

receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before April 21, 2004.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in Part (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section of the related direct final rule which is published in the rules section of this **Federal Register**.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Acting Chief, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

**FOR FURTHER INFORMATION CONTACT:** Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052 [rosenthal.steven@epa.gov](mailto:rosenthal.steven@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final notice which is located in the rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Steven Rosenthal at (312) 886-6052 before visiting the Region 5 Office.)

Dated: February 19, 2004.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*  
[FR Doc. 04-6308 Filed 3-19-04; 8:45 am]

**BILLING CODE** 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 63

[IB Docket No. 04-47, FCC 04-40]

#### Amendment of the Commission's Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend several of the Commission's rules regarding the provision of international telecommunications service. This document also proposes to clarify the intent of certain rules. The

proposed rule changes will remove unnecessary burdens on the public and the agency.

**DATES:** Comments are due to be filed by May 6, 2004, and reply comments are due to be filed by June 7, 2004. Office of Management and Budget (OMB), the general public, and other Federal agencies are invited to comment on the information collection requirements on or before May 21, 2004. Written comments on the proposed information collection requirements must be submitted by the public, OMB, and other interested parties on or before May 21, 2004.

**ADDRESSES:** Federal Communications Commission, Secretary, 445 12th Street, SW., Room TW-B204F, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [JudithB.Herman@fcc.gov](mailto:JudithB.Herman@fcc.gov) and Kristy L. LaLonde, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 via the Internet to [Kristy.L.LaLonde@omb.eop.gov](mailto:Kristy.L.LaLonde@omb.eop.gov) or via fax at 202-395-5167.

**FOR FURTHER INFORMATION CONTACT:** Peggy Reitzel, Policy Division, International Bureau, (202) 418-1499. For additional information concerning the information collection requirements subject to the Paperwork Reduction Act contained in this Order contact Judith B. Herman at (202) 418-0214, or via the Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**SUPPLEMENTARY INFORMATION** This is a summary of the Commission's *Notice of Proposed Rulemaking*, IB Docket No. 04-47, FCC 04-40, adopted on February 25, 2004, and released on March 4, 2004. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257) of the Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. The document is also available for download over the Internet at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-04-40A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-40A1.pdf). The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: 202-863-2893, fax: 202-863-2898, e-mail [qualexint@aol.com](mailto:qualexint@aol.com). This Order contains proposed information collections subject to the Paperwork Reduction Act

of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the proposed information collections contained in this proceeding.

#### Summary of Report and Order

1. As part of the 2002 biennial regulatory review proceeding, the Commission received comments on proposed changes to the rules contained in 47 CFR part 63. Based on its review of the rules and various comments, the International Bureau recommended that the Commission undertake a proceeding to review several rules in part 63 for reasons other than developments in the level of competition. The International Bureau recommended that the Commission institute a proceeding to explore whether there are less burdensome means of applying the public interest goals of part 63 to carriers. The Notice of Proposed Rulemaking (NPRM) seeks comment on those recommendations made by the International Bureau. In addition, the NPRM also seeks comment on whether to amend § 1.767 of the Commission's rules regarding procedures for Commission consideration of applications for cable landing licenses. The proposed rule changes would remove unnecessary burdens on both the public and the Commission.

2. The NPRM seeks comment on whether to modify the international discontinuance procedures so that they are more consistent with the procedures for domestic services. At present there are several differences between the discontinuance procedures for international and domestic services, including the length of notice required. The procedures for discontinuing an international service are contained in 47 CFR 63.19. The item seeks comment on the appropriate notice period so customers will have sufficient time to secure an alternative provider for their U.S.-international services before their existing service is discontinued. The NPRM also seeks comment on which, if any, of the procedures for discontinuance of a domestic service should also be used for the discontinuance of an international service by a U.S.-carrier and which procedures should be different.

3. The NPRM requests comment on whether the Commission should exempt certain commercial mobile radio service (CMRS) carriers from the requirement to file an application for international section 214 authority prior to providing international service on a purely

switched resale basis. The exemption would apply to CMRS carriers that are either (1) unaffiliated with any foreign carrier with market power at the foreign end of the route, or (2) where the CMRS provider has an affiliation with such a foreign carrier and seeks to provide international service by reselling directly or indirectly the international switched services of U.S. carriers with which it is not affiliated. Currently, CMRS carriers only provide international service on a resale basis. The NPRM seeks comment on whether national security, law enforcement, foreign policy or trade issues are present where a CMRS carrier unaffiliated with a dominant foreign carrier merely resells international switched services of unaffiliated U.S. carriers. Further, the NPRM asks whether a 30-day notification requirement would be sufficient to address any such Executive Branch concerns. The NPRM also seeks comment on whether CMRS carriers can be distinguished from other pure resellers (those who would remain subject to prior Commission approval of international section 214 authority) because of (1) the *de minimis* nature of CMRS resale of switched voice services and (2) the fact that CMRS carriers also hold Title III licenses from the Commission.

4. The NPRM proposes to amend § 63.18(e)(2) to allow carriers with global resale authority to resell the U.S.-inbound international services of both U.S. based and foreign common carriers. The NPRM also proposes to amend § 63.23 to allow carriers to resell services between the United States and all international points. The NPRM seeks comment on these proposed changes to the rules. Under the current rules it is not clear whether a U.S.-CMRS carrier can provide international roaming—which allows the CMRS customer traveling in a foreign country to call back to the United States—by reselling the services of foreign carriers under its global resale authority. There is a great need for clarity with regard to this issue because CMRS carriers currently provide increasingly more international roaming service.

