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SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG-2002-11288), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

Background and Purpose

On March 10, 2005, the Coast Guard published an interim rule in the **Federal Register** (70 FR 12082) to update the rates for pilotage on the Great Lakes.

In comments to the docket, the Coast Guard has received three requests from the public to extend the comment period by 30 days.

We have decided to grant this request for an extension of the comment period from June 8, 2005 to July 8, 2005. This will allow the Coast Guard to collect and review all comments before issuing a final rule.

Dated: June 2, 2005.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 05-11398 Filed 6-7-05; 8:45 am]

BILLING CODE 4910-15-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[DA-05-1524]

Possible Revision or Elimination of Rules

AGENCY: Federal Communications Commission.

ACTION: Review of regulations under the Regulatory Flexibility Act of 1980; comments requested.

SUMMARY: This document invites members of the public to comment on the Federal Communication Commission's (FCC's or Commission's) rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act of 1980, as amended (RFA). The purpose of the review is to determine whether Commission rules whose ten-year anniversary dates are in the years 2002 through 2005, as contained in the Appendix, should be continued without change, amended, or rescinded in order to minimize any significant impact the rules may have on a substantial number of small entities. Upon receipt of comments from the public, the Commission will evaluate those comments and consider whether action should be taken to rescind or amend the relevant rule(s).

DATES: Comments may be filed on or before September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Eric Malinen or Allan Manuel, Office of Communications Business Opportunities, Federal Communications Commission, (202) 418-0990. People

with disabilities may contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554.

SUPPLEMENTARY INFORMATION: Each year the Commission will publish a list of ten-year old rules for review and comment by interested parties pursuant to the requirements of Section 610 of the RFA.

Public Notice—FCC Seeks Comment Regarding Possible Revision or Elimination of Rules Under the Regulatory Flexibility Act, 5 U.S.C. 610

Released: May 31, 2005

1. Pursuant to the RFA, *see* 5 U.S.C. 610, the FCC hereby publishes a plan for the review of rules adopted by the agency in calendar years 1993, 1994 and 1995 which have, or might have, a significant economic impact on a substantial number of small entities. The purpose of the review is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of Section 610 of the RFA, to minimize any significant economic impact of such rules upon a substantial number of small entities.

2. This document lists the FCC regulations to be reviewed during the next twelve months. In succeeding years, as here, the Commission will publish a list for the review of regulations promulgated ten years preceding the year of review.

3. In reviewing each rule under this plan to minimize the possible significant economic impact on a substantial number of small entities, consistent with the requirements of Section 610, the FCC will consider the following factors:

- (a) The continued need for the rule;
- (b) The nature of complaints or comments received concerning the rule from the public;
- (c) The complexity of the rule;
- (d) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, to the extent feasible, with State and local governmental rules; and
- (e) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

4. Appropriate information has been provided for each rule, including a brief

description of the rule and the need for and legal basis of the rule. The public is invited to comment on the rules chosen for review by the FCC according to the requirements of Section 610 of the RFA. All relevant and timely comments will be considered by the FCC before final action is taken in this proceeding. To file formally in this proceeding, participants should file an original and four copies of all comments with the Office of the Secretary, ATTN: OCBO. Comments will be available for public inspection during regular business hours in the FCC's Reference Information Center, Rm. CY-A257, 445 12th Street, S.W., Washington, DC 20554. For additional information on the requirements of the RFA visit www.fcc.gov/ocbo.

Federal Communications Commission.

Carolyn Fleming Williams,

Director, Office of Communications and Business Opportunities.

Appendix

List of rules for review pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 610, for 1993, 1994 and 1995. All listed rules are in Title 47 of the Code of Federal Regulations.

Part 1—Practice and Procedure

Subpart A—General Rules of Practice and Procedure

Brief Description: These rules provide that non-licensee tower owners may be subject to forfeiture for violations of the painting and/or lighting requirements for radio towers as prescribed by the Commission without a prior citation under certain conditions. These rules also extend the statute of limitations for issuing forfeitures to broadcast station licensees to encompass the entire current license term and clarify the meaning of "current license term."

Need: These rules restate the statutory language of 47 U.S.C. 503(b)(5)(6) and 47 U.S.C. 503(b)(6).

Legal Basis: Secs. 4, 202, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; 5 U.S.C. 552; 21 U.S.C. 853a.

Section Number and Title:

1.80(c)(1), 1.80(d) Forfeiture Proceedings.

Subpart E—Complaints, Applications, Tariffs, and Reports Involving Common Carriers

Brief Description: Part 1, subpart E implements section 208 of the Communications Act of 1934, as amended. Section 208 permits any person to lodge a complaint with the Commission against a common carrier alleging a violation of the Act. Section 208 places a duty on the Commission to forward the complaint to the common carrier(s) involved which, in turn, must either satisfy the complaint or answer it in writing within a time period specified by the Commission. Subpart E establishes the rules for the submission and treatment of two categories of complaints: (1) Formal

complaints, governed by §§ 1.720–1.736; and (2) informal complaints, governed by §§ 1.716–1.719. The informal complaint rules emphasize ease of filing by consumers and voluntary cooperative efforts by consumers and affected companies to resolve their differences informally. The Consumer & Governmental Affairs Bureau's analysis of part 1, subpart E will be limited to informal complaints.

Need: The informal complaint rules are designed to facilitate the efficient and expeditious processing of informal consumer complaints in order to promote maximum compliance with the requirements of the Act and the Commission's rules and implementing orders. To ensure access and ease of use by individual consumers, the informal complaint rules do not contain the procedural, evidentiary, and fee requirements prescribed for formal complaints. A person not satisfied with the carrier's response to an informal complaint or with the Commission's disposition of the informal complaint may file a formal complaint on the same cause of action subject to certain limitations.

The Commission added a new section to the informal complaint rules in 2000 in response to the enactment of section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, broadening the Commission's authority to combat "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telecommunications service. The new section of the informal complaint rules cross-referenced the Commission's slamming liability rules at part 64, subpart K, and provided that a subscriber unsatisfied with the resolution of an informal slamming complaint had 45 days to file a formal complaint.

Legal Basis: 47 U.S.C. 208, 258.

Section Number and Title:

1.716 Form.

1.717 Procedure.

1.718 Unsatisfied informal complaints; formal complaints relating back to the filing dates of informal complaints.

1.719 Informal complaints filed pursuant to section 258.

Brief Description: These rules set forth many of the procedures that must be followed in order to prosecute and/or defend a formal complaint filed against a common carrier pursuant to section 208 of the Communications Act (47 U.S.C. 208) alleging a violation of the Communications Act.

Need: These rules result in the effective, efficient, and timely resolution of formal complaints.

Legal Basis: 47 U.S.C. 154(i), 154(u)(j), 208, 303(r).

Section Number and Title:

1.720 General pleading requirements.

1.724 Answers.

1.726 Replies.

1.727 Motions.

1.729 Interrogatories to parties.

1.731 Confidentiality of information produced through discovery.

1.732 Other required written submissions.

1.733 Status conference.

1.734 Specification as to pleadings, briefs, and other documents; subscription.

1.735 Copies; service; separate filings against multiple defendants.

Brief Description: Directions on how to file applications, including the place of filing, the amount of fees, who may sign the application, and the number of copies required.

Need: These rules provide general directions on where to file applications, the amount of fees, the number of copies and who may sign the application.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

1.742 Place of filing, fees, and number of copies.

1.743 Who may sign applications.

Brief Description: The rules in part 1, subpart E, prescribe the procedures, format, and content of complaints, applications, tariffs, and reports involving common carriers. Section 1.773 sets forth the procedures for filing petitions and replies to petitions seeking investigation, suspension, or rejection of new tariff filings.

Need: Sections 1.773(a)(2)(ii), 1.773(a)(4), and 1.773(b)(1)(ii) were adopted to adjust the pleading cycle for petitions seeking investigation, suspension, or rejection of tariff filings made on 14 days' notice. They are intended to provide the Commission with additional time to review pleadings filed in 14-day tariff proceedings and to ensure notice to the filing carrier.

Legal Basis: 47 U.S.C. 154, 201–205, 303.

Section Number and Title:

1.773(a)(2)(ii), 1.773(a)(4), and 1.773(b)(1)(ii)

Petitions for suspension or rejection of new tariff filings.

