

and imposes no new federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

## VI. Summary of Action

Pursuant to the authority of section 112(l) of the Act EPA is soliciting public comment on today's proposal to delegate in the interim the authority to implement and enforce specific federal NESHAP regulations which have been adopted into Washington state law. Additionally, EPA is proposing to approve specific state and local air regulations for the purpose of conferring federal enforceability to PTE permits or orders issued pursuant to these regulations.

Interested parties are invited to comment on all aspects of this proposed rule. Comments should be submitted in triplicate, to the address listed in the front of this Notice. Public comments postmarked by March 18, 1996, will be considered in the final rulemaking action taken by EPA. Issues raised by those comments will be carefully reviewed and considered in the decision to approve or disapprove the submittal. The EPA expects to make a final decision on whether or not to approve the Washington submittal within 30 days after the close of the public comment period. EPA will give notice of this decision in a final Federal Register rulemaking. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Authority: 42 U.S.C. 7401-7671q.

Dated: February 6, 1996.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96-3584 Filed 2-15-96; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[WT Docket No. 96-6; FCC 96-17]

### Flexible Service Offerings in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** In this Notice of Proposed Rule Making ("Notice"), we propose that broadband Commercial Mobile Radio Service ("CMRS") ("broadband CMRS") providers be authorized to offer fixed wireless local loop service. We

also solicit comment on whether other or all fixed services should be permitted in addition to the mobile and related fixed services now permitted. We initiate this proceeding on our own motion to address the uncertainty in our existing rules on the extent to which fixed services may be provided by broadband Personal Communications Service ("PCS"), Cellular Radiotelephone Service ("cellular"), and Special Mobile Radio ("SMR") providers. The measures we propose should increase competition within wireless services and promote competition between wireless and wireline services.

**DATES:** Comments are to be filed on or before February 26, 1996. Reply Comments are to be filed on or before March 18, 1996.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Sandra Danner, Legal Branch, Commercial Wireless Division, Wireless Telecommunications Bureau at (202) 418-0620.

#### SUPPLEMENTARY INFORMATION:

This *Notice of Proposed Rule Making* in WT Docket No. 96-6, adopted January 24, 1996, and released January 25, 1996, is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.E., Suite 1400, Washington, D.C. 20037 (telephone (202) 857-3800).

#### I. Introduction

1. In this *Notice of Proposed Rule Making* ("Notice") in WT Docket No. 96-6, we propose that broadband Commercial Mobile Radio Service ("CMRS") ("broadband CMRS")<sup>1</sup> providers be authorized to offer fixed wireless local loop service. We also solicit comment on whether other or all fixed services should be permitted in addition to the mobile and related fixed services now permitted. We initiate this proceeding on our own motion to address the uncertainty in our existing rules on the extent to which fixed

<sup>1</sup>The services under "broadband CMRS" includes Broadband Personal Communications Service, Cellular Radiotelephone Service and Specialized Mobile Radio. See in the *Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, 59 FR 59945 (November 12 1994), *Third Report and Order*, 9 FCC Rcd 7988, 8105-8110, ¶¶ 252-265 (1994).

services may be provided by broadband Personal Communications Service ("PCS"), Cellular Radiotelephone Service ("cellular"), and Special Mobile Radio ("SMR") providers. The measures we propose should increase competition within wireless services and promote competition between wireless and wireline services.

#### II. Background

2. The Communications Act<sup>2</sup> defines "mobile service" as a "radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves and includes (1) both one-way and two-way radio communication services, (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment to the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding." 47 U.S.C. 153(n).

3. In the *Second Report and Order* in GN Docket No. 93-252, 59 FR 18493 (April 19, 1994) ("*CMRS Second Report & Order*"), the Commission interpreted the statutory definition of mobile service to include "all auxiliary services provided by mobile services licensees," but then distinguished between fixed point-to-point services and those services capable of being provided in a "mobile mode." The *CMRS Second Report and Order* excludes from the mobile definition those services which are solely fixed in nature (e.g., Basic Exchange Telephone Radio Service (BETRS)), but categorizes other services that have some fixed uses as mobile by virtue of having a mobile component or mobile capabilities. For example, we determined that services provided through dual-use equipment, such as Inmarsat-M terminals that can be moved while transmitting, are mobile.

4. Our current rules for broadband CMRS services allow licensees to provide all forms of mobile services, including local loop services that are mobile in nature. In addition, broadband CMRS providers may

<sup>2</sup> Communications Act of 1934, as amended, 47 U.S.C. 332 ("Communications Act").

provide some forms of fixed service subject to certain limitations. Our PCS rules, for instance, permit PCS licensees to provide any fixed service that is ancillary to their mobile operations. Likewise, SMR providers may use licensed spectrum for certain fixed uses on a secondary, non-interference basis to the primary mobile operations of any other licensee. Cellular carriers may provide auxiliary common carrier services and services premised on the use of alternative cellular technologies, so long as such services do not interfere with the authorized cellular service. Fixed services also may be provided by cellular licensees as incidental communication services under our incidental service rules.