5. The NPRM seeks comment on whether to amend § 63.21(h) to allow commonly-controlled subsidiaries to provide international service pursuant to their parent's international section 214 authorization. Currently only a wholly-owned subsidiary may provide international service pursuant to its parent's authorization. A commonly-controlled subsidiary must obtain its own international section 214 authorization. The NPRM seeks comment on whether there is a

maximum percent of differing ownership that should be allowed (*e.g.*, 10 percent, 20 percent) before a subsidiary would be required to obtain its own authorization. The NPRM also seeks comment on the potential national security, law enforcement, foreign policy, or trade issues that may be raised because of the differing ownership of the commonly-controlled subsidiary.

6. The NPRM seeks comment on whether the Coastal Zone Management Act of 1972 (CZMA) applies to cable landing license applications, and, if so, whether the Commission should modify § 1.767 to ensure compliance with the CZMA. Currently, the Commission does not require applicants to comply with the CZMA. The CZMA authorizes coastal states to develop coastal management plans, subject to Federal approval through the National Oceanic and Atmospheric Administration (NOAA). Under the CZMA, States with federally-approved programs are entitled to review for consistency with those programs any "required federal license or permit to conduct an activity, in or outside of the coastal zone, "affecting any land or water use or natural resource of the coastal zone of that state." The NPRM also seeks comment on alternative options to implement compliance with the CZMA if it is determined that such compliance is required.

7. The NPRM proposes to amend § 63.24 to clarify that an international section 214 authorization holder must notify the Commission of a change from more than 50 percent ownership to 50 percent or less but still controlling ownership interest. Currently, the rule states that only a change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. The NPRM also proposes to amend § 63.24 in order to make it clear that an asset acquisition that will not result in a loss of service for customers should be treated as an assignment of assets rather than a discontinuance of service. The NPRM seeks comment on these proposed changes.

#### Procedural Matters

##### *Paperwork Reduction Act*

Initial Paperwork Reduction Act of 1995 Analysis

8. This NPRM contained proposed new information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information

collection(s) contained in this NPRM, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. Public and agency comments are due May 21, 2004. PRA comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Control Number:* 3060-0686.

*Title:* Streamlining the International Section 214 authorization Process and Tariff Requirements.

*Form No.:* Not applicable.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business and other for-profit entities.

*Number of Respondents:* 410.

*Estimated Time Per Response:* 4 hours.

*Frequency of Response:* On occasion reporting requirement and third party disclosure requirement.

*Total Annual Burden:* 20 hours.

*Total Annual Costs:* \$3,000.

*Needs and Uses:* The information will be used by the Commission staff in carrying out its duties under the Communications Act. The information collections are necessary to notify customers of discontinuance in service. The information will be used to ensure compliance with the Coastal Zone Management Act of 1971. Also, the information will be used by the Commission to determine the qualifications of applicants to provide common carrier international telecommunications service, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The information collections are necessary to maintain effective oversight of U.S. international carriers generally. The notification requirements will ensure that the Commission's records accurately reflect the identity of every authorized carrier as well as other needed information.

9. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule

will not have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

10. In this NPRM, the Commission seeks comment on possible changes to its international section 214 authorization process, cable landing license process, and the rules relating to the provision of U.S.-international telecommunications services. As discussed above, the Commission has continually reviewed its rules regarding the authorization of international services under section 214 of the Act. Through this review, we have sought to: Facilitate the introduction of new services; provide customers with more choices, innovative services, and competitive prices; improve our processing of authorization applications and regulation of international services; and lessen regulatory burdens placed on carriers. As part of our 2002 biennial regulatory review proceeding, the Commission received comments on proposed changes to the rules contained in part 63. This proceeding reviews several rules in part 63.

11. The rule changes discussed in the NPRM, if adopted, would make the

international discontinuance rules more consistent with domestic service rules. In addition, we seek comment on whether to eliminate the requirement for CMRS carriers to apply for section 214 authority to provide international service to their customers through the pure resale of the switched services of other U.S. carriers. The proposal in the NPRM would remove confusion as to whether a CMRS carrier requires authority to resell U.S. inbound service of a foreign carrier for the U.S.—CMRS carrier's customers that are roaming in a foreign country. We also seek comment on whether to amend § 1.767 of its rules to assure compliance with the CZMA. Finally, the NPRM seeks comment on whether to expand the authority of a carrier's international section 214 authority to commonly-controlled subsidiaries.

12. We believe that the proposals are in the public interest and will lessen the burdens on all carriers providing international common carrier service pursuant to section 214 of the Act, including those carriers that are small entities. Therefore, we certify that the proposals in this NPRM, if adopted, will not have a significant economic impact on a substantial number of entities. If commenters believe that the proposals discussed in the NPRM require additional RFA analysis, they should include a discussion of the issues in their comment and label them as RFA comments. The Commission will send a copy of the NPRM, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, summaries

of the NPRM and initial certification will be published in the **Federal Register**.

13. *Report to Congress:* The Commission will send a copy of the NPRM, including a copy of the Initial Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the NPRM and this Certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration and will be published in the **Federal Register**, 5 U.S.C. 605(b).

#### *Ordering Clauses.*

14. Pursuant to the authority contained in sections 1, 4, 10, 11, 201–205 214, 218, 403, and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 155, 161, 201–205, 214, 218, 219, 220, 225, 303(r), 309, 325, 403, and 571 this Notice of Proposed Rulemaking *is hereby adopted*.

15. The Commission's Consumer Information and Government Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 04–6317 Filed 3–19–04; 8:45 am]

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