Brief Description: Annual financial filing report by telephone carriers and affiliates as required by part 43.

Need: These rules provide a filing requirement to the Commission per part 43 of the Commission's rules.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

1.785 (a) Annual financial reports.

Subpart G—Schedule of Statutory Charges and Procedures for Payment

Brief Description: Schedule of charges for applications.

Need: Section 1.1102 through 1.1107 rules are tables that identify the application fees that are charged by the Commission for renewing, modifying, or when applying for a new license. These fees are adjusted periodically to incorporate cost-of-living increases, and other increases in fees. Section 1.1108 through 1.1119 rules describe the type and form of payment, where it should be sent and how the payment should be processed, as well as rules governing exemptions, refunds, and penalties associated with the charges in §§ 1.1102 through 1.1107.

Legal Basis: 47 U.S.C. 158(b).

Section Number and Title:

1.1102 Schedule of charges for applications and other filings in the wireless telecommunications services.

1.1103 Schedule of charges for equipment approval, experimental radio services, and international telecommunications settlement services.

- 1.1104 Schedule of charges for applications and other filings for media services.
- 1.1105 Schedule of charges for applications and other filings for the wireline competition service.
- 1.1106 Schedule of charges for applications and other filings for the enforcement service.
- 1.1107 Schedule of charges for applications and other filings for the international service.
- 1.1108 Attachment of charges.
- 1.1109 Payment of charges.
- 1.1110 Form of payment.
- 1.1111 Filing locations.
- 1.1112 Conditionality of Commission or staff authorizations.
- 1.1113 Return or refund of charges.
- 1.1114 General exemptions to charges.
- 1.1115 Adjustments to charges.
- 1.1116 Penalty for late or insufficient payments.
- 1.1117 Petitions and applications for review.
- 1.1118 Error claims.
- 1.1119 Billing procedures.

Brief Description: Schedule of annual regulatory fees and filing locations.

Need: These rules provide the authority for the Commission to impose and collect regulatory fees, as well as identify possible exemptions, adjustments, penalties, and waivers of these fees.

Legal Basis: 47 U.S.C. 159(a).

Section Number and Title:

- 1.1151 Authority to prescribe and collect regulatory fees.
- 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.
- 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.
- 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.
- 1.1155 Schedule of annual regulatory fees and filing locations for cable television services.
- 1.1156 Schedule of annual regulatory fees and filing locations for international services.
- 1.1157 Payment of charges for regulatory fees.
- 1.1158 Form of payment for regulatory fees.
- 1.1159 Filing locations and receipts for regulatory fees.
- 1.1160 Refunds of regulatory fees.
- 1.1161 Conditional license grants and delegated authorizations.
- 1.1162 General exemptions from regulatory fees.
- 1.1163 Adjustments to regulatory fees.
- 1.1164 Penalties for late or insufficient regulatory fee payments.
- 1.1165 Payment by cashier's check for regulatory fees.
- 1.1166 Waivers, reductions and deferrals of regulatory fees.
- 1.1167 Error claims related to regulatory fees.

Subpart H—Ex Parte Communications

Brief Description: General instructions on exempt ex parte presentations and proceedings as they relate to new factual

information that becomes available in presentations made to the U.S. Department of Justice and the Federal Trade Commission involving telecommunications competition matters.

Need: These rules provide guidance on what types of ex parte presentations are exempt.

Legal Basis: 47 U.S.C 154(i), 154(i)(j), and 303(r).

Section Number and Title:

- 1.1204 Exempt ex parte presentations and proceedings.

Subpart Q—Competitive Bidding Proceedings

Brief Description: These rules provide competitive bidding procedures to choose from among two or more mutually exclusive applications for an initial license.

Need: The subpart Q rules establish a uniform set of competitive bidding rules and procedures for use in licensing of all services that are subject to licensing by auction. The rules in this subpart: (1) Describe which services are subject to competitive bidding; (2) provide competitive bidding mechanisms and design options; (3) establish application, disclosure and certification procedures for short- and long-form applications; and (4) specify down payment, withdrawal and default mechanisms. In addition, subpart Q contains rules by which the Commission determines eligibility for “designated entity” status (*i.e.*, small business, minority- and women-owned business, and rural telephone companies), and includes a schedule of bidding credits for which designated entities may qualify in those auctions in which special provisions are made for designated entities. The purpose of the designated entity provisions is to implement section 309(j)(3)(B) of the Communications Act of 1934, as amended, which states that an objective of designing and implementing the competitive bidding system is to “promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration in licenses and disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.”

Legal Basis: 47 U.S.C. 309(j).

Section Number and Title:

- 1.2101 Purpose.
- 1.2102 Eligibility of applications for competitive bidding.
- 1.2103 Competitive bidding design options.
- 1.2104 Competitive bidding mechanisms.
- 1.2105 Bidding application and certification procedures; prohibition of collusion.
- 1.2106 Submission of upfront payments.
- 1.2107 Submission of down payment and filing of long-form applications.
- 1.2108 Procedures for filing petitions to deny against long-form applications.
- 1.2109 License grant, denial, default, and disqualifications.
- 1.2110 Designated entities.
- 1.2111 Assignment or transfer of control: unjust enrichment.

Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations

Subpart B—Allocation, Assignment, and Use of Radio Frequencies

Brief Description: Footnote US315 states that, in the frequency bands 1530–1544 MHz and 1626.5–1645.5 MHz, maritime mobile-satellite distress and safety communications, *e.g.*, the Global Maritime Distress and Safety System (GMDSS), have priority access with real-time preemptive capability in the mobile-satellite service; that communications of mobile-satellite system stations not participating in the GMDSS will operate on a secondary basis to distress and safety communications of stations operating in the GMDSS; and that account must be taken of the priority of safety-related communications in the mobile-satellite service.

Need: Footnote US315 provides maritime mobile-satellite distress and safety communications with priority access and real-time preemptive capability in the specified bands over routine, non-safety related public correspondence.

Legal Basis: 47 U.S.C. 154, 302a, 303, and 336.

Section Number and Title:

- 2.106, footnote US315 Table of Frequency Allocations.

Brief Description: Footnote US237 states that the band 2310–2360 MHz is allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis; and that use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 of the International Telecommunication Union's *Radio Regulations*.

Need: Footnote US327 expands the broadcasting-satellite service in the band 2310–2360 MHz to include the complementary terrestrial broadcasting service and limits these uses to digital audio broadcasting.

Legal Basis: 47 U.S.C. 154, 302a, 303, and 336.

Section Number and Title:

- 2.106, footnote US327 Table of Frequency Allocations.

Brief Description: Footnote NG152 states that the band 219–220 MHz is also allocated to the amateur service on a secondary basis for stations participating, as forwarding stations, in point-to-point fixed digital message forwarding systems, including intercity packet backbone networks.

Need: Footnote NG152 helps alleviate congestion that amateurs experience in certain areas of the country in the band 222–225 MHz and facilitates establishment of regional and nationwide networks for amateur digital packet communications.

Legal Basis: 47 U.S.C. 154, 302a, 303, and 336.

Section Number and Title:

- 2.106, footnote NG152 Table of Frequency Allocations.

Part 11—Emergency Alert System (EAS)

Subpart A—General

Brief Description: These rules describe the required technical standards and operational

procedures of EAS for AM, FM, and TV broadcast stations, cable systems, and other participating entities.

Need: In employing consistent technical standards and operational procedures for all participating entities, these rules will result in orderly distribution of emergency messaging in the event an emergency is activated.

Legal Basis: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

Section Number and Title:

- 11.1 Purpose.
- 11.11 The Emergency Alert System (EAS).
- 11.12 Two-tone Attention Signal encoder and decoder.
- 11.13 Emergency Action Notification (EAN) and Emergency Action Termination (EAT).
- 11.14 Primary Entry Point (PEP) System.
- 11.15 EAS Operating Handbook.
- 11.16 National Control Point Procedures.
- 11.18 EAS Designations.
- 11.19 EAS Non-participating National Authorization Letter.
- 11.20 State Relay Network.
- 11.21 State and Local Area Plans and FCC Mapbook.

Subpart B—Equipment Requirements

Brief Description: These rules describe EAS protocol for emergency event codes and EAS equipment requirements.

Need: Establishing quality and compatibility standards for EAS equipment will ensure technological interoperability and result in delivery of responsive, robust, and redundant emergency messaging.