5. Local exchange service delivered by radio link may be provided using architectures consisting of mobile, fixed, or a combination of those components. For example, one possible architecture would be radio-based telephone instruments that are mobile, whether in the home, office, or any other fixed location. Another example would combine wired telephone instruments with a fixed wireless link from the street to a demarcation box on the side of a house, building, or other premises to which wiring connects. Our current rules are unclear, however, on the scope of fixed ancillary services that may be provided by PCS carriers, and as to the types of secondary, auxiliary or incidental services that may be provided by other CMRS providers. Although we previously held that all auxiliary services provided by mobile service licensees would be considered in the definition of "mobile" service by such carriers, we are finding that carriers are hesitant to take advantage of that flexibility without further guidance from the Commission. We note our original purpose in limiting this spectrum to mobile and related services was to ensure that adequate spectrum was available for these services, which cannot feasibly be provided at higher frequencies. However, it appears that the characterization of permissible use in our rules may be inhibiting carriers intending to use radio links to replace existing wireline service or to bring service to rural or less attractive areas otherwise not being adequately served by wireline providers.

6. We propose to define "wireless local loop" as the path between the subscriber and the first point of switching or aggregation of traffic. We seek comment on whether this definition will encompass the anticipated service needs of consumers and whether such a definition gives certainty to CMRS providers that are

planning and marketing competitive wireless telecommunications networks. We propose a definition for wireless local loop that is sufficiently broad that it is unnecessary to examine the mobile or fixed nature of each particular application.

7. The Commission has discretion under Section 303 of the Communications Act to prescribe the nature of the service to be rendered over radio frequencies and to assign or allocate frequencies to various classes of stations. Nothing in the language of Section 303 (or its legislative history) suggests that the Commission is prohibited from assigning spectrum to stations for more than one permissible use. Furthermore, the Commission is guided by the policies set forth in the Communications Act to encourage the provision of new technologies and services to the public.

8. The federal government as well as state governments are interested in removing barriers to competitive provision of local exchange service throughout the United States. Over the last several years, the Commission and various state governments have taken a number of actions that increased opportunities for competitive provision of local telecommunications services. A number of states have already enacted legislation or completed other measures to introduce new local exchange service providers. In a series of decisions from 1992 to 1994, the Commission implemented expanded interconnection and collocation policies that created new opportunities for competitive provision of access services that have been traditionally offered by only the local telephone companies. These decisions were fundamental to opening the interstate special access and switched transport markets to competition.

9. More recently, in a *Third Notice of Proposed Rule Making and Supplemental Tentative Decision* in CC Docket No. 92-297, 60 FR 43740 (August 23, 1995), the Commission noted that the Local Multipoint Distribution Service—a wireless technology operating in the 28 GHz band—"may provide services that compete with local exchange carriers in the provision of local exchange service \* \* \*" By the instant *Notice*, the Commission takes additional steps to foster competitive local exchange service by proposing that broadband CMRS providers also be able to offer the equivalent of local exchange service using existing allocations for PCS, cellular and SMR. The flexible regulatory scheme proposed in this *Notice* will help eliminate the need for

the Commission to initiate a rule making or grant multiple waivers each time a broadband CMRS provider or new entrant to a market wishes to adjust its operational mode to respond to consumers' changing communications requirements. Our proposed approach here is consistent with prior decisions and current proposals.

### III. Discussion

#### A. Expanded Service Options on PCS Channels

10. In the *Notice of Proposed Rule Making* in GEN Docket No. 90-314 and ET Docket No. 92-100, 57 FR 40672 (September 4, 1992) ("*PCS NPRM*"), we observed that personal communications requirements are changing rapidly as our society becomes more mobile and the demand for nearly instantaneous communications and universal access increases. We proposed to define PCS as a family of services that could provide communications to individuals and business, and be integrated with a variety of competing networks. Most of the commenters in the PCS proceeding agreed that PCS should be flexible enough to provide a wide range and variety of services, envisioned generally as mobile or portable radio communications. The *PCS NPRM* further proposed that fixed services generally be allowed only as ancillary to mobile PCS services. Some parties in the PCS proceeding argued, however, that restrictions on use of PCS spectrum for fixed services on PCS channels are inadequate to define an emerging technology and implementation of a new service.

11. A number of early trials under PCS experimental licenses included a variety of technologies and service concepts, including personal communications networks (PCN), private branch exchange (PBX), and wireless local loop. We indicated that wireless local loop service is a type of PCS in the *PCS NPRM*. Based upon concepts expressed in comments, the experimental applications granted, and the pioneer preference requests, we concluded in the PCS Second Report and Order that proposed services and devices would likely range from advanced wireless replacements for ordinary telephones to radio communications devices capable of sending and receiving voice and data to and from virtually anywhere. Specific kinds of PCS services and devices cited in the *Second Report and Order* in GEN Docket No. 90-314, 8 FCC Rcd 7700, 7712, 58 FR 59174 (Nov. 8, 1993) ("*PCS Second Report and Order*") were expected to include advanced forms of

cellular telephone service, advanced digital cordless telephone service, portable facsimile services, wireless PBX services, and wireless local area network (LAN) services, among others. We predicted that these new services and devices would operate through existing public switched networks, or through alternative local networks such as cable television systems. We also indicated, however, that PCS also would exist independent of local wired networks, "filling gaps in existing communications services and creating new markets." See "*PCS Second Report and