



Office of the General Counsel

B-280724

August 14, 1998

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: Vehicle Monitoring Systems

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "Vehicle Monitoring Systems" (PR Docket No. 93-6; FCC 98-157). We received the rule on July 28, 1998. It was published in the Federal Register as a final rule on July 30, 1998. 63 Fed. Reg. 40659.

The rule adopts the FCC's competitive bidding rules for the auction of multilateration Location and Monitoring Service (LMS) licenses.¹ The rule also defines small business entities in two ways, e.g., an entity is a "small business" if it had average annual gross revenues for the preceding 3 years not in excess of \$15 million, or a "very small business" if its annual gross revenues for the preceding 3 years were not in excess of \$3 million. Non-cumulative bidding credits of

¹Multilateration LMS systems are designed to locate vehicles throughout a wide geographic area. LMS systems according to the FCC refer to advanced radio technologies to support the nation's transportation infrastructure and to facilitate the growth of "intelligent transportation systems" which are intended to improve the efficiency and safety of the highways.

25 percent are provided for small business bidders and 35 percent for very small business bidders.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements.

If you have any questions about this report, please contact Alan Zuckerman, Assistant General Counsel, at (202) 512-4586. The official responsible for GAO evaluation work relating to the Federal Communications Commission is Judy England-Joseph, Director of Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Kathleen Fagan
AMD-Performance Evaluation
and Records Management
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"VEHICLE MONITORING SYSTEMS"
(PR Docket No. 93-61; FCC 98-157)

(i) Cost-benefit analysis

The FCC's submission to us stated that it was not required to prepare and did not prepare a cost-benefit analysis of the rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The initial regulatory flexibility analysis (IRFA) was incorporated in the notice of proposed rulemaking, 62 Fed. Reg. 52078, October 6, 1997. The FCC sought comments on the proposed rulemaking, including comments on the initial regulatory flexibility analysis.

The IRFA provides the information required by paragraphs 603(b)(1), (b)(2), (b)(3), and (b)(4). It describes the reasons for the proposed agency action; its objectives; the legal basis; and the reporting, recordkeeping, and other compliance requirements of the proposed rule. Also, the FCC notes that inasmuch as the proposed rule will establish certain multilateration LMS spectrum blocks for bidding by small as well as large entities, the IRFA requests commenters to assist the FCC in its analysis of the number and description of small entities and its assessment of the impact of the proposed rule on small entities by providing such information in their comments. In addition, in accordance with 603(b)(5), the FCC notes that there are no federal rules that may duplicate, overlap, or conflict with the proposed rule.

Section 604:

The final rule contains the full text of the FCC's final regulatory flexibility analysis. 63 Fed. Reg. 40661. The FCC satisfies the requirements of § 604(a). It describes the need for and objective of the final rule. It notes that no significant issues were raised by public comments in response to the IRFA.

Finally, the FCC describes the steps taken to minimize the economic impact on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The FCC promulgated this rule under the notice and comment procedures of 5 U.S.C. § 553. A notice of proposed rulemaking was published on October 6, 1997, 62 Fed. Reg. 52078. The FCC received comments in response to the notice and in its report indicates that it gave full consideration to the comments filed by the interested parties.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The FCC requests comments on the proposed information collection requirements for the rule, noting that it may not conduct a collection of information without a valid control number which has not yet been obtained. These comments are due by September 28, 1998.

Statutory authorization for the rule

The authority for this final rule is contained in 47 U.S.C. §§ 154(i), 257, 303(r), 309(j).

Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of E.O. 12866.