



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA 03-859

Released: March 25, 2003

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST FOR WAIVER BY CHEVRON USA, INC. TO ALLOW TEMPORARY FIXED, WIDEBAND, DIGITAL OPERATION IN THE GULF AREA

Comment Date: April 24, 2003

Reply Comment Date: May 9, 2003

On December 23, 2002, Chevron USA, Inc. ("Chevron") filed an application and request for waiver for temporary fixed operation of four frequency pairs in the 490-491 and 493-494 MHz bands, at locations in the Gulf of Mexico and along the adjacent Mississippi and Louisiana shorelines, with a bandwidth of 50 kHz and D1¹ emissions.² Chevron states that grant of the requested waiver will be consistent with the Commission's policies and practices and will promote the public interest. We seek comment on Chevron's request.

The maximum bandwidth permitted under our rules for 470-512 MHz channels is 25 kHz.³ Further, our rules do not permit D1 emissions in the Southern Louisiana-Texas Offshore Zone.⁴ Chevron contends that D1 emission and 50 kHz bandwidth are necessary for satisfactory data and voice communications to each drill rig and lift boat in a single radio link. Chevron has determined that a smaller bandwidth will not provide the required bit rate of 128 kbps. Consequently, Chevron is also requesting a waiver of the equipment certification requirement, where the proposed equipment is not certified under Part 90 for use with 50 kHz channels;⁵ and the emission mask requirement, which applies to 25 kHz channels and is too stringent for 50 kHz channels.⁶ In addition, Chevron seeks a waiver of the minimum distances between shore or offshore stations and TV stations, 241 km (150 mi) for co-channel⁷

¹ The symbols in "D1" are defined in 47 C.F.R. § 90.210, although in reverse order, and emission designators have three symbols. Chevron requests W1D emissions. The "W" represents modulation of the carrier wave by two or more of the following modes: amplitude, angle, pulse. The "1" represents digital modulation, no subcarrier. The "D" represents data, telemetry, and telecommand information.

² FCC File No. 0001109771.

³ 47 C.F.R. § 90.173(m).

⁴ 47 C.F.R. § 90.315(c).

⁵ 47 C.F.R. § 90.203(a).

⁶ 47 C.F.R. § 90.210(c).

⁷ 47 C.F.R. § 90.315(d).

and 128 km (80 mi) for adjacent channel,⁸ set forth in our rules. Chevron's proposed operations would approach points located 117.8 miles from co-channel TV station W17CG on TV Channel 17, and 51.5 miles from adjacent Channel TV station KLTL-TV on TV Channel 18. To compensate, Chevron proposes to operate at a reduced power of no more than 2 watts ERP, which is well below the smallest listed power of 35 watts corresponding to a distance of 241 km (150 mi) in the co-channel distance table.⁹ Chevron submitted an engineering statement that illustrates interference protection to the Grade B contours of both TV stations.

Using the first prong of the waiver standard of Section 1.925(b)(3),¹⁰ Chevron argues that grant of the requested waiver will not undermine the fundamental purpose served by five of the six rules in question, and that the grant would be in the public interest. With respect to Section 90.173(m), Chevron states that use of a single 50 kHz channel pair at each location is a more spectrally efficient approach than the use of multiple, smaller bandwidth channels. Chevron cites that its low transmitter power of 1 watt is unlikely to substantially limit potential spectrum use by other, future applicants. Chevron also argues that the purposes of Section 90.210(c) are not thwarted, since the measured emissions of the proposed equipment are below the required emissions at and beyond the channel edge. With respect to the emission designator rule of Section 90.315(c), which ensures that operations in a particular band are compatible and unlikely to result in interference, Chevron states that advances in technology alleviate or eliminate concerns that may have been present at the time the rule was adopted. With respect to the distance requirements of Sections 90.315(d) and 90.315(g), Chevron notes that its interference protection to the respective Grade B contours in excess of the 65 dB standard illustrates that a waiver would not undermine the purpose of these rules. Chevron argues that a grant of its waiver request would be in the public interest because the proposed radio system serves important safety and environmental functions, such as oil spill prevention and detection.

Under the second prong of the waiver standard of Section 1.925(b)(3), Chevron seeks a waiver of the Section 90.203(a) certification requirement because it has no reasonable alternative. Chevron seeks to use MDS LEDR equipment, which has been certified under Part 74 with 25 kHz and 50 kHz channels and under Part 90 with 25 kHz channels. However, Chevron has been unable to identify any existing equipment that is certified for use under Part 90 with 50 kHz channels, presumably because such channels are not available for use under Part 90.

Interested parties may file comments on Chevron's Waiver Request on or before April 24, 2003. Parties interested in submitting reply comments must do so on or before May 9, 2003. All comments should reference Chevron's Waiver Request, including the DA number of this Public Notice, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-325, Washington, D.C. 20554. A copy of each filing should be sent to: (1) Qualex International, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893; (2) Tom Eng, Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, 445 12th Street, S.W., Room 4-B512, Washington, D.C. 20554; and (3) Maria Ringold, Federal Communications Commission, Consumer and

⁸ 47 C.F.R. § 90.315(g).

⁹ 47 C.F.R. § 90.315(d), Table 1.

¹⁰ 47 C.F.R. § 1.925(b)(3). The Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

Governmental Affairs Bureau, Reference Information Center, 445 12th Street, S.W., Room CY-B529, Washington, D.C. 20554.¹¹

Chevron's application and Waiver Request can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. In addition, the full text of the Waiver Request, comments and reply comments will be available for inspection and duplications during regular business hours in the Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. For further information regarding the public reference file for this Request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules, *See* 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this Public Notice, *ex parte* presentations that are made with respect to the issues involved in the subject Waiver Request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Mr. Tom Eng, of the Policy and Rules Branch of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to teng@fcc.gov.

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

-FCC-

¹¹ The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. *See* FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).