Legal Basis: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

Section Number and Title:

- 11.31 EAS Protocol.
- 11.32 EAS Encoder.
- 11.33 EAS Decoder.
- 11.34 Acceptability of the Equipment.
- 11.35 Equipment operational readiness.

Subpart C—Organization

Brief Description: These rules describe participation standards and acceptable uses of EAS for all participating entities. The rules also set message priorities from the Presidential level down to the state and local levels.

Need: By setting participation standards and acceptable uses, these rules ensure the integrity of EAS for the Presidential message priority in the event of a national emergency.

Legal Basis: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

Section Number and Title:

- 11.41 Participation in EAS.
- 11.42 Participation by communications common carriers.
- 11.43 National level participation.
- 11.44 EAS message priorities.
- 11.45 Prohibition of false or deceptive EAS transmissions.
- 11.46 EAS public service announcements.
- 11.47 Optional use of other communications methods and systems.

Subpart D—Emergency Operations

Brief Description: These rules describe procedures for monitoring key EAS sources. Once EAS has been activated, these rules set

operation and transmission guidelines for national, state, and local level messaging.

Need: These rules describe how a national, state, or local emergency is activated, and upon activation, provide guidelines for all participating entities to follow during national, state, and local-level emergencies.

Legal Basis: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

Section Number and Title:

- 11.51 EAS code and Attention Signal Transmission requirements.
- 11.52 EAS code and Attention Signal Monitoring requirements.
- 11.53 Dissemination of Emergency Action Notification
- 11.54 EAS operation during a National Level emergency.
- 11.55 EAS operation during a State or Local Area emergency.

Subpart E—Tests

Brief Description: These rules describe EAS testing protocols for all participating entities.

Need: Regular testing of EAS equipment will ensure operational readiness in the event of an emergency.

Legal Basis: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

Section Number and Title:

- 11.61 Tests of EAS procedures.

Part 13—Commercial Radio Operators

Brief Description: The part 13 rules prescribe the manner and conditions under which commercial radio operators are licensed by the Commission.

Need: These rules identify the different classes of commercial radio operator licenses and permits, set forth eligibility requirements, and establish a regulatory framework for the privatized commercial radio operator license examination process. They are necessary to ensure that certain tasks pertaining to the operation and maintenance of radio equipment used in the maritime, aviation, and international fixed public radio communication services are performed only by qualified persons, and to ensure the integrity of the examination process by which such qualifications are established.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

- 13.1 Basis and purpose.
- 13.3 Definitions.
- 13.5 Licensed commercial radio operator required.
- 13.7 Classification of operator licenses and endorsements.
- 13.8 Authority conveyed.
- 13.9 Eligibility and application for new license or endorsement.
- 13.10 Licensee address.
- 13.11 Holding more than one commercial radio operator license.
- 13.13 Application for a renewed or modified license.
- 13.15 License term.
- 13.17 Replacement license.
- 13.19 Operator's responsibility.
- 13.201 Qualifying for a commercial operator license or endorsement.
- 13.203 Examination elements.
- 13.207 Preparing an examination.
- 13.209 Examination procedures.

13.211 Commercial radio operator license examination.

13.213 COLEM qualifications.

13.215 Question pools.

13.217 Records.

Part 15—Radio Frequency Devices

Subpart B—Unintentional Radiators

Brief Description: This rule specifies the isolation standards for TV interface device antenna transfer switches.

Need: This rule prevents excessive leakage through the TV broadcast antenna of signals generated by TV interface devices, reducing the potential that harmful interference would be caused to television broadcast reception and other radio services.

Legal Basis: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544A.

Section Number and Title:

- 15.115(c)(1)(i) TV interface devices, including cable system terminal devices.

Brief Description: This rule specifies the isolation standards for switches that are used to alternate between cable service and a TV broadcast antenna.

Need: This rule prevents excessive leakage through the TV broadcast antenna of signals generated by a cable system terminal devices, reducing the potential that harmful interference would be caused to television broadcast reception and other radio services.

Legal Basis: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544A.

Section Number and Title:

- 15.115(h) TV interface devices, including cable system terminal devices.

Brief Description: This rule specifies the standards for closed caption reception that is required for all analog TV broadcast receivers with picture screens 13 inches or larger.

Need: Absent this regulation, analog TV broadcast receivers would not be required to display closed caption transmissions.

Legal Basis: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544A.

Section Number and Title:

- 15.119 Closed caption decoder requirements for analog television receivers.

Subpart C—Intentional Radiators

Brief Description: These rules specify the emission standards and frequencies of operation for cordless telephones that operate in the 46–50 MHz band.

Need: These rules permit cordless telephones to operate without individual licensing in the 46–50 MHz band.

Legal Basis: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544A.

Section Number and Title:

- 15.233 Operation within the bands 43.71–44.49 MHz, 46.60–46.98 MHz, 48.75–49.51 MHz and 49.66–50.0 MHz.

Part 18—Industrial, Scientific and Medical Equipment

Brief Description: This rule specifies the definition for non-consumer Magnetic Resonance Equipment (MRE), which is a category of Industrial, Scientific and Medical (ISM) equipment in which radio frequency (RF) energy is used to create images and data representing spatially resolved density of

transient atomic resources within an object. MRE devices are still used extensively in health care facilities today.

Need: In adopting the statutory definition for MRE devices, the rule clarifies the type of ISM devices that would be subject to specific requirements of part 18 of the Commission's rules, as enumerated in section 18.121, *infra*. Part 18 sets forth requirements designed to minimize the potential for interference to radio and TV services from ISM equipment. ISM equipment generates RF energy in order to perform a non-communications related function. Common examples of consumer ISM devices are microwave ovens and RF lighting devices. Common examples of non-consumer ISM devices include industrial heaters and ultrasonic equipment. Before ISM equipment can be marketed in the United States, it must comply with the technical standards and equipment authorization procedure specified in part 18 of the Commission's rules.

Legal Basis: 47 U.S.C. 4, 301, 302, 303, 304 and 307.

Section Number and Title:

18.107(j) Definitions, Magnetic Resonance Equipment.

Brief Description: This rule relates to the exemptions from the part 18 requirements for non-consumer ultrasonic equipment or non-consumer magnetic resonance equipment (MRE) used for medical diagnostic and monitoring applications. MRE is a category of Industrial, Scientific and Medical (ISM) equipment in which RF energy is used to create images and data representing spatially resolved density of transient atomic resources within an object. MRE devices are still used extensively in health care facilities today.

Need: This rule already existed for non-consumer ultrasonic equipment, which are only subject to certain sections of part 18 of the Commission's rules. The adopted change to the rule (as published in 59 FR 39472) applied the same exemptions for non-consumer ultrasonic equipment to the then-new category of non-consumer MRE devices (as defined in section 18.107(j), *supra*.) This rule in effect exempts non-consumer MRE devices from the part 18 technical standards and authorization requirements in order to remove regulations that unnecessarily increase the amount of time and cost required to bring these new non-consumer MRE devices to market. However, the rule retains certain critical part 18 standards applicable to MRE devices, such as general importation requirements and frequencies available for ISM use.

Legal Basis: 47 U.S.C. 4, 301, 302, 303, 304 and 307.

Section Number and Title:

18.12 Exemptions.

Note: In 1995, Section 18.121 was editorially revised to correct the omission of the word "ONLY" in the above adopted rule. As published in the CFR, the final regulations contained errors that might have proven to be misleading and were in need of correction (*see* 60 FR 47302)(September 12, 1995.) This rule revision is not substantive.

Part 25—Satellite Communications

Subpart B—Applications and Licenses

Brief Description: This subpart includes procedures for the filing of earth station applications. The information requirements in these rules allow for frequency coordination analysis to reduce interference and the verification of earth station antenna performance standards. Provisions in subpart B also provide for the timely construction and operation of earth stations.

Need: To establish proper procedures for submitting the correct information for filing earth station applications.

Legal Basis: 47 U.S.C. 154. Interprets or applies 47 U.S.C. 701–744.

