

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant impact on a substantial number small entities or rural hospitals because providers and suppliers will still have 15 to 27 months to file claims. Although some providers and suppliers may be small entities or rural hospitals, they are not filing a significant number of SOIs and the information required to file a valid SOI is essentially the same information that providers and suppliers are required to provide when filing a valid claim. We are aware that some States rely on the SOI process at the end of the period for Medicare timely claims filing, to pay and recover expenditures for some of their claims that could have been paid by Medicare. Elimination of the SOI process will require that these States revert to the standard recovery process in the Medicaid regulations to assure that claims are filed within the (15–27 months) Medicare timely filing requirements. While the elimination of the SOI process will not completely eliminate the issue of “pay and chase,” we believe it will encourage States to pursue cost-avoidance procedures to ensure that Medicaid is truly the payer of last resort, reducing the need to use “pay and chase” procedures. We solicit comment on the impact of this regulation on States and providers.

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. This rule would not have such an effect on State, local, or tribal governments, or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule that would impose substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

While this rule would not have a substantial effect on State and local governments, States need to preserve their ability to appropriately recover expenditures for Medicaid benefits that should have been paid by Medicare. We are aware that some States rely on the SOI process, at the end of the period for Medicare timely claims filing, to recover expenditures for some of their claims that could have been paid by Medicare. Elimination of the SOI process will require that these States revert to the

standard recovery process in the Medicaid regulations to assure that claims are filed within the (15–27 months) Medicare timely filing requirements.

For the reasons discussed earlier in this regulation, we believe this time frame is adequate to address the States' need for recovering claims from Medicare. We will continue to address the States' concerns on these payment and recoupment issues, through the efforts of the State Technical Advisory Group (TAG) on Third Party Liability, and will continue to consult with States about issues affecting their ability to recover expenditures for some of their claims that should have been covered by Medicare.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

#### List of Subjects in 42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

#### PART 424—CONDITIONS FOR MEDICARE PAYMENT

Part 424 is amended as follows:

1. The authority citation for part 424 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

##### § 424.45 [Removed]

2. Section 424.45 is removed.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 20, 2002.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: April 18, 2003.

**Tommy G. Thompson,**

*Secretary.*

[FR Doc. 03–18994 Filed 7–24–03; 8:45 am]

**BILLING CODE 4120–01–P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Parts 1, 22 and 90

[WT Docket No. 03–103; FCC 03–95]

#### Rules To Benefit the Consumers of Air-Ground Telecommunications Services; Biennial Regulatory Review

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on its rules governing the provision of air-ground telecommunications services on commercial airplanes in order to enhance the options available to the public. The Commission also proposes to revise or eliminate certain Public Mobile Services (PMS) rules that have become obsolete as the result of technological change, increased competition in the Commercial Mobile Radio Services (CMRS), supervening changes to related rules, or a combination of these factors. In addition, the Commission proposes to recodify and amend several rules, and make several conforming amendments to the Commission's rules. The Commission also seeks comment on providing licensees of nationwide paging channels flexibility to provide other services and on whether rules limiting the provision of dispatch service by paging licensees are too restrictive.

**DATES:** Comments are due on or before September 23, 2003, and reply comments are due on or before October 23, 2003.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for filing instructions.

#### FOR FURTHER INFORMATION CONTACT:

Richard Arsenault, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0920, e-mail [richard.arsenault@fcc.gov](mailto:richard.arsenault@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 03–95, in WT Docket No. 03–103, adopted on April 17, 2003, and released on April 28, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

1. In this Notice of Proposed Rulemaking (NPRM), the Commission undertakes a fundamental reexamination of its rules governing the

provision of air-ground telecommunications services on commercial airplanes (*i.e.*, those rules affecting the availability of wireless services to passengers on commercial aircraft) in order to enhance the options available to the public. The Commission's goal is to promote service provision that better meets the needs of the public for wireless air-ground communications services. At present, only one of the six available licenses in this service is used to serve the public. In this NPRM, the Commission seeks comment on whether any changes to its rules could provide greater opportunities for the competitive provision of these services, leading to lower prices to consumers and increased choices in wireless services and enhancements while traveling by commercial airliner. To this end, the Commission is open to all possible suggestions for fundamental reform. In addition, in this context, the Commission seeks comment regarding whether the commercial air-ground spectrum is being efficiently used, since there is now only one operating licensee in a regulatory plan that originally contemplated six competing service providers. The Commission also seeks comment on possible amendment of rules for other wireless services to permit the provision of commercial air-ground service by licensees of such spectrum.

