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Before the
Federal Communications Commission
Washington, D.C. 20554

2001 AUG 13 P 3: 12

In the Matter of	)	CC 94-102
	)	
Amendment of Section 95.413 of the Commission's Rules Prohibiting Communications or Attempts to Communicate with Citizens Band Radio Service Stations More Than 250 Kilometers Away	)))))	RM-9807

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ORDER ON RECONSIDERATION

Adopted: July 30, 2001 **Released:** August 1, 2001

By the Deputy Chief, Wireless Telecommunication Bureau:

1. *Introduction.* On September 19, 2000, Alan Dixon (Dixon) filed a petition for reconsideration (Petition)[1] of the action by the Associate Chief, Wireless Telecommunication Bureau (Bureau), denying the above-captioned Petition for Rule Making in the Citizens Band (CB) Radio Service.[2] For the reasons discussed below, we deny the Petition.

2. *Background.* The Commission's Rules prohibit a CB station from communicating with or attempting to communicate with any CB station more than 250 kilometers (155.3 miles) away,[3] and from communicating with stations in other countries (except General Radio Service stations in Canada).[4] On November 3, 1999, Dixon filed a Petition for Rule Making in the CB Radio Service.[5] The Petition for Rule Making requested amendment of the CB Radio Service rules to eliminate these prohibitions, subject to any restrictions or exclusions that may be imposed by either the international *Radio Regulations* (*Radio Regulations*) or the government of any country subject to the *Radio Regulations*.[6]

3. The Bureau denied Dixon's Petition for Rule Making, concluding that the request was inconsistent with the purpose of the CB Radio Service and could fundamentally alter the nature of the service.[7] Specifically, the Bureau noted that the Commission's rules prohibit long-distance and

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[1] Dixon Petition for Reconsideration, filed September 19, 2000 (Petition).

[2] Amendment of Section 95.413 of the Commission's Rules Prohibiting Communications or Attempts to Communicate with Citizens Band Radio Service Stations More Than 250 Kilometers Away, *Order*, 15 FCC Rcd 18828 (WTB 2000) (*Order*).

[3] 47 C.F.R. § 95.413(a)(9).

[4] 47 C.F.R. § 95.413(a)(11).

[5] *See* Petition for Rule Making, RM-9807, filed by Alan Dixon, on November 3, 1999 (Petition for Rule Making).

[6] *See id.* at 5-8.

[7] *Order*, 15 FCC Rcd at 18828 ¶ 1.

international communications in order to ensure that the CB Radio Service is used for the purposes for which it was authorized, *i.e.*, to provide for short-distance personal and business radiocommunications.[8] The Bureau also concluded that, if granted, the Petition for Rule Making would transform the CB Radio Service from a short-distance voice communications service (where long-distance communications inadvertently can occur) to an examination-free amateur radio-type service, in which long-distance communications would become permissible communications. In this connection, the Bureau determined that such a result would contravene the Commission's express intention not to create a service paralleling the amateur service when it authorized the CB Radio Service.[9] As a result, Dixon's Petition for Rule Making was denied.[10]

4. On September 19, 2000, Dixon filed the instant Petition seeking reconsideration of the Bureau's denial of his Petition for Rule Making. Dixon states that the *Order* did not address one key point of the original Petition for Rule Making, *i.e.*, the special case of emergency communications,[11] and whether there should be a limit on distance of communications where life or safety may be involved.[12] Dixon also asks that we clarify whether the Commission ever intended to actually place a limit on distance of communications in situations where safety of life is concerned, and that we amend the rules to specifically permit emergency communications in excess of 155.3 miles.[13]

5. The Commission sought comment on Dixon's Petition.[14] Comments were received from R.K. Leef, Harold A. Ort, and Egbert C. Craig, Jr. Reply comments were received from the petitioner. No comments opposed the Petition. Rather, the comments reiterate arguments considered in the *Order*.[15] Messers. Leef and Ort, for example, state that communications in excess of 250 kilometers on CB Radio Service channels are inadvertent due to the propagation characteristics of these channels.[16] Mr. Craig states that we should rule in favor of the Petition for Rule Making, and that his interest in amateur radio would never have been sparked were it not for long-distance propagation on the CB Radio Service channels.[17] Mr. Dixon states that the lack of comments against his Petition gives credence to its intent,[18] and that permitting unfettered access to communications at roadway and roadside locations can well

[8] *Id.* at 18830 ¶ 6.

[9] *Id.* at 18832 ¶ 7.

[10] *Id.* at 18834 ¶ 12.

[11] Emergency communications include essential communications needs in connection with the immediate safety of human life and immediate protection of property. *Order*, 15 FCC Rcd at 18829 n. 6.

[12] Petition at 1.

[13] *Id.* at 2-3.

[14] Petition for Reconsideration and Clarification of Action in Rulemaking Proceeding, *Public Notice*, Report No. 2474, 66 Fed. Reg. 17557 (Apr. 2, 2001).

[15] *Order*, 15 FCC Rcd at 18829 ¶ 4.

[16] R.K. Leef Comments at 1; Harold A. Ort Comments at 1.

[17] Egbert C. Craig, Jr., Comments at 1.