Section Number and Title:

25.130 Filing requirements for transmitting earth stations.

25.132 Verification of earth station antenna performance standards.

25.133 Period of construction; certification of commencement of operation.

25.135 Licensing provisions for earth station networks in the non-voice, non-geostationary mobile-satellite service.

Brief Description: This subpart includes rules to facilitate coordination to avoid harmful interference to other satellite systems. These rules also outline conditions for qualification as an applicant, which enhances the likelihood that the proposed systems will be constructed, launched, and operated if licensed.

Need: To establish proper procedures for submitting the correct information for filing space station applications.

Legal Basis: 47 U.S.C. 154. Interprets or applies 47 U.S.C. 701–744.

Section Number and Title:

25.142 Licensing provisions for the non-voice, non-geostationary mobile-satellite service.

25.143 Licensing provisions for the 1.6/2.4 GHz mobile-satellite service and 2 GHz mobile-satellite service.

Brief Description: This subpart includes well-defined procedures for processing applications including the requirement for public notice.

Need: To establish proper procedures for submitting the correct information for filing space station applications and to allow for public notice of such applications.

Legal Basis: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332.

Section Number and Title:

25.151 Public notice period.

Subpart C—Technical Standards

Brief Description: This subpart provides clear and predictable technical standards to minimize interference.

Need: To provide space station and earth station operators a universal set of standards and operating procedures.

Legal Basis: 47 U.S.C. 154, 701–744.

Interprets or applies 47 U.S.C. 303.

Section Number and Title:

25.201 Definitions.

25.202 Frequencies, frequency tolerance and emission limitations.

25.203 Choice of sites and frequencies.

25.204 Power limits.

25.208 Power flux density limits.

25.209 Antenna performance standards.

25.210 Technical requirements for space stations in the Fixed-Satellite Service.

25.211 Video transmissions in the Fixed-Satellite Service.

25.212 Narrowband transmissions in the 12/14 GHz GSO Fixed-Satellite Service.

25.213 Inter-Service coordination requirements for the 1.6/2.4 GHz Mobile-Satellite Service.

Subpart D—Technical Operations

Brief Description: This subpart provide clear and predictable operating rules to minimize interference.

Need: To provide space station and earth station operators a universal set of standards and operating procedures.

Legal Basis: 47 U.S.C. 154, 701–744.

Section Number and Title:

25.271 Control of transmitting stations.

25.272 General inter-system coordination procedures.

25.273 Duties regarding space communications transmissions.

25.274 Procedures to be followed in the event of harmful interference.

25.275 Particulars of operation.

25.276 Points of communication.

25.277 Temporary fixed earth station operations.

25.278 Additional Coordination Obligation for Non-Geostationary and Geostationary Satellite Systems in Frequencies Allocated to the Fixed-Satellite Service.

25.279 Inter-satellite service.

Subpart I—Equal Employment Opportunities

Brief Description: Section 25.601 requires entities that use a fixed satellite service or direct broadcast satellite service facility to provide video programming to the public on a subscription basis to comply with the equal opportunity requirements set forth in part 76 of the Commission's rules.

Need: To implement the equal opportunity provisions of the Cable Television Consumer Protection and Competition Act of 1992.

Legal Basis: 47 U.S.C. 154. Interprets or applies 47 U.S.C. 701–744, 554.

Section Number and Title:

25.601 Equal employment opportunity requirements.

Part 27—Miscellaneous Wireless Communications Services

Subpart M—Broadband Radio Service and Educational Broadband Service

Brief Description: These rules state the conditions under which spectrum is made available and licensed for the provision of the Broadband Radio Service and the Educational Broadband Service (previously the Multipoint Distribution Service and Instructional Television Fixed Service, respectively) in the 2495–2690 MHz band. These four rules were originally published in part 21.

Need: These rules provide a regulatory framework for the Broadband Radio Service and Educational Broadband Service, particularly with respect to licensing and auctions.

Legal Basis: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, 337.

Section Number and Title:

- 27.1201(a)(3) EBS eligibility.
 27.1208 Service areas.
 27.1212 License term.
 27.1213 Designated entity provisions for BRS in Commission auctions commencing prior to January 1, 2004.

Part 43—Reports of Communication Common Carriers and Certain Affiliates

Brief Description: The rule sets forth the requirements and procedures for carriers to file information on how U.S. international carriers use their circuits.

Need: The rule provides essential data that enables the Commission to discharge its obligations to authorize the construction and use of international common carrier transmission facilities. The information is used by the agency and industry to determine whether an international common carrier is providing direct or indirect service to countries and to assess industry trends in the use of international transmission facilities. The data is extremely valuable because it is not available from any other source.

Legal Basis: 47 U.S.C. 154, 214, 219, 303, 403.

Section Number and Title:

- 43.82 International Circuit Status Reports.

Part 61—Tariffs*Subpart E—General Rules for Dominant Carriers*

Brief Description: The part 61 rules are designed to implement the provisions of sections 201, 202, 203, and 204 of the Communications Act of 1934, as amended, and ensure that rates are just, reasonable, and not unjustly or unreasonably discriminatory. These rules govern the filing, form, content, public notice periods, and accompanying support materials for tariffs. Part 61 rules also establish the pricing rules and related requirements that apply to incumbent local exchange carriers.

Need: Section 61.33(e) requires all letters of transmittal for 14-day tariff filings to include an address and designated individual for personal service and a number for facsimile service. Sections 61.39(d) and 61.39(e) give smaller carriers providing service primarily to rural areas optional regulatory reforms that compliment the price cap system. These reforms are intended to reduce administrative burdens and increase flexibility, while continuing to ensure high service quality and universal service at reasonable rates. Sections 61.42(e)(1)(iii) and 61.42(e)(1)(iv) establish the price cap baskets for 800 data base access services and for billing name and address information.

Legal Basis: 47 U.S.C. 154, 201–205, and 403.

Section Number and Title:

- 61.33(e) Letters of transmittal.
 61.39 Optional supporting information to be submitted with letters of transmittal for Access Tariff filings effective on or after April 1, 1989, by local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in 69.602.
 61.42 Price cap baskets and service categories.

Part 64—Miscellaneous Rules Relating to Common Carriers*Subpart F—Telecommunications Relay Services and Related Customer Premises Equipment for Persons With Disabilities.*

Brief Description: Part 64, subpart F implements section 225 of the Communications Act of 1934, as amended. Section 225 codifies Title IV of the Americans with Disabilities Act of 1990 (ADA) which requires that the Commission ensure that telecommunications relay services (TRS) are available, “to the extent possible and in the most efficient manner,” to individuals with hearing or speech disabilities in the United States. Section 225 defines TRS as telephone transmission services that make it possible for an individual with a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner functionally equivalent to that available to persons who do not have such a disability. The rules provide minimal functional, operational, and technical standards for TRS programs. The rules give states a significant role in ensuring the availability of TRS by treating carriers as compliant with their statutory obligations if they operate in a state that has a relay program certified as compliant by the Commission. The rules also establish a cost recovery and a carrier contribution mechanism (TRS Fund) for the provision of interstate TRS and require states to establish cost recovery mechanisms for the provision of intrastate TRS.

Need: Part 64, subpart F is intended to facilitate communication by persons with hearing or speech disabilities by ensuring that interstate and intrastate TRS are available throughout the country, and by ensuring uniform minimum functional, operational, and technical standards for TRS programs. The TRS rules ensure that individuals with hearing or speech disabilities receive the same quality of service when they make TRS calls, regardless of where their calls originate or terminate.

Legal Basis: 47 U.S.C. 225.

Section Number and Title:

- 64.604(a)(2) Operational Standards, Confidentiality and conversation content.
 64.604(c)(ii) Jurisdictional separation of costs, Cost Recovery, 47 CFR.
 64.604(c)(iii) Jurisdictional separation of costs, TRS Fund.

Subpart K—Changes in Preferred Telecommunications Service Providers

Brief Description: Part 64, subpart K implements section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. This section provides the Commission authority to deter and punish “slamming,” the submission or execution of an unauthorized change in a subscriber’s selection of a provider of telecommunications service. The rules prescribe verification procedures for telecommunications carriers to use in confirming subscribers’ decisions to change telecommunications carriers. A carrier that fails to comply with the Commission’s verification procedures is liable to the

subscriber’s authorized carrier for all amounts paid by the subscriber after the violation. The rules absolve subscribers of liability for charges billed by unauthorized carriers in certain cases, impose liability on unauthorized carriers for all charges collected from subscribers, and establish procedures to govern preferred carrier freezes.