2. The Commission initiates this proceeding partly in furtherance of its biennial review of regulations pursuant to section 11 of the Communications Act of 1934, as amended. Section 11 requires the Commission to review its regulations applicable to providers of telecommunications service and to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service," and to repeal or modify any regulation that the Commission finds no longer necessary in the public interest. This NPRM, in part, is one of the steps in the Commission's implementation of staff recommendations under section 11 for deleting or modifying various part 22 rules. In addition, this NPRM considers other proposals submitted to the Commission by members of the public regarding changes to the part 22 regulations, including those that do not fall within the scope of section 11. The Commission accordingly seeks comment on changes to rules for each of the part 22 services—Paging and Radiotelephone, Rural Radiotelephone, Air-Ground Radiotelephone, and

Offshore Radiotelephone—other than cellular as well as its rules governing developmental authorizations. In addition to eliminating unnecessary regulatory hurdles, many of these proposals provide licensees with greater flexibility regarding the use of their spectrum, which in turn leads to greater technical, economic, and marketplace efficiency.

3. In this NPRM, the Commission also proposes to revise or eliminate certain part 22 Public Mobile Services (PMS) rules that may have become obsolete as the result of technological change, increased competition in the Commercial Mobile Radio Services (CMRS), supervening changes to related Commission rules, or a combination of these factors. This NPRM in addition proposes to recodify certain part 22 PMS rules to part 1 of the Commission's rules, amend several of the part 1 rules, and make several conforming amendments to the Commission's part 90 rules.

4. In this NPRM, the Commission also seeks comment on ways to increase flexibility to enable licensees to better serve the public. For example, the Commission seeks comment on providing licensees of nationwide paging channels flexibility to provide other services and on whether its rules limiting the provision of dispatch service by paging licensees are too restrictive.

5. Specifically, to illustrate the proposals outlined above, the NPRM seeks comment on elimination or modification of numerous part 22 technical, operational and service rules. For example, the NPRM tentatively concludes that the directional antenna requirements set forth in § 22.363 and Table C-2 to § 22.361 should be eliminated. In addition to these rule changes, the NPRM seeks comment on elimination of the requirement to file FCC Form 409 (Airborne Mobile RadioTelephone License Application) to apply for authority to operate an airborne station. The NPRM also seeks comment regarding whether § 1.929(c)(1) of the Commission's rules should be amended to specify that expansion of a composite interference contour (CIC) of a site-based licensee in the Paging and Radiotelephone Service—as well as the Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service—over water, on a secondary, non interference basis, should be classified as a minor (rather than major) modification of license. Such reclassification would substantially reduce the filing requirements associated with these license modifications. Finally, the

NPRM seeks comment on recodification of § 22.157 (computation of distance) and § 22.159 (computation of terrain elevation) to part 1 of the Commission's rules. Subject to several exceptions, recodification of these rules to part 1 would harmonize the methods for computing distance and terrain elevation applicable to Wireless Radio Services described in parts 1, 20, 21, 22, 24, 27, 80, 87, 90, 95, 97, and 101 so that they are subject to the same requirements.

## Procedural Matters

### *Initial Regulatory Flexibility Analysis*

6. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Below contains the IRFA. The Commission requests written public comments on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, the Commission asks a number of questions regarding the prevalence of small businesses in the affected industries.

7. Interested parties must file comments in accordance with the same filing deadlines as comments filed in this NPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

### *Ex Parte Rules—Permit-but-Disclose Proceedings*

8. This is a permit-but-disclose notice and comment rulemaking proceeding. The Commission's rules permit ex parte presentations, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, and 1.2306(a).

## Comment Dates

9. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before September 23, 2003, and reply comments October 23, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), <http://www.fcc.gov/e-file/ecfs.html>, or by filing paper copies.

10. 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, U.S. 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](mailto:ecfs@fcc.gov), and should including 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.

11. 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 each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., TW-A325, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

12. Parties who choose to file by paper should also submit their comments on diskette. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter

and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contract, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

13. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426, TTY (202) 418-7365 or via e-mail to [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This NPRM can also be downloaded at <http://www.fcc.gov/wtb>.

#### Further Information

14. The World Wide Web addresses/URLs that the Commission gives here were correct at the time this document was prepared but may change over time. They are included herein in addition to the conventional citations as a convenience to readers. The Commission is unable to update these URLs after adoption of this NPRM, and readers may find some URLs to be out of date as time progresses. The Commission also advises readers that the only definitive text of FCC documents is the one that is published in the FCC Record. In case of discrepancy between the electronic documents cited here and the FCC Record, the version in the FCC Record is definitive.

#### Initial Paperwork Reduction Act of 1995 Analysis

15. This NPRM contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995. Public, agency, and OMB comments are due at the same time as other comments on this NPRM (which are due 60 days from the date of publication of this NPRM in the **Federal Register**). Comments should address: (a) Whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collection; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of technology.

16. Written comments by the public on the proposed and/or modified information collections are due September 23, 2003. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before September 23, 2003. In addition to filing comments with the Secretary, a copy of any comments on the information(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Kim Johnson, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to [Kim\\_A.Johnson@omb.eop.gov](mailto:Kim_A.Johnson@omb.eop.gov).

