the International Bureau once it has completed coordination for any future RAS site and shall submit the coordination agreement once it has completed coordination with NSF.

The information collection requirements accounted for in this