In 1992 the Commission first adopted rules requiring interexchange carriers to obtain verification from customers acquired through telemarketing before submitting a preferred interexchange carrier change order to a local exchange carrier (LEC). Verification could be in one of four allowable forms: (1) Written authorization; (2) electronic authorization, *i.e.*, by placing a call to an 800 number established to obtain verification; (3) oral authorization taken by an independent third party; and (4) sending of a “welcome package” including a prepaid postcard usable to deny, cancel or confirm a change order. The Commission subsequently revised these rules, then numbered 47 CFR 64.1100 and now numbered 47 CFR 64.1100–64.1196, several times in response to consumer complaints and industry changes.

In 1995, the Commission established requirements for the form and content of the written authorization or Letter of Agency (LOA) used to verify a change, and prohibited “negative option” LOAs that demanded an affirmative act by the customer to prevent a change. The Commission again revised the rules in 1999 in response to a provision of the Telecommunications Act of 1996 making it unlawful to “submit or execute a change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.” In addition to absolving subscribers from liability for certain slamming charges, the revised rules: (1) Extended the verification requirements to all telecommunications carriers; (2) toughened the LOA requirements and eliminated the “welcome package”; (3) set rules for “preferred carrier freezes” requiring the customer to contact the LEC to consent to a change; and (4) allowed states to establish their own rules for intrastate presubscription. Many of these revised rules did not take effect until 2000 due to petitions for stay and waiver.

In 2001, the Commission amended the rules to permit LOAs submitted via the internet, expanded registration requirements for interstate telecommunications carriers, and provided for a streamlined process in situations involving carrier-to-carrier sale or transfer of subscriber bases. Finally, in 2003 the Commission clarified that LECs executing carrier change requests can be held liable for unauthorized carrier changes to their affiliates, and modified the “drop-off” requirement to allow sales agents, in certain circumstances, to remain silently on the line during verification.

Need: Part 64, subpart K attempts to eliminate the fraudulent practice of “slamming,” foster consumer choice, and facilitate competition in the market for telecommunications services. Establishing verification requirements, liability rules, and

complaint resolution procedures assists the Commission in preventing slamming.

Legal Basis: 47 U.S.C. 258.

Section Number and Title:

- 64.1100 Definitions.
- 64.1110 State notification of election to administer FCC rules.
- 64.1120 Verification of orders for telecommunications service.
- 64.1130 Letter of agency form and content.
- 64.1140 Carrier liability for slamming.
- 64.1150 Procedures for resolution of unauthorized changes in preferred carrier.
- 64.1160 Absolution procedures where the subscriber has not paid charges.
- 64.1170 Reimbursement procedures where the subscriber has paid charges.
- 64.1190 Preferred carrier freezes.
- 64.1195 Registration requirement.

Subpart L—Restrictions on Telemarketing and Telephone Solicitation

Brief Description: Part 64, subpart L implements Section 227 of the Communications Act of 1934 as amended. Section 227 codifies the Telephone Consumer Protection Act of 1991 (TCPA), which was enacted to address certain telemarketing practices thought to be an invasion of consumer privacy and a risk to public safety. The TCPA imposes restrictions on the use of automatic telephone dialing systems (autodialers), artificial or prerecorded messages, and telephone facsimile machines, and requires the Commission to adopt rules to implement these protections. Pursuant to the Commission's rules implementing the TCPA, a person or entity engaged in telemarketing is required to maintain a record of a called party's request not to receive future solicitations for a period of five years. Telemarketers must develop and maintain written policies for maintaining their lists, and they are required to inform their employees of the list's existence and train them to use the list. The rules prohibit telemarketers from calling residential telephone subscribers before 8 a.m. or after 9 p.m. and require telemarketers to identify themselves to called parties.

The Commission first adopted rules to implement the TCPA in 1992, and amended them in 1995 to prohibit telemarketers from providing a 900 number or any other number for which charges exceed local or long distance transmission charges for purposes of identification. In 2003, the Commission further amended the TCPA rules to establish, in conjunction with the FTC, a national Do-Not-Call Registry (Registry) for consumers who wish to avoid telemarketing calls. The Registry is nationwide in scope, includes all telemarketers (with the exception of certain non-profit organizations) and covers both interstate and intrastate telemarketing calls. The Commission also adopted restrictions on the use of predictive dialers, and tightened existing rules on unsolicited faxes to require that companies obtain express permission in writing before sending unsolicited facsimile advertisements. Most recently, the Commission delayed the effective date of the written consent requirement for sending unsolicited facsimile advertisements until

July 1, 2005, created a limited "safe harbor" from liability for placing auto dialed and prerecorded message calls when such calls are made to a wireless number ported from a wireline service within the previous 15 days, and required telemarketers to access the Do-Not-Call Registry and scrub their call lists every 31 days rather than every three months.

Need: Part 64, subpart L is intended to protect subscriber privacy and public safety without unnecessarily restricting legitimate telephone marketing and sales.

Legal Basis: 47 U.S.C. 227.

Section Number and Title:

- 64.1200, generally, 64.1200(e)(2)(iv), (vi) and (f)(3)(iii) Delivery Restrictions.

Brief Description: This rule imposes restrictions on the use of billing name and address information by telecommunications service providers and their authorized billing and collection agents. Section 64.1201 requires local exchange carriers (LECs) to provide interstate common carriers non-discriminatory access to the billing name and address (BNA) of LEC subscribers who use a LEC calling card or authorize collect and third party calls to pay for a carrier's services. The rule also includes safeguards protecting the privacy interests of end users.

Need: The Commission adopted this rule to limit billing name and address disclosure to telecommunications service providers and to prohibit use of billing name and address information for purposes other than billing for telecommunications services. This rule is designed to protect the privacy of end users.

Legal Basis: 47 U.S.C. 154, 201–205.

Section Number and Title:

- 64.1201 Restrictions on billing name and address disclosure.

Subpart N—Expanded Interconnection

Brief Description: This rule requires that larger incumbent local exchange carriers (LECs) that do not participate in the National Exchange Carrier Association tariff provide expanded interconnection. Subpart N requires that these incumbent LECs allow other parties to interconnect with their networks through physical or virtual collocation for the provision of special access and switched transport services. Interested parties including competitive LECs, interexchange carriers and end users can take expanded interconnection from the incumbent LECs subject to this rule.

Need: This rule promotes competition in the provision of interstate services by removing barriers to competitive provision of special access and switched transport services. In particular, subpart N makes collocation available to parties not covered by part 51 of the Commission's rules such as large businesses and universities.

Legal Basis: 47 U.S.C. 151, 154, and 201–205.

Section Number and Title:

- 64.1401 Expanded Interconnection.

Subpart O—Interstate Pay-Per-Call and Other Information Services

Brief Description: Part 64, subpart O implements section 228 of the Communications Act of 1934, as amended. Subpart O mandates that common carriers

assigning telephone numbers to providers of interstate pay-per-call services require that the provider comply with the subpart O rules as well as certain other laws and regulations. Subpart O restricts the provision of pay-per-call services over 800 and "toll free" numbers and bars the provision of interstate pay-per-call services on a collect basis. It provides for 900 service access code assignment to pay-per-call services, and requires local exchange carriers to offer subscribers the option of blocking access to 900 numbers from their telephones. Subpart O establishes conditions for common carrier provision of billing and collection for pay-per-call services and bars the disconnection or interruption of local exchange or long-distance service for the non-payment of charges for interstate pay-per-call and certain information services.

In 1993, the Commission promulgated the pay-per-call rules summarized above to implement the Telephone Disclosure and Dispute Resolution Act and replace prior pay-per-call rules adopted in 1991. In 1996, the Commission amended the rules to incorporate expanded consumer protections enacted in the Telecommunications Act of 1996. These additional protections included a prohibition on charging callers for calls to toll-free numbers without a written presubscription agreement, a requirement for use of personal identification numbers to prevent unauthorized access, and certain required billing disclosures. The amended rules also permitted alternatives to written presubscription such as payment by prepaid account, debit, credit, charge, or calling card. In July 2004, the Commission released a *Notice of Proposed Rulemaking* seeking comment on possible modifications to address circumvention of the pay-per-call rules.

Need: Part 64, subpart O is intended both to promote the legitimate development of pay-per-call services and protect consumers from the fraudulent or unscrupulous provision of pay-per-call services.

