

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 24, 25, 74, 78, 90 and 101**

[WT Docket No. 00-19; RM-9418; FCC 00-33]

Point-to-Point and Point-to-Multipoint Common Carrier and Private Operational Fixed Microwave Rules**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: In this document, the Commission proposes to eliminate regulations that are duplicative, outmoded, or otherwise unnecessary. Similarly, the Commission proposes to consolidate and/or streamline rules concerning wireless radio services to remove duplication. We seek to further the work begun by the consolidation of parts 21 and 94 into a single part 101 Order in our implementation of a Universal Licensing System (ULS) for wireless application. The new consolidated part 101 reduces or eliminates the differences in processing applications from common carriers and private operational fixed microwave service licensees, and furthers regulatory parity between these microwave services.

Once fully deployed, the ULS will eliminate the need for wireless carriers to file duplicative applications, and will increase the accuracy and reliability of licensing information.

DATES: Comments are due July 20, 2000. Reply Comment August 4, 2000. Comments to be filed in WT Docket No. 00-19 and RM-9418 only.

ADDRESSES: Send comments to the Office of the Secretary, a copy of any comments on the information collection(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.

FOR FURTHER INFORMATION CONTACT:

Michael J. Pollak, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418-0680.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Commission's *Notice of Proposed Rule Making*, FCC 00-33 in WT Docket No. 00-19, adopted February 2, 2000, and released on February 14, 2000. The full text of this *Notice of Proposed Rule Making* is available for inspection and copying during normal business hours

in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20037. The full text may also be downloaded at: www.fcc.gov/Bureaus/Wireless/Orders/2000/FCC0033.doc/FCC0033.txt/FCC0033a.doc/FCC0033a.txt. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

Summary of the Notice of Proposed Rule Making

2. Specifically, we seek comment on the following issues:

- Grandfathering certain POFS licensees who formerly carried private traffic now classified as common carrier traffic, or eliminating the prohibition on POFS licensees offering common carrier services;
- Revising parts 74, 78, 90, and 101 for shared use of certain frequency bands;
- Removing several unnecessary or redundant sections of the rules concerning forms, notifications, and technical standards;
- Clarifying conditional operations in the four low power frequency pairs in the 23 GHz band in § 101.31(b)(vii);
- Updating the transmitter frequency tolerance table in § 101.107, and correcting and clarifying other minor technical rules;
- Allowing conditional operation in the 952.95-956.15 and 956.55-959.75 MHz bands.

3. We note that some of the proposed rule changes are procedural in nature, and thus are exempt from notice and comment requirements pursuant to section 553(b)(3)(A) of the Administrative Procedure Act. However, as a result of the consolidation of parts 21 and 94, we realize that the combination of common carrier and private microwave rules and procedures requires a period of adjustment. We believe that this approach will afford the public an opportunity to provide feedback on how these adjustments are succeeding or failing.

4. We also address a Petition for Rulemaking filed by the Telecommunications Industry Association (TIA). The TIA Petition focuses on permitting conditional authorization in the 23 GHz band, making the 23 GHz band more accessible to fixed service users, and modifying antenna standards for the 10 GHz and 23 GHz bands to allow for

more hops and longer paths. TIA also proposes rule changes to part 74, Television Broadcast Auxiliary Service, to permit transport of digital transmissions over point-to-point microwave frequencies in that service. We seek comment on the following proposals regarding the 23 GHz band:

- Permitting conditional licensing;
- Rechannelling the band into 50, 40, 30, 20, 10, 5, and 2.5 MHz channels;
- Permitting common carrier and POFS users to share the entire band;
- Changing the frequency tolerance to 0.001%;
- Requiring spectrum efficiency of one bit-per-second per Hertz (1 bps/Hz);
- Designating 200 MHz for low power, limited coverage systems;
- Modifying the antenna standards.

We also seek comment regarding modifying the antenna standards in the 10 GHz band.