[18] Alan Dixon Reply Comments at 1.

prevent an urgent situation from becoming an emergency situation.[19]

6. *Discussion.* We affirm our ruling denying Dixon's Petition for Rule Making. As an initial matter, we disagree with the petitioner's claim that the *Order* did not address emergency communications or the applicability of a limit on the distance of these communications. In this regard, the *Order* noted that the Petition for Rule Making requested that CB operators not be constrained from contacting distant CB stations in order to facilitate communications for various purposes, including emergency and disaster communications.[20] The *Order* denied this request, for the reasons noted above. Because the denial was based on our conclusion that the request was inconsistent with the purposes for which the CB Radio Service was authorized, we do not believe that it was necessary to address specifically every type of communications for which the service may be used. Rather, we believe that the denial of the Petition for Rule Making mooted the need to address the applicability of requested change to specific types of messages or the use of CB Radio Service stations for specific purposes.

7. With regard to the merits of the Petition, we note that the limit on the distance that CB stations may communicate was codified in a proceeding that included a comprehensive reorganization of the rules for the Citizens Radio Service (as this service was then known) to make these rules easier for people to read and understand.[21] As part of this proceeding, every rule applicable to CB Radio Service stations was reviewed and the Commission eliminated those regulations and restrictions found to be unnecessary.[22] The revised rules recognized and allowed for CB Radio Service stations to be used to assist a motorist or during an emergency involving the immediate safety of life of individuals or the immediate protection of property.[23] The rules also stated that, when used for transmission of emergency communications, certain operating rules did not apply.[24] The reorganized and revised rules, however, did not include any waiver, exclusion, or exception that would permit a CB Radio Service station transmitting emergency or assistance to motorist communications to communicate or attempt to communicate with other CB Radio Service stations over 150 miles away.[25]

8. With regard to Dixon's request that we clarify whether the Commission ever intended to actually place a limit on distance of communications in emergency situations, we believe that the Commission intended the CB Radio Service to be used for the express purpose for which it was authorized. In this regard, we note that there is nothing in the rules that indicates the Commission intended to permit any communication between CB Radio Service stations over 150 miles apart, even

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[19] *Id.* at 2.

[20] *Order*, 15 FCC Rcd at 18829 ¶ 3.

[21] *See* Class D Stations in Citizens Radio Service, 41 Fed. Reg. 56068, 56090-56091 (1976); *see also* Revision of Operating Rules for Class D Stations in the Citizens Radio Service, *First Report and Order*, Docket No. 20210, 54 FCC 2d 841, 842 ¶ 6 (1975).

[22] *See* Class D Stations in Citizens Radio Service, 41 Fed. Reg. at 56068.

[23] 47 C.F.R. § 95.463(b) (1976).

[24] 47 C.F.R. § 95.463(b)(1) (1976). The essence of these rules and exceptions remain in the rules currently applicable to the CB Radio Service. *See* 47 C.F.R. § 95.418.

[25] 47 C.F.R. § 95.463(b)(1) (1976). The prohibition against CB Radio Service stations communicating with other CB Radio Service stations over 150 miles away was codified in 47 C.F.R. § 95.501(b) (1976).

though it was aware that long-distance communications could inadvertently occur,[26] or that the Commission intended primary uses of the CB Radio Service to include public safety, emergency, or disaster communications.

9. With regard to the Petition's request that we amend the rules to specifically permit emergency communications in excess of 155.3 miles, we do not believe this amendment is necessary. As an initial matter, we note that individuals who find themselves in emergency situations are likely to have stations in other radio services, such as amateur, marine, land mobile stations, or cellular or other wireless telephones, available either to them or to another individual close to the emergency location. Further, we believe that messages from these stations are more likely to result in the individual quickly obtaining the needed emergency services. In this regard, we note that mobile communication capabilities generally, and the wireless telephone services in particular, have become widely available since the CB Radio Service was authorized and these mobile services have become a common method of reporting emergency situations to emergency service providers. We also note that wireless telephones and certain other stations are, or can be, automatically interconnected with the public switched telephone network and, therefore, the public safety response systems, a capability that is not available to CB Radio Service stations.[27] Additionally, we note that Enhanced 911 systems will have the capability to determine the location of a cellular unit transmitting a message,[28] which also is a capability not available to a CB Radio Service station that hears an emergency message. Moreover, we note that there is nothing in the CB Radio Service rules that prevents an individual who receives a message that contains a request for emergency assistance, regardless of how far away the transmitting station is, from using other communications services to inform public safety providers of the need for assistance.[29]

10. Based on the foregoing, we decline to reverse or revise our conclusion that the Petition for Rule Making was inconsistent with the purpose of the CB Radio Service and could fundamentally alter the nature of the service, and we conclude that the Bureau considered the matters raised in the Petition. Accordingly, we deny Dixon's Petition for Reconsideration.

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[26] *See* Revision of Operating Rules for Class D Stations in the Citizens Radio Service, *Second Report and Order*, Docket No. 20210, 60 FCC 2d 762 (1976) (Commission authorized Citizens Radio Service seventeen additional channels that also were subject to long-distance "skip" propagation).

[27] 47 C.F.R. § 95.420.

[28] *See* Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Fourth Memorandum Opinion and Order*, CC Docket No. 94-102, 15 FCC Rcd 17442, 17449 ¶ 17-18 (2000).

[29] In this regard, we note that radio communications transmitted by CB Radio Service station operators are specifically exempted from the prohibition against unauthorized publication of communications. *See* 47 U.S.C. § 605(a).

11. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, Alan Dixon's Petition for Reconsideration, filed September 19, 2000, IS DENIED.

12. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen O'Brien Ham
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Wireless Telecommunications Bureau