



PUBLIC NOTICE

Federal Communications Commission
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DA 10-128
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OFFICE OF ENGINEERING AND TECHNOLOGY DECLARES THE OHMART/VEGA CORPORATION REQUEST FOR A WAIVER OF SECTION 15.252 TO BE A "PERMIT-BUT-DISCLOSE" PROCEEDING FOR *EX PARTE* PURPOSES AND REQUESTS COMMENTS

ET Docket No. 10-27

Comment Date: February 26, 2010
Reply Comment Date: March 15, 2010

Ohmart/VEGA Corporation ("Ohmart/VEGA") has filed a request for waiver of Section 15.252 of the Commission's rules to permit certification of level probing radars (LPR) installed at fixed locations in the 24.6-27 GHz frequency band.¹ Section 15.252(a) permits the use of field disturbance sensors that are mounted in terrestrial transportation vehicles within the frequency bands 16.2-17.7 GHz and 23.12-29.0 GHz. LPRs are downward-looking radar devices that use short pulses of radio frequency ("RF") energy to measure the level of materials in enclosed storage tanks and at outdoor sites.² Ohmart/VEGA requests that the Commission permit certification of LPR devices under Section 15.252. Ohmart/VEGA states that its devices will comply with the average power limits in Section 15.209, but will exceed the peak power limits in Section 15.35(b) of the rules.³ It also submits proposed measurement procedures for both open-air and in-tank compliance testing of its LPR devices with applicable requirements of Part 15.

The Commission's Office of Engineering and Technology ("OET") is reviewing Ohmart/VEGA's waiver request. OET has concluded that in order to develop a complete record on the complex issues presented by this request, it will treat this proceeding, for *ex parte* purposes, as a "permit-but-disclose" proceeding, in accordance with Section 1.1200(a) of the Commission's rules, and is subject to the requirements under Section 1.1206(b) of the rules.

¹ See Ohmart/VEGA Corporation request for waiver of Section 15.252 of the Commission's rules, filed December 3, 2009; see also 47 C.F.R. § 15.252.

² For example, LPRs are used in enclosed storage tanks made of steel, concrete or fiberglass materials to measure product levels. They are also used at outdoor, open air sites to measure the level of liquids, such as water at the intake facilities at power plants, and of dry bulk materials, such as coal or gravel at industrial sites.

³ See 47 C.F.R. § 15.35(b). Section 15.35(b) limits the total peak emissions from a device to 20 dB above the maximum permitted average emissions limit applicable to the device.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Paper Filers: 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 appears in the caption of this proceeding, filers 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. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.
- 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.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: 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).

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties should also send a copy of their filings to Anh Wride, Office of Engineering and Technology, Federal Communications Commission, Room 7-A162, 445 12th Street, S.W., Washington, D.C. 20554, or by e-mail to anh.wride@fcc.gov. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents in are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

Office of Engineering and Technology contact: Anh Wride at (202) 418-0577.

By the Chief, Office of Engineering and Technology.

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