Legal Basis: 47 U.S.C. 228.

Section Number and Title:

- 64.1501 Definitions.
- 64.1502 Limitations on the provision of pay-per-call services.
- 64.1503 Termination of pay-per-call and other information programs.
- 64.1504 Restrictions on the use of toll-free numbers.
- 64.1505 Restrictions on collect telephone calls.
- 64.1506 Number designation.
- 64.1507 Prohibition on disconnection or interruption of service for failure to remit pay-per-call and similar service charges.
- 64.1508 Blocking access to 900 service.
- 64.1509 Disclosure and dissemination of pay-per-call information.
- 64.1510 Billing and collection of pay-per-call and similar service charges.
- 64.1511 Forgiveness of charges and refunds.
- 64.1512 Involuntary blocking of pay-per-call services.
- 64.1513 Verification of charitable status.
- 64.1514 Generation of signaling tones.
- 64.1515 Recovery of costs.

Subpart P—Calling Party Telephone Number; Privacy

Brief Description: The requirements in part 64, subpart P are based on the Commission's authority under sections 1, 4, 201–205, and 218 of the Communications Act of 1934, as amended. Subpart P covers Calling Party Number (CPN) services, including "Caller ID," which depend on capabilities that use out-of-band signaling techniques such as "Signaling System Seven (SS7)." Subpart P provides that common carriers using SS7 must, subject to certain exceptions, transmit the CPN associated with interstate calls to interconnecting carriers without additional charge. Originating carriers using SS7 must recognize *67 as a caller's request for privacy when dialed as the first three digits of an interstate call. Carriers providing line blocking services are required to recognize *82 as a caller's request that privacy not be provided and that the CPN be passed on an interstate call. Subpart P requires carriers to notify customers of their *67 and *82 capabilities and restricts the use of telephone subscriber information. Finally subpart P restricts the reuse or sale of telephone numbers by subscribers to Automatic Number Identification (ANI) absent affirmative subscriber consent.

The Commission adopted the CPN rules in 1994, but stayed the effective date of portions of the rules regarding CPN passage, privacy, and education in March 1995. In May 1995, the Commission amended the rules to resolve uncertainties regarding financial arrangements and varying state privacy rights, and to prescribe an education program to support consumer use of Caller ID services. In 1997, the Commission amended the rules to exempt payphones from blocking and unblocking requirements, and to require private branch exchanges (PBXs) to provide blocking and unblocking if they passed CPN to the public switched network. In 2003, the Commission amended the rules to prohibit telemarketers from blocking Caller ID information.

Need: The purpose of part 64, subpart P is to protect subscriber privacy while fostering the development of new and innovative services.

Legal Basis: 47 U.S.C. 1, 4, 201–205, 218.

Section Number and Title:

- 64.1600 Definitions.
- 64.1601 Delivery requirements and privacy restrictions.
- 64.1602 Restrictions on use and sale of telephone subscriber information provided pursuant to automatic number identification or charge number services.
- 64.1603 Customer notification.
- 64.1604 Effective date.

Part 65—Interstate Rate of Return Prescription Procedures and Methodologies**Subpart C—Exchange Carriers**

Brief Description: Part 65 sets forth procedures and methodologies for prescribing and enforcing the rate of return certain LECs may earn on interstate access service. These rules establish that the composite weighted average cost of capital is the sum of the cost of debt, the cost of preferred stock, and the cost of equity, each

weighted by its proportion in the capital structure of the telephone companies, and the final determinations of the cost of equity, cost of debt, cost of preferred stock and their capital structure weights shall be accurate to two decimal places.

Need: The continued use of the weighted average cost of capital calculation allows us to estimate the cost of capital for LEC interstate access service. Previous cost of capital calculations were required to be carried out to the eighth decimal place. We stated that this degree of specificity was unnecessary and concluded that cost of capital calculations need only be carried out to two decimal places.

Legal Basis: 47 U.S.C. 151, 154, 201–205, 218–220, 403.

Section Number and Title:

- 65.305 Calculation of the weighted average cost of capital.
- 65.306 Calculation accuracy.

Subpart F—Maximum Allowable Rates of Return

Brief Description: This rule establishes that the maximum allowable rate of return for rates filed by LECs subject to 61.50 shall be determined by adding a fixed increment of one and one-half percent to the carriers prescribed rate of return.

Need: In designing an optional incentive-based regulatory system for the smaller carriers, we proposed to establish an earnings band similar to the price cap earnings band. In the Notice of Proposed Rulemaking (NPRM), the Commission proposed that incentive plan LECs be permitted to earn up to 1 percent (100 basis points) above the prescribed rate of return. In the final rule, to better balance the risks and rewards of the incentive plan, the Commission increased the permissible earnings zone for incentive plan carriers from a 100 to a 150 basis point maximum.

Legal Basis: 47 U.S.C. 51, 154, 201–205, 218–220, 403.

Section Number and Title:

- 65.700(c) Determining the maximum allowable rate of return.

Part 68—Connection of Terminal Equipment to the Telephone Network**Subpart A—General**

Brief Description: Part 68 implements the Hearing Aid Compatibility Act of 1988 (HAC Act). The HAC Act requires that, unless exempt, all essential telephones and all telephones manufactured in or imported into the United States after August 16, 1989 must "provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility." The scope of this discussion is limited to part 68 as it applies to telephone compatibility with hearing aids.

Need: Part 68 establishes conditions for direct connection to the network of registered terminal equipment to prevent network harm and ensure that telephones are compatible with hearing aids. The purpose of part 68 is, in part, to provide for uniform standards for the compatibility of hearing aids and telephones to ensure that persons with

hearing aids have reasonable access to the telephone network.

Legal Basis: 47 U.S.C. 151–154, 201–205, 303(r), 610.

Section Number and Title:

- 68.3 Definitions.

Subpart D—Conditions for Terminal Equipment Approval

Brief Description: Among its many provisions, part 68 includes certain requirements for terminal equipment which implement the Telephone Consumer Protection Act of 1991 (TCPA). Congress enacted the TCPA in an effort to address telephone marketing calls and certain telemarketing practices thought to be an invasion of consumer privacy and a risk to public safety. The TCPA imposes, among other things, certain restrictions on the use of automatic dialing machines and the use of telephone facsimile machines to send unsolicited advertisements. These restrictions include a requirement that addresses line seizure by automatic telephone dialing systems and a requirement that all facsimile transmissions include source labeling (47 CFR 68.318(c) and 68.318(d) respectively).

In 1995, the Commission amended § 68.318(c) to prohibit senders of unsolicited facsimiles from providing a 900 number or any other number for which charges exceed local or long distance transmission charges for purposes of identification. In 1997, the Commission redesignated § 68.318(c) as § 68.318(d), and added a new § 68.318(c) restricting the use of automatic dialers. In 2003, the Commission amended § 68.318(d) to require a facsimile broadcaster with a high degree of involvement in a sender's facsimile message to provide on the facsimile the name under which it is registered to conduct business with the State Corporation Commission or comparable regulatory authority.

Need: The purpose of §§ 68.318(c) and 68.318(d) is to implement the TCPA to address telephone marketing calls and certain telemarketing practices related to the sending of unsolicited facsimile advertisements thought to be an invasion of consumer privacy and a risk to public safety.

Legal Basis: 47 U.S.C. 227.

Section Number and Title:

- 68.318(c)–(d) Additional limitations.

Part 69—Access Charges**Subpart A—General**

Brief Description: The part 69 rules are designed to implement the provisions of sections 201 and 202 of the Communications Act of 1934, as amended, and protect consumers by preventing the exercise of market power by incumbent local exchange carriers by ensuring that rates are just, reasonable, and not unjustly or unreasonably discriminatory. These rules also provide definitions for terms used in rules.

Need: Sections 69.2(uu) and (vv) define the terms "price cap regulation" and "signalling for tandem switching" and are essential for the implementation and understanding of other rule sections. Section 69.4(b)(9) was added to help correct the misallocation of

general support facility investment and related expenses among the part 69 cost categories for local exchange carriers.

Legal Basis: 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

Section Number and Title:

69.2 Definitions.

69.4 Charges to be filed.

Subpart B—Computation of Charges

Brief Description: The part 69 rules are designed to implement the provisions of sections 201 and 202 of the Communications Act of 1934, as amended, and protect consumers by preventing the exercise of market power by incumbent LECs by ensuring that rates are just, reasonable, and not unjustly or unreasonably discriminatory.