#### Initial Regulatory Flexibility Analysis

17. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM, provided in paragraph 79 of the item. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

#### Need for, and Objectives of, the Proposed Rules

18. In this NPRM, the Commission undertakes a fundamental reexamination of its rules governing the provision of air-ground telecommunications services on commercial airplanes (*i.e.*, those rules affecting the availability of wireless services to passengers on commercial aircraft) in order to enhance the options available to the public. The Commission's goal is to promote service provision that better meets the needs of

the public for wireless air-ground communications services. At present, only one of the six available licenses in this service is used to serve the public. In this NPRM, the Commission seeks comment on whether any changes to its rules could provide greater opportunities for the competitive provision of these services, leading to lower prices to consumers and increased choices in wireless services and enhancements while traveling by commercial airliner. To this end, the Commission is open to all possible suggestions for fundamental reform. In addition, in this context, the Commission seeks comment regarding whether the commercial air-ground spectrum is being efficiently used, since there is now only one operating licensee in a regulatory plan that originally contemplated six competing service providers. The Commission also seeks comment on possible amendment of rules for other wireless services to permit the provision of commercial air-ground service by licensees of such spectrum.

19. The Commission initiates this proceeding partly in furtherance of its biennial review of regulations pursuant to section 11 of the Communications Act of 1934, as amended. Section 11 requires the Commission to review its regulations applicable to providers of telecommunications service and to “determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service,” and to repeal or modify any regulation that the Commission finds no longer necessary in the public interest. This NPRM, in part, is one of the steps in the Commission’s implementation of staff recommendations under section 11 for deleting or modifying various part 22 rules. In addition, this NPRM considers other proposals submitted to the Commission by members of the public regarding changes to the part 22 regulations, including those that do not fall within the scope of section 11. The Commission accordingly seeks comment on changes to rules for each of the part 22 services—Paging and Radiotelephone, Rural Radiotelephone, Air-Ground Radiotelephone, and Offshore Radiotelephone—other than cellular as well as its rules governing developmental authorizations. In addition to eliminating unnecessary regulatory hurdles, many of these proposals provide licensees with greater flexibility regarding the use of their spectrum, which in turn leads to greater

technical, economic, and marketplace efficiency.

20. In this NPRM, the Commission also proposes to revise or eliminate certain part 22 Public Mobile Services (PMS) rules that may have become obsolete as the result of technological change, increased competition in the Commercial Mobile Radio Services (CMRS), supervening changes to related Commission rules, or a combination of these factors. This NPRM in addition proposes to recodify certain part 22 PMS rules to part 1 of the Commission’s rules, amend several of the part 1 rules, and make several conforming amendments to the Commission’s part 90 rules.

21. In this NPRM, the Commission also seeks comment on ways to increase flexibility to enable licensees to better serve the public. For example, the Commission seeks comment on providing licensees of nationwide paging channels flexibility to provide other services and on whether its rules limiting the provision of dispatch service by paging licensees are too restrictive.

22. Specifically, to illustrate the proposals outlined above, the NPRM seeks comment on elimination or modification of numerous part 22 technical, operational and service rules. For example, the NPRM tentatively concludes that the directional antenna requirements set forth in § 22.363 and Table C–2 to § 22.361 should be eliminated. In addition to these rule changes, the NPRM seeks comment on elimination of the requirement to file FCC Form 409 (Airborne Mobile Radiotelephone License Application) to apply for authority to operate an airborne station. The NPRM also seeks comment regarding whether § 1.929(c)(1) of the Commission’s rules should be amended to specify that expansion of a composite interference contour (CIC) of a site-based licensee in the Paging and Radiotelephone Service—as well as the Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service—over water, on a secondary, non interference basis, should be classified as a minor (rather than major) modification of license. Such reclassification would substantially reduce the filing requirements associated with these license modifications. Finally, the NPRM seeks comment on recodification of § 22.157 (computation of distance) and § 22.159 (computation of terrain elevation) to part 1 of the Commission’s rules. Subject to several exceptions, recodification of these rules to part 1 would harmonize the methods for computing distance and terrain

elevation applicable to Wireless Radio Services described in parts 1, 20, 21, 22, 24, 27, 80, 87, 90, 95, 97, and 101 so that they are subject to the same requirements.

#### Legal Basis

23. The potential actions on which comment is sought in this NPRM would be authorized under sections 1, 4(i), 11, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, and 303(r).

#### Description and Estimate of the Number of Small Entities Subject to the Rules

24. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

25. This NPRM could result in rule changes that, if adopted, would affect small businesses that currently are or may become Paging and Radiotelephone, Rural Radiotelephone, Air-Ground Radiotelephone, or Offshore Radiotelephone service providers regulated under subparts E, F, G, and I of part 22 of the Commission’s rules, respectively. The proposed changes to § 22.7 of the Commission’s rules would, if adopted, affect Cellular Radiotelephone Service providers that are regulated under subpart H of part 22 of the Commission’s rules. In addition, pursuant to § 90.493(b) of the Commission’s rules, paging licensees on exclusive channels in the 929–930 MHz bands are subject to the licensing, construction, and operation rules set forth in part 22. As this rulemaking proceeding applies to multiple services, the Commission will analyze the number of small entities affected on a service-by-service basis, and discuss the number of small equipment manufacturing entities that are potentially affected by the proposed rule changes.

