



Federal Communications Commission
Washington, D.C. 20554

May 19, 2010

DA 10-810

Small Entity Compliance Guide

Digital Power Increase for FM Stations

Order
DA 10-208
MB Docket No. 99-325
Released: January 29, 2010

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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Objectives of the proceeding

In 2002, the Commission adopted the FM in-band on-channel (“IBOC”) digital audio broadcasting (“DAB”) system developed by iBiquity Digital Corporation (“iBiquity”) as the *de facto* standard for FM station digital operations, and adopted an FM hybrid digital effective radiated power (“FM Digital ERP”) of one percent of FM analog ERP (20 decibels below carrier (-20 dBc)). Many FM stations promptly commenced hybrid FM IBOC operations. Despite the rigorous testing, it soon became apparent that hybrid FM IBOC digital coverage often did not replicate analog coverage, especially in mobile and indoor environments. The rule changes will allow eligible FM stations to voluntarily increase FM Digital ERP from the current maximum permissible level of one percent of FM Analog ERP up to a maximum of ten percent of authorized FM Analog ERP. They also implement interference mitigation and remediation procedures to resolve promptly allegations of digital interference to an authorized full-service FM analog facility resulting from FM Digital ERP power increases. These rule changes balance the pressing need for improved FM digital coverage with the continued need to limit interference to first-adjacent analog stations. They will allow an FM station’s digital signal to more closely approximate the coverage of its analog signal, improving service to listeners, and provide a detailed mechanism for resolving interference complaints, thus providing regulatory certainty as this relatively new service continues to develop.

Rules That the Commission Amended

The Commission changed its DAB technical rule (47 C.F.R. § 73.404) to permit FM stations to operate with hybrid digital effective radiated power up to ten percent (-10 dBc) of authorized analog effective radiated power in accordance with the procedures set forth in the *Order*.

Impact on Small Business

This rule change will have no significant adverse impact on small entities. Prior to the rule change, broadcasting in digital was optional for FM stations, and it will remain optional for FM stations following the rule change. As a result, FM radio stations of all sizes may choose to take no action in response to the rule change. In addition, FM radio stations already broadcasting in digital will not be required to take any action under the new rule if they continue operation at one percent of their analog ERP levels, the maximum FM Digital ERP previously authorized, because the authorized increases in FM Digital ERP adopted in the *Order* are voluntary.

Steps a Small Entity Must Take to Increase its FM Digital ERP

The rule change will take effect on May 10, 2010. In order to increase its digital power, a small entity must:

- Determine whether it is eligible to commence operation of FM digital facilities with operating power up to -14 dBc upon notice to the Commission, *i.e.*, without prior Commission approval (licensees of a super-powered FM station must file an informal request for *any* increase in the station’s FM Digital ERP).
- Submit an application to the Media Bureau, in the form of an informal request, for any increase in FM Digital ERP beyond 6 dB. Licensees submitting such a request must use a simplified method set forth in the *Order* to determine the proponent station’s maximum permissible FM Digital ERP. In situations where the simplified method is not applicable due to unusual terrain or other environmental or technical considerations or when it produces anomalous FM Digital ERP results,

the Bureau will accept applications for FM Digital ERP in excess of -14 dBc. Such an application must be accompanied by a detailed showing containing a complete explanation of the prediction methodology used as well as data, maps and sample calculations. The Media Bureau will evaluate these applications on a case-by-case basis.

- Resolve promptly allegations of digital interference to an authorized FM analog facility resulting from an FM Digital ERP power increase undertaken pursuant to the procedures adopted in the *Order*. Specifically, if an analog FM station is receiving verifiable listener complaints of interference within its protected contour from FM digital facilities operating with FM Digital ERP in excess of -20 dBc, the licensee of the affected analog FM station must contact the licensee of the station operating the FM digital facilities. Stations are required to work cooperatively to confirm the instances of interference. If the stations fail to reach agreement on appropriate interference remediation measures, the licensee of the affected analog FM station may file an interference complaint with the Bureau.

Recordkeeping and Other Compliance Requirements

The increase of FM Digital ERP as authorized in the *Order* is at the option of the licensee. As noted above, a broadcast licensee may opt not to increase its power. The rule change will allow eligible authorized FM stations to commence operation of FM digital facilities with operating power up to -14 dBc upon notice to the Commission. The rule change will further allow licensees to submit an application to the Media Bureau, in the form of an informal request, for any increase in FM Digital ERP beyond 6 dB (or, in the case of super-powered stations, any increase in Digital ERP). Licensees submitting such a request must use a simplified method set forth in the *Order* to determine the proponent station's maximum permissible FM Digital ERP. In situations where the simplified method is not applicable due to unusual terrain or other environmental or technical considerations or when it produces anomalous FM Digital ERP results, the Bureau will accept applications for FM Digital ERP in excess of -14 dBc on a case-by-case basis when accompanied by a detailed showing containing a complete explanation of the prediction methodology used as well as data, maps and sample calculations.

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Report – DA 10-208, released on January 29, 2010.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-208A1.pdf