Need: Sections 69.110(f)–(h) were adopted to allow telephone companies to offer term and volume discounts for entrance facilities charges after certain conditions are met. Sections 69.111(i)–(k) were adopted to grant LECs additional flexibility in the form of density zone pricing, and volume and term discounts. Section 69.112(e) was adopted to provide LECs that did not have DS3 or DS1 special access rates in effect a means to determine appropriate rates. Sections 69.112(f)–(h) were adopted to allow telephone companies to offer term and volume discounts in direct-trunked transport charges after meeting certain conditions. Section 69.123(d) was adopted to grant LECs additional flexibility in the form of density zone pricing, and volume and term discounts. Section 69.128 enables telecommunications service providers without billing and collection agreements with LECs to perform their own billing and collection, thus improving competition in the market for billing and collection services. Section 69.129 was adopted to enable interested third parties, including competitive access providers, interexchange carriers (IXCs), and end users to carry traffic of multiple IXCs from local exchange carrier end offices to their own tandems, switch traffic at that point, and deliver the traffic to the appropriate IXC.

Legal Basis: 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

Section Number and Title:

69.110 Entrance facilities.

69.111 Tandem-switched transport and tandem charge.

69.112 Direct-trunked transport.

69.123 Density pricing zones for special access and switched transport.

69.128 Billing name and address.

69.129 Signalling for tandem switching.

Subpart D—Apportionment of Net Investment

Brief Description: The part 69 rules are designed to implement the provisions of sections 201 and 202 of the Communications Act of 1934, as amended and protect consumers by preventing the exercise of market power by incumbent local exchange carriers by ensuring that rates are just, reasonable, and not unjustly or unreasonably discriminatory.

Need: Section 69.307(b) was adopted to enable telecommunications service providers without billing and collection agreements

with local exchange carriers to perform their own billing and collection, thus improving competition in the market for billing and collection services.

Legal Basis: 47 U.S.C. 154, 220.

Section Number and Title:

69.307(b) General support facilities.

Subpart E—Apportionment of Expenses

Brief Description: The part 69 rules are designed to implement the provisions of Sections 201 and 202 of the Communications Act and protect consumers by preventing the exercise of market power by incumbent local exchange carriers by ensuring that rates are just, reasonable, and not unjustly or unreasonably discriminatory.

Need: Section 69.407(c) was adopted to assign a portion of Customer Operations Expense to the Billing Name and Address rate element.

Legal Basis: 47 U.S.C. 154, 220.

Section Number and Title:

69.407(c) Revenue accounting expenses in Account 6620.

Subpart G—Exchange Carrier Association

Brief Description: The part 69 rules also provide for the establishment and operation of the National Exchange Carrier Association (NECA), which files tariffs on behalf of many of the smaller, rate-of-return local exchange carriers.

Need: Section 69.601(c) was adopted to ensure that data provided by the member telephone companies to NECA are complete, accurate, and consistent with FCC rules.

Legal Basis: 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

Section Number and Title:

69.601(c) Exchange carrier association.

Part 73—Radio Broadcast Services

Subpart H—Rules Applicable to All Broadcast Stations

Brief Description: These rules describe authority to rebroadcast emergency communications and priority for EAS broadcasts at the national level.

Need: In setting priority for national EAS messaging and allowing for rebroadcast of emergency communications, these rules facilitate the EAS process.

Legal Basis: 47 U.S.C. 154, 303, 334, and 336.

Section Number and Title:

73.1207 Rebroadcasts.

73.1250 Broadcasting emergency information.

Brief Description: These rules provide compliance and authorization provisions for all broadcast services.

Need: These rules prescribe common operating procedures for all broadcast services.

Legal Basis: 47 U.S.C. 154, 303 and 304.

Section Number and Title:

73.1300 Unattended station operation.

73.1350 Transmission system operation.

Brief Description: Under section 73.3545 of the Commission's rules and section 325(c) of the Communications Act of 1934, as amended, FCC Form 308 is used to apply for authority to locate, use, or maintain a studio

in the United States for the purpose of supplying program material to a foreign radio or TV broadcast station, whose signals are consistently received in the United States, or for extension of existing authority. An informal application for a permit of this nature may also be used by applicants holding an AM, FM or TV broadcast station license or construction permit, so long as applications contain a description of the nature and character of the programming proposed, the applicant's ownership, and an explanation of the legal relationship between the applicant and foreign station(s) involved.

Need: Protects domestic broadcasters from interference from foreign station (*i.e.*, TV, AM and FM).

Legal Basis: 47 U.S.C. 325.

Section Number and Title:

73.3545 Application for permit to deliver programs to foreign stations.

Part 76—Multichannel Video and Cable Television Service

Subpart D—Carriage of Television Broadcast Signals

Brief Description: These rules provide for the carriage of television broadcast signals on cable television systems.

Need: These rules implement sections 4 and 5 of the Cable Television Consumer Protection and Competition Act of 1992.

Legal Basis: 47 U.S.C. 154(i), 154(j), and 303.

Section Number and Title:

76.55 Definitions applicable to the must-carry rules.

76.56 Signal carriage obligations.

76.57 Channel positioning.

76.59 Modification of television markets.

76.61 Disputes concerning carriage.

76.62 Manner of carriage.

76.64 Retransmission consent.

Subpart H—General Operating Requirements

Brief Description: These rules prescribe customer service standards for cable operators.

Need: These rules implement section 8 of the Cable Television Consumer Protection and Competition Act of 1992.

Legal Basis: 47 U.S.C. 154(i), 154(j), and 303.

Section Number and Title:

76.309 Customer service obligations.

Subpart J—Ownership of Cable Systems

Brief Description: These rules restrict the ownership interests of cable operators and their ability to own or control video programming services.

Need: These rules provide for diversity in the ownership of cable television systems and video programming providers.

Legal Basis: 47 U.S.C. 154(i), 154(j), and 303(r).

Section Number and Title:

76.501 Cross-ownership.

76.502 Time limits applicable to franchise authority consideration of transfer applications.

76.503 National subscriber limits.

76.504 Limits on carriage of vertically integrated programming.

Subpart M—Cable Inside Wiring

Brief Description: These rules allow subscribers the opportunity to acquire cable home wiring upon voluntary termination of service in order to use it for alternative providers and to avoid the disruption of having the wiring removed.

Need: These rules are required by section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992.

Legal Basis: 47 U.S.C. 154(i), 154(j), and 303(r).

Section Number and Title:

76.801 Scope.

Subpart N—Cable Rate Regulation

Brief Description: These rules provides for regulation of cable rates by local franchising authorities and the Commission.

Need: The rules ensure that subscribers pay reasonable rates for regulated cable services with minimum regulatory and administrative burden on cable entities.

Legal Basis: 47 U.S.C. 154(j), 303(r), 532, 542(c), and 543.

Section Number and Title:

76.901 Definitions.
 76.905 Standards for identification of cable systems subject to effective competition.
 76.906 Presumption of no effective competition.
 76.907 Petition for a determination of effective competition.
 76.910 Franchising authority certification.
 76.911 Petition for reconsideration of certification.
 76.912 Joint certification.
 76.913 Assumption of jurisdiction by the Commission.
 76.914 Revocation of certification.
 76.916 Petition for recertification.
 76.917 Notification of certification withdrawal.
 76.920—Composition of the basic tier.
 76.921—Buy-through of other tiers prohibited.
 76.922—Rates for the basic service tier and cable programming services tiers.
 76.923—Rates for equipment and installation used to receive the basic service tier.
 76.924—Allocation to service cost categories.
 76.925—Costs of franchise requirements.
 76.930—Initiation of review of basic cable service and equipment rates.
 76.933—Franchising authority review of basic cable rates and equipment costs.
 76.934—Small systems and small cable companies.
 76.935—Participation of interested parties.
 76.936—Written decision.
 76.937—Burden of proof.
 76.938—Proprietary information.
 76.939—Truthful written statements and responses to requests of franchising authority.
 76.940—Prospective rate reduction.
 76.941—Rate prescription.
 76.942—Refunds.
 76.943—Fines.
 76.944—Commission review of franchising authority decisions on rates for the basic service tier and associated equipment.
 76.945—Procedures for Commission review of basic service rates.
 76.946—Advertising of rates.