26. *Cellular Radiotelephone Service.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the

SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. There are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent Trends in Telephone Service data, 858 carriers reported that they were engaged in the provision of cellular service, PCS, or SMR telephony, which are grouped together in the data. Of these, 567 have more than 1,500 employees; the remaining 291 are small business concerns under the SBA's definition. However, because data for cellular service, PCS, and SMR telephony are reported collectively, the Commission is unable at this time to estimate how many of the 291 small business concerns are cellular service carriers. Consequently, the Commission estimates that there are 291 or fewer small cellular service carriers that may be affected by the proposal to amend § 22.7, if adopted.

27. *Paging and Radiotelephone Service.* The Commission has defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$15 million. A "very small business" is defined as an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$3 million. The SBA has approved these definitions. An auction of MEA licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won licenses. An auction of MEA and EA paging licenses commenced on October 30, 2001, and closed on December 5, 2001. Of the 15,514 licenses auctioned, 5,323 were sold. In this auction, high bids were placed by 130 entities that qualify as small businesses under the Commission's definition. Licenses have been granted to 128 of these entities, and the applications of the other entities remain pending. Thus, in addition to existing licensees, should the Commission adopt the rule changes proposed in the NPRM, 130 license winners in the recent auction would be affected small entities.

28. In addition, the SBA defines small paging companies as an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent Trends in Telephone Service data, 576 carriers

reported that they were engaged in the provision of paging and messaging service. Only 19 of the 576 carriers have more than 1,500 employees; the remaining 557 are small business concerns under the SBA's definition. Consequently, the Commission estimates that there are 557 small paging carriers that may be affected by the proposed rules, if adopted. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

29. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small business specific to the Air-Ground Radiotelephone Service. Accordingly, the Commission uses the SBA definition applicable to cellular and other wireless telecommunication companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

30. *Offshore Radiotelephone Service.* This service operates on several ultra high frequency (UHF) TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission has not adopted a definition of small business specific to the Offshore Radiotelephone Service. Accordingly, the Commission uses the SBA definition applicable to cellular and other wireless telecommunication companies, *i.e.*, an entity employing no more than 1,500 persons. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition. The Commission assumes, for purposes of this IRFA, that all of the 55 licensees are small entities, as that term is defined by the SBA.

31. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). The Commission therefore uses the SBA definition applicable to cellular and other wireless telecommunication companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

32. *Equipment Manufacturers.* Some of the proposed actions in the NPRM could also affect equipment manufacturers. The Commission does not know how many equipment manufacturers are in the current market. The 1994 County Business Patterns Report of the Bureau of the Census estimates that there are 920 companies that make communications subscriber equipment. This category includes not only cellular, paging, air-ground, offshore, and rural radiotelephone equipment manufacturers, but television and AM/FM radio manufacturers as well. Thus, the number of cellular, paging, air-ground, offshore, and rural radiotelephone equipment manufacturers is lower than 920. Under SBA regulations, a "communications equipment manufacturer" must have a total of 1000 or fewer employees in order to qualify as a small business concern. Census Bureau data from 1992 indicate that at that time there were an estimated 858 such U.S. manufacturers and that 778 (91 percent) of these firms had 750 or fewer employees and would therefore be classified as small entities. Using the Commission's current estimate of equipment manufacturers and the previous percentage estimate of small entities, the Commission estimates that this current action may affect approximately 837 small equipment manufacturers.

33. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.*

34. This NPRM neither proposes nor anticipates any additional reporting, recordkeeping, or other compliance measures. If certain of the proposals in the NPRM (*e.g.*, eliminating the § 22.655 requirement that certain paging licensees file channel usage reports, or elimination of the requirement to file FCC Form 409 (Airborne Mobile Radiotelephone License Application) to apply for authority to operate an airborne station) are adopted as a result of this proceeding, then the Commission contemplates a reduction in these requirements. The reduction would be the same for all entities.

35. In addition to these rule changes, the NPRM also seeks comment regarding whether § 1.929(c)(1) of the Commission's rules should be amended to specify that expansion of a composite interference contour (CIC) of a site-based licensee in the Paging and Radiotelephone Service—as well as the Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service—over water on a secondary, non interference basis should be classified as a minor (rather than major) modification of license. Such

reclassification, if adopted, would substantially reduce the filing requirements associated with these license modifications.

**Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

36. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

37. As stated earlier, a number of the Commission's part 22 technical, operational and service rules may be determined to be outdated. Therefore, modifying or eliminating these rules should decrease the costs associated with regulatory compliance for service providers, provide additional flexibility in the provision of service and manufacturing of equipment, and enhance the market demand for some services. The Commission therefore anticipates that, although it seems likely that there will be a significant economic impact on a substantial number of small entities, there will be no adverse economic impact on small entities. In fact, certain of the proposed rule changes may particularly benefit small entities. For example, the NPRM proposes that § 1.929(c)(1) should be amended to specify that expansion of the composite interference contour (CIC) of a site-based licensee in the Paging and Radiotelephone Service—as well as the Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service—over water, on a secondary, non interference basis to any geographic area licensee in the same area, is a minor, not a major, modification of license. Although adoption of such an amendment would benefit both small and large entities (because minor modifications are self-effectuating, while major modifications require FCC approval), the majority of businesses in these three radio services are small entities. The NPRM further proposes that a site-based licensee expanding its CIC over water as defined above could do so on a permissive basis, with no notification to the Commission required. Many licensees in these services are

small entities that could benefit from this rule change.

38. In the NPRM, then, the Commission has set forth various options it is considering for each rule, from modifying rules to eliminating them altogether. As discussed in the NPRM, the effect of any rule change on the regulatory burden of licensees will be a significant criterion in determining appropriate Commission action. With the exception of the reexamination of the rules governing the provision of air-ground telecommunications services on commercial airplanes in order to enhance the options available to the public, the entire intent underlying the Commission's actions here is to lessen the levels of regulation, consistent with its mandate for undertaking biennial reviews. The Commission seeks comment on any additional appropriate alternatives and especially alternatives that may further reduce economic impacts on small entities.

**Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rules**

39. None.

**Ordering Clauses**

40. Pursuant to the authority contained in sections 1, 4(i), 11, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, and 303(r), this Notice of Proposed Rulemaking is *adopted*.

41. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

**List of Subjects in 47 CFR Parts 1, 22 and 90**

42. Administrative practice and procedure, Communications common carriers, Communications equipment, Metric system, Radio, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

**Rule Changes**

For the reasons stated in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 22, and 90 as follows:

**PART 1—PRACTICE AND PROCEDURE**

1. The authority citation for part 1 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. Section 1.903 is amended by revising paragraph (c) to read as follows:

**§ 1.903 Authorization required.**

\* \* \* \* \*

(c) *Subscribers.* Authority for subscribers to operate mobile or fixed stations in the Wireless Radio Services, except for certain stations in the Rural Radiotelephone Service, is included in the authorization held by the licensee providing service to them. Subscribers are not required to apply for, and the Commission does not accept, applications from subscribers for individual mobile or fixed station authorizations in the Wireless Radio Services. Individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as provided in § 22.703 of this chapter. Individual authorizations are required for end users of certain Specialized Mobile Radio Systems as provided in § 90.655 of this chapter. In addition, certain ships and aircraft are required to be individually licensed under Parts 80 and 87 of this chapter. See §§ 80.13, 87.18 of this chapter.

3. Section 1.929 is amended by revising paragraph (c)(1) to read as follows:

**§ 1.929 Classification of filings as major or minor.**

\* \* \* \* \*

(c) \* \* \*

(1) In the Paging and Radiotelephone Service, Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service (SMR), any change that would increase or expand the applicant's existing composite interference contour, except extensions of a composite interference contour over bodies of water that extend beyond county boundaries (*i.e.*, including but not limited to oceans, the Gulf of Mexico, and the Great Lakes) on a secondary basis.

\* \* \* \* \*

4. Section 1.958 is added to subpart F of part 1 to read as follows:

**§ 1.958 Distance computation.**

The method given in this section must be used to compute the distance between any two locations, except that, for computation of distance involving stations in Canada and Mexico, methods for distance computation specified in

the applicable international agreement, if any, must be used instead. The result of a distance calculation under parts 21 and 101 of this chapter must be rounded to the nearest tenth of a kilometer. The method set forth in this paragraph is considered to be sufficiently accurate for distances not exceeding 475 km (295 miles).

(a) Convert the latitudes and longitudes of each reference point from degree-minute-second format to degree-decimal format by dividing minutes by 60 and seconds by 3600, then adding the results to degrees.

$$\text{LATX}_{dd} = \text{DD} \div \frac{\text{MM}}{60} + \frac{\text{SS}}{3600}$$

$$\text{LONX}_{dd} = \text{DDD} \div \frac{\text{MM}}{60} + \frac{\text{SS}}{3600}$$

(b) Calculate the mean geodetic latitude between the two reference points by averaging the two latitudes:

$$\text{ML} = \frac{\text{LAT1}_{dd} + \text{LAT2}_{dd}}{2}$$

(c) Calculate the number of kilometers per degree latitude difference for the mean geodetic latitude calculated in paragraph (b) of this section as follows:

$$\text{KPD sublat} = 111.13209 - 0.56605 \cos 2\text{ML} + 0.00120 \cos 4\text{ML}$$