5. In addition, we seek comment regarding whether, and how, our licensing approach in part 101 should be modified to implement the Balanced Budget Act of 1997 (Balanced Budget Act). We seek input on the best licensing structure to ensure that spectrum above the 2 GHz band is licensed efficiently and used in the public interest, including the following issues regarding whether we should substantially alter microwave licensing above 2 GHz in light of the Balanced Budget Act:

We present several options for reinventing the licensing process for part 101 spectrum consistent with our auction procedures.

- We request comment on how to segregate exempted spectrum from the auctions process.
- We request comment on whether to require the licensees where we use geographic licensing to develop agreements between each other on how to utilize their spectrum, especially along the boundaries between areas and/or where there is line-of-sight into another area, to achieve the most efficient and effective use in each geographic area.
- We request comment about the possible technologies for terrestrial microwave users concerning a new proposal for frequency reuse in the 12.2-12.7 GHz band.

- We request comment on whether it is appropriate to forbear from enforcing any provision of the Communications Act of 1934, as amended, or the Commission's rules with respect to part 101 services.

In addition, we issued a Notice of Proposed Rule Making seeking comment on how to implement the Balanced Budget Act generally, but we did not

specifically address fixed microwave services in that proceeding. We will consider the record in both proceedings in deciding whether or how part 101 should be modified to conform to the Balanced Budget Act.

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 policies and rules proposed in this Notice of Proposed Rule Making (Notice). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice.

I. Need for and Objectives of the Proposed Rules

This rulemaking is being initiated to apply certain licensing and service rules to new and existing fixed microwave licensees under part 101 of the Commission's rules for the purpose of streamlining application preparation and processing time for the Commission and the industry. Our objectives are (1) to clarify the existing rules so they are easier to understand; (2) to facilitate the awarding of licenses to entities in a quicker manner; and (3) to eliminate unnecessary regulation.

II. Legal Basis

The proposed action is authorized under the Administrative Procedure Act, 5 U.S.C. 553; and sections 1, 4(i), 7, 301, 303, 308, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 301, 303, 308, and 309(j).

III. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The proposed rules would affect all common carrier and private operational fixed microwave licensees who are authorized under part 101 of the Commission's rules. The Commission has not developed a definition of small entities applicable to these licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules for the radiotelephone industry, which provides that a small entity is a

radiotelephone company employing fewer than 1,500 persons. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. It is our understanding that these rule change will affect less than 1000 entities, but that the effect will be to lessen time and input and thereby any costs associated with processing the applications. We seek comment on this analysis. In providing such comment, commenters are requested to provide information regarding how many total and small business entities would be affected.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

Under the proposals contained in the Notice, we are not changing or are reducing the amount of reporting, recordkeeping, and other compliance requirements. Applicants for licenses will be required to submit applications on FCC Form 601 to the Wireless Telecommunications Bureau as they do now. We request comment on how these requirements can be modified to reduce the burden on small entities and still meet the objectives of the proceeding.

V. Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

We have reduced burdens wherever possible. The regulatory burdens we have retained, such as filing applications on appropriate forms, are necessary in order to ensure that the public receives the benefits of new and existing services in a prompt and efficient manner. We will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing and significant economic impact on small entities. We seek comment on significant alternatives commenters believe we should adopt.

Federal rules that overlap, duplicate, or conflict with these proposed rules. None.

VI. Paperwork Reduction Analysis

This Notice of Proposed Rule Making contains either a proposed information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law No. 104-13. Public and agency comments are due at the same time as other comments on this Notice of Proposed Rule Making; OMB comments are due 60 days from the date of publication of this Notice of Proposed Rule Making in the **Federal Register**. Comments should address:

- 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.
- The accuracy of the Commission's burden estimates.
- Ways to enhance the quality, utility, and clarity of the information collected.
- Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Ordering Clauses

7. The authority contained in sections 1, 4(i), 7, 301, 303, 308, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(i), 157, 161, 301, 303, 308, 332(a), and 332(c), this *Notice of Proposed Rule Making* in WT Docket No. 00-19 is adopted.

8. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 24, 25, 74, 78, 90 and 101

Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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