76.950—Complaints regarding cable programming service rates.
 76.951—Standard complaint form; other filing requirements.
 76.952—Information to be provided by cable operator on monthly subscriber bills.
 76.953—Limitation on filing a complaint.
 76.954—Initial review of complaint; minimum showing requirement; dismissal of defective complaints.
 76.955—Additional opportunity to file corrected complaint.
 76.956—Cable operator response.
 76.957—Commission adjudication of the complaint.
 76.960—Prospective rate reductions.
 76.961—Refunds.
 76.962—Implementation and certification of compliance.
 76.963—Forfeiture.
 76.970—Commercial leased access rates.
 76.971—Commercial leased access terms and conditions.
 76.975—Commercial leased access dispute resolution.
 76.977—Minority and educational programming used in lieu of designated commercial leased access capacity.
 76.980—Charges for customer changes.
 76.981—Negative option billing.
 76.982—Continuation of rate agreements.
 76.983—Discrimination.
 76.984—Geographically uniform rate structure.
 76.985—Subscriber bill itemization.
 76.986—“A la carte” offerings.
 76.987—New product tiers.
 76.990—Small cable operators.

Subpart O—Competitive Access to Cable Programming

Brief Description: These rules prescribe regulations that govern the access by competing multichannel video programming distributors to satellite cable and satellite broadcast programming.

Need: These rules implement section 19 of the Cable Television Consumer Protection and Competition Act of 1992, which adds section 628 to the Communications Act of 1934.

Legal Basis: 47 U.S.C. 152(a), 154(i), and 303(r).

Section Number and Title:

76.1000 Definitions.
 76.1001 Unfair practices generally.
 76.1002 Specific unfair practices prohibited.
 76.1003 Program access proceedings.

Subpart Q—Regulation of Carriage Agreements

Brief Description: These rules govern agreements between multichannel video programming distributors and video programming vendors.

Need: These rules implement section 12 of the Cable Television Consumer Protection and Competition Act of 1992, which adds a new section 616 to the Communications Act of 1934.

Legal Basis: 47 U.S.C. 152(a), 154(i), and 303(r).

Section Number and Title:

76.1300 Definitions.
 76.1301 Prohibited practices.

76.1302 Carriage agreement proceedings.

Part 87—Aviation Services**Subpart F—Aircraft Stations**

Brief Description: This part states the conditions under which radio stations may be licensed and used in the aviation services. Subpart F sets forth, among other things, the requirements for emergency locator transmitters (ELTs) that operate in the 406.0–406.1 MHz band. An ELT is a transmitter of an aircraft or a survival craft actuated manually or automatically that is used as an alerting and locating aid for survival purposes.

Need: The specification of technical requirements for 406.0–406.1 MHz ELTs is intended to ensure that these devices, which are vital to aviation safety, perform effectively and reliably in transmitting information to search and rescue personnel in the event of an emergency.

Legal Basis: 47 U.S.C. 154, 303 and 307(e).

Section Number and Title:

87.199 Special requirements for 406.0–406.1 MHz ELTs.

Part 90—Private Land Mobile Radio Services**Subpart G—Applications and Authorizations**

Brief Description: The part 90 rules state the conditions under which radio communications systems may be licensed and used in the Public Safety, Industrial/Business Radio Pool, and Radiolocation Radio Services. Subpart G governs the application procedures and terms of authorizations in these services.

Need: The identified rule is necessary to ensure that certain part 90 licensees have in place an effective equal employment opportunity program and do not discriminate against qualified persons in employment because of sex, race, color, religion, or national origin.

Legal Basis: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

Section Number and Title:

90.168 Equal employment opportunities.

Subpart I—General Technical Standards

Brief Description: The part 90 rules state the conditions under which radio communications systems may be licensed and used in the Public Safety, Industrial/Business Radio Pool, and Radiolocation Radio Services. Subpart I sets forth the general technical requirements for use of frequencies and equipment in the radio services governed by part 90.

Need: Technical standards are needed for part 90 equipment in part to ensure that part 90 devices are interoperable and do not cause harmful interference to other authorized communications.

Legal Basis: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

Section Number and Title:

90.210 Emission masks.
 90.214 Transient frequency behavior.

Subpart M—Intelligent Transportation Systems Radio Service

Brief Description: The part 90 rules state the conditions under which radio

communications systems may be licensed and used in the Public Safety, Industrial/Business Radio Pool, and Radiolocation Radio Services. Subpart M provides rules specific to the Intelligent Transportation Systems Radio Service.

Need: These rules provide a regulatory framework for the Intelligent Transportation Systems radio service, which was established for the purpose of integrating radio-based technologies into the nation's transportation infrastructure and to develop and implement the nation's intelligent transportation systems. Rules as to eligibility for licensing, frequencies available, and any special requirements for services in the Intelligent Transportation Systems Radio Service are set forth in this subpart.

Legal Basis: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

Section Number and Title:

- 90.350 Scope.
- 90.351 Location and Monitoring Service.
- 90.353 LMS Operations in the 902–928 MHz band.
- 90.355 LMS Operations below 512 MHz.
- 90.357 Frequencies for LMS systems in the 902–928 MHz band.
- 90.359 Field Strength Limits for MTA-licensed LMS systems.
- 90.361 Interference from part 15 devices [now titled, "Interference from part 15 and Amateur operations."]
- 90.363 Grandfathering provisions for existing AVM Licensees.

Subpart S—Regulations Governing Licensing and Use of Frequencies in the 806–824, 851–869, 896–901, and 935–940 MHz Bands

Brief Description: The part 90 rules state the conditions under which radio communications systems may be licensed and used in the Public Safety, Industrial/Business Radio Pool, and Radiolocation Radio Services. Subpart S sets forth the rules governing the licensing and operations of all systems operating in the 806–824/851–869 MHz and 896–901/935–940 MHz bands. It includes eligibility requirements, and operational and technical standards for stations licensed in these bands.

Need: Among other things, these rules establish requirements for Specialized Mobile Radio (SMR) licensees with MTA-based service areas to ensure that such licensees construct the authorized facilities in a timely manner, provide substantial service within their service areas, and do not cause harmful interference to site-based incumbent SMR licensees or other entities.

Legal Basis: 47 U.S.C. 54(i), 161, 303(g), 303(r), 332(c)(7).

Section Number and Title:

- 90.663 MTA-based SMR system operations.
- 90.665 Authorization, construction and implementation of MTA licenses.
- 90.669 Emission limits.
- 90.671 Field strength limits.

Part 101—Fixed Microwave Services

Subpart C—Technical Standards

Brief Description: The part 101 Rules prescribe the manner in which portions of the radio spectrum may be made available for private operational, common carrier, 24 GHz

Service and Local Multipoint Distribution Service fixed, microwave operations that require transmitting facilities on land or in specified offshore coastal areas within the continental shelf. Subpart C governs the technical requirements set forth for these services.

Need: The identified rule is necessary to promote efficient utilization of the spectrum used for fixed microwave services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title:

- 101.139(f) (adopted as 21.120(e)(1993))
Authorization of transmitters.

[FR Doc. 05–11170 Filed 6–7–05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 00–248; FCC 05–62]

Satellite License Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission invites comment on an off-axis equivalent isotropically radiated power (EIRP) method for reviewing earth station applications in the fixed satellite service (FSS). The intended purpose of this proceeding is to expedite the earth station license procedure.

DATES: Comments are due on or before September 6, 2005. Reply comments are due on or before October 6, 2005. The Federal Communications Commission will announce filing dates for written comments by the public on the proposed information collections in a future **Federal Register** document.

ADDRESSES: You may submit comments, identified by IB Docket No. 00–248, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission Web site: <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments as set forth above, a copy of any comments on the information collections contained herein should be submitted to Judy Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jbHerman@fcc.gov.

FOR FURTHER INFORMATION CONTACT:

Steven Spaeth, Satellite Division, International Bureau, (202) 418–1539, or Mark Young, Satellite Division, International Bureau, (202) 418–0762.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Further Notice of Proposed Rulemaking, adopted March 10, 2005 and released March 15, 2005. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, (63 FR 2421 (May 1, 1998)). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

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 appear in the caption of this proceeding, commenters must submit two additional copies for