(d) Calculate the number of kilometers per degree of longitude difference for the mean geodetic latitude calculated in paragraph (b) of this section as follows:

$$\text{KPD sublon} = 111.41513 \cos \text{ML} - 0.09455 \cos 3\text{ML} + 0.00012 \cos 5\text{ML}$$

(e) Calculate the North-South distance in kilometers as follows:

$$\text{NS} = \text{KPD sublat} \times (\text{LAT1 subdd} - \text{LAT2 subdd})$$

(f) Calculate the East-West distance in kilometers as follows:

$$\text{EW} = \text{KPD sublon} \times (\text{LON1 subdd} - \text{LON2 subdd})$$

(g) Calculate the distance between the locations by taking the square root of the sum of the squares of the East-West and North-South distances:

$$\text{DIST} = \sqrt{\text{NS}^2 + \text{EW}^2}$$

(h) Terms used in this section are defined as follows:

(1) LAT1 subdd and LON1 subdd are the coordinates of the first location in degree-decimal format.

(2) LAT2 subdd and LON2 subdd are the coordinates of the second location in degree-decimal format.

(3) ML is the mean geodetic latitude in degree-decimal format.

(4) KPD sublat is the number of kilometers per degree of latitude at a given mean geodetic latitude.

(5) KPD sublon is the number of kilometers per degree of longitude at a given mean geodetic latitude.

(6) NS is the North-South distance in kilometers.

(7) DIST is the distance between the two locations, in kilometers.

5. Section 1.959 is added to subpart F of part 1 to read as follows:

#### § 1.959 Computation of average terrain elevation.

Except as otherwise specified in § 90.309(a)(4) of this chapter, average terrain elevation must be calculated by computer using elevations from a 30 second point or better topographic data file. The file must be identified. If a 30 second point data file is used, the elevation data must be processed for intermediate points using interpolation techniques; otherwise, the nearest point may be used. In cases of dispute, average terrain elevation determinations can also be done manually, if the results differ significantly from the computer derived averages.

(a) Radial average terrain elevation is calculated as the average of the elevation along a straight line path from 3 to 16 kilometers (2 and 10 miles) extending radially from the antenna site. If a portion of the radial path extends over foreign territory or water, such portion must not be included in the computation of average elevation unless the radial path again passes over United States land between 16 and 134 kilometers (10 and 83 miles) away from the station. At least 50 evenly spaced data points for each radial should be used in the computation.

(b) Average terrain elevation is the average of the eight radial average terrain elevations (for the eight cardinal radials).

(c) For locations in Dade and Broward Counties, Florida, the method prescribed above may be used or average terrain elevation may be assumed to be 3 meters (10 feet).

#### § 1.1102 [Amended]

6. Section 1.1102 is revised by removing paragraph (16)(h).

#### § 1.2003 [Amended]

7. Section 1.2003 is revised by removing the phrase "FCC 409 Airborne Mobile Radio Telephone License Application;"

### PART 22—PUBLIC MOBILE SERVICES

8. The authority citation for part 22 continues to read as follows:

**Authority:** 47 U.S.C. 154, 222, 303, 309 and 332.

9. Section 22.1 is amended by revising paragraph (b) to read as follows:

#### § 22.1 Basis and purpose.

\* \* \* \* \*

(b) *Purpose.* The purpose of these rules is to establish the requirements and conditions under which domestic radio stations may be licensed and used in the Public Mobile Services.

10. Section 22.3 is amended by revising paragraph (b) to read as follows:

#### § 22.3 Authorization required.

\* \* \* \* \*

(b) Authority for subscribers to operate mobile or fixed stations in the Public Mobile Services, except for certain stations in the Rural Radiotelephone Service, is included in the authorization held by the licensee providing service to them. Subscribers are not required to apply for, and the FCC does not accept applications from subscribers for, individual mobile or fixed station authorizations in the Public Mobile Services, except that individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as provided in § 22.703.

11. Section 22.7 is revised to read as follows:

#### § 22.7 General eligibility.

Any entity, other than those precluded by section 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, is eligible to hold a license under this part. Applications are granted only if the applicant is legally, financially, technically and otherwise qualified to render the proposed service.

12. Amend § 22.99 as follows:

a. Revise the definitions of Air-Ground Radiotelephone Service, Cellular Radiotelephone Service, Channel, Communications channel, Control channel, Ground station, Offshore Radiotelephone Service, Public Mobile Services, and Rural Radiotelephone Service.

b. Remove the definitions of "Meteor burst propagation mode," "Radio Common Carrier," and "Wireline Common Carrier."

c. Remove the reference to "Air-ground Radiotelephone Service" and add in its place "Air-Ground Radiotelephone Service" wherever it appears.

The revisions read as follows:

#### § 22.99 Definitions.

\* \* \* \* \*

*Air-Ground Radiotelephone Service.* A radio service in which licensee are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

\* \* \* \* \*

Cellular Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide cellular service for hire to the general public. This service was formerly titled Domestic Public.

\* \* \* \* \*

Channel. The portion of the electromagnetic spectrum assigned by the FCC for one emission. In certain circumstances, however, more than one emission may be transmitted on a channel.

\* \* \* \* \*

Communications channel. In the Cellular Radiotelephone and Air-Ground Radiotelephone Services, a channel used to carry subscriber communications.

\* \* \* \* \*

Control channel. In the Cellular Radiotelephone Service and the Air-Ground Radiotelephone Service, a channel used to transmit information necessary to establish or maintain communications. In the other Public Mobile Services, a channel that may be assigned to a control transmitter.

\* \* \* \* \*

Ground station. In the Air-Ground Radiotelephone Service, a stationary transmitter that provides service to airborne mobile stations.

\* \* \* \* \*

Offshore Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide radio telecommunication services for hire to subscribers on structures in the offshore coastal waters of the Gulf of Mexico.

\* \* \* \* \*

Public Mobile Services. Radio services in which common carriers are authorized to offer and provide mobile and related fixed radio telecommunication services for hire to the public.

\* \* \* \* \*

Rural Radiotelephone Service. A radio service in which licensee are authorized to offer and provide radio telecommunication services for hire to subscribers in areas where it is not feasible to provide communication services by wire or other means.

\* \* \* \* \*

13. Section 22.143 is amended by revising paragraph (d)(4) to read as follows:

**§ 22.143 Construction prior to grant of application.**

\* \* \* \* \*

(d) \* \* \*

(4) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, the licensee has

notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC at WTB, Database Management Division, Analysis and Development Branch, 1120 Fairfield Road, Gettysburg, PA 17325 or electronically via the FCC Antenna Structure Registration homepage, <http://wireless.fcc.gov/antenna/>;

\* \* \* \* \*

**§ 22.157 [Removed]**

14. Remove § 22.157.

**§ 22.159 [Removed]**

15. Remove § 22.159.

**§ 22.161 [Removed]**

16. Remove § 22.161.

17. Section 22.351 is revised to read as follows:

**§ 22.351 Channel assignment policy.**

The channels allocated for use in the Public Mobile Services are listed in the applicable subparts of this part. Channels and channel blocks are assigned in such a manner as to facilitate the rendition of service on an interference-free basis in each service area. Except as otherwise provided in this part, each channel or channel block is assigned exclusively to one licensee in each service area. All applicants for, and licensees of, stations in the Public Mobile Services shall cooperate in the selection and use of channels in order to minimize interference and obtain the most efficient use of the allocated spectrum.

18. Section 22.352 is amended by revising the undesignated paragraph and paragraph (c)(7) to read as follows:

**§ 22.352 Protection from interference.**

Public Mobile Service stations operating in accordance with applicable FCC rules and the terms and conditions of their authorizations are normally considered to be non-interfering.

\* \* \* \* \*

(c) \* \* \*

(7) *In-building radiation systems.* No protection is provided against interference to the service of in-building radiation systems.

**§ 22.361 [Removed]**

19. Section 22.361 is removed.

**§ 22.363 [Removed]**

20. Section 22.363 is removed.

**§ 22.373 [Removed]**

21. Section 22.373 is removed.

**§ 22.379 [Removed]**

22. Section 22.379 is removed.

**§ 22.381 [Removed]**

23. Section 22.381 is removed.

**§ 22.383 [Removed]**

24. Section 22.383 is removed.

**§ 22.415 [Removed]**

25. Section 22.415 is removed.

26. Section 22.503 is amended by adding paragraph (g)(4) to read as follows:

**§ 22.503 Paging geographic area authorizations.**

\* \* \* \* \*

(g) \* \* \*

(4) The application is for a minor modification of license to expand a licensee's composite interference contour over water on a secondary, non-interference basis under § 1.929(c)(1) of this chapter.

\* \* \* \* \*

**§ 22.539 [Removed]**

27. Section 22.539 is removed.

28. Section 22.563 is revised to read as follows:

**§ 22.563 Provision of rural radiotelephone service.**

Channels in the frequency ranges 152.03-152.81, 157.77-158.67, 454.025-454.650 and 459.025-459.650 MHz, inclusive, are also allocated for assignment in the Rural Radiotelephone Service.

**§ 22.569 [Removed]**

29. Section 22.569 is removed.

**§ 22.591 [Amended]**

30. Section 22.591 is amended by removing the table entitled "Microwave channels," and by removing and reserving paragraph (b).

31. Section 22.593 is revised to read as follows:

**§ 22.593 Effective radiated power limits.**

The effective radiated power of fixed stations operating on the channels listed in § 22.591 must not exceed 150 Watts.

32. Section 22.601 is amended by revising the undesignated paragraph to read as follows:

**§ 22.601 Assignment of microwave channels.**

Assignment of the 2110-2130 and 2160-2180 MHz channels (formerly listed in § 22.591) is subject to the transition rules in § 22.602. No new systems will be authorized under this part.

\* \* \* \* \*



33. Section 22.602 is amended by revising the undesignated paragraph to read as follows:

**§ 22.602 Transition of the 2110–2130 and 2160–2180 MHz channels to emerging technologies.**

The 2110–2130 and 2160–2180 MHz microwave channels (formerly listed in § 22.591) have been allocated for use by emerging technologies (ET) services. No new systems will be authorized under this part. The rules in this section provide for a transition period during which existing Paging and Radiotelephone Service (PARS) licensees using these channels may relocate operations to other media or to other fixed channels, including those in other microwave bands. For PARS licensees relocating operations to other microwave bands, authorization must be obtained under Part 101 of this chapter.

\* \* \* \* \*

34. Section 22.625 is amended by revising paragraph (a) to read as follows:

**§ 22.625 Transmitter locations.**

\* \* \* \* \*

(a) *928–960 MHz.* In this frequency range, the required minimum distance separation between co-channel fixed transmitters is 113 kilometers (70 miles).

\* \* \* \* \*

35. Section 22.655 is amended by revising paragraph (a) to read as follows:

**§ 22.655 Channel usage.**

\* \* \* \* \*

(a) In Alaska, channels 42.40, 44.10, 44.20 and 45.90 MHz are allocated for assignment to transmitters providing rural radiotelephone service using meteor burst propagation modes, subject to the provisions of § 22.729.

\* \* \* \* \*

36. Section 22.725 is amended by revising the section heading and the text of the undesignated paragraph to read as follows:

**§ 22.725 Channels for conventional rural radiotelephone stations and basic exchange telephone radio systems.**

The following channels are allocated for paired assignment to transmitters that provide conventional rural radiotelephone service and to transmitters in basic exchange telephone radio systems. These channels may be assigned for use by central office or rural subscriber stations as indicated, and interoffice stations. These channels may be assigned also for use by relay stations in systems where it would be impractical to provide rural radiotelephone service without the use of relay stations. All channels have a

bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

\* \* \* \* \*

37. Section 22.757 is revised to read as follows:

**§ 22.757 Channels for basic exchange telephone radio systems.**

The channels listed in § 22.725 are also allocated for paired assignment to transmitters in basic exchange telephone radio systems.

**§ 22.805 [Removed]**

38. Section 22.805 is removed.

39. Section 22.815 is revised to read as follows:

**§ 22.815 Construction period for general aviation ground stations.**

The construction period (see § 1.946) for general aviation ground stations is 12 months.

**§ 22.871 [Removed]**

40. Section 22.871 is removed.

41. Section 22.1003 is revised to read as follows:

**§ 22.1003 General eligibility.**

Any entity, other than those precluded by section 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, is eligible to hold a license under this subpart. Applications are granted only if the applicant is legally, financially, technically and otherwise qualified to render the proposed service.

**PART 90—PRIVATE LAND MOBILE RADIO SERVICES**

42. The authority citation for Part 90 continues to read as follows:

**Authority:** Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

43. Section 90.309 is amended by revising paragraph (a)(1) to read as follows:

**§ 90.309 Tables and figures.**

(a) \* \* \*

(1) Using the method specified in § 1.958 of this chapter, determine the distances (i) between the proposed land mobile base station and the protected cochannel television station and (ii) between the proposed land mobile base station and the protected adjacent channel television station. If the exact mileage does not appear in table A for protected cochannel television stations (or table B for channel 15 in New York and Cleveland and channel 16 in Detroit) or table E for protected adjacent channel television stations, the next

lower mileage separation figure is to be used.

\* \* \* \* \*

[FR Doc. 03–18643 Filed 7–24–03; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2 and 15**

[ET Docket No. 03–122; FCC 03–110]

**Unlicensed Devices in the 5 GHz Band**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the rules governing the operation of unlicensed National Information Infrastructure (U-NII) devices, including Radio Local Area Networks (RLANs), to make available an additional 255 megahertz of spectrum in the 5.47–5.725 GHz band. This will increase the spectrum available to unlicensed devices in the 5 GHz region of the spectrum by nearly 80%, and, it represents a significant increase in the spectrum available for unlicensed devices across the overall radio spectrum. We believe that the increased available capacity gained from access to an additional 255 megahertz of spectrum, coupled with the ease of deployment and operational flexibility provided by our U-NII rules, will foster the development of a wide range of new and innovative unlicensed devices and lead to increased wireless broadband access and investment.

**DATES:** Written comments are due September 3, 2003, and reply comments are due September 23, 2003.

**ADDRESSES:** Federal Communications, Marlene H. Dortch, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for filing information.

**FOR FURTHER INFORMATION CONTACT:**

Ahmed Lahjouji, Office of Engineering and Technology, (202) 418–2061; TTY (202) 418–2989, e-mail: [Ahmed.Lahjouji@fcc.gov](mailto:Ahmed.Lahjouji@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 03–122, FCC 03–122, adopted May 15, 2003, and released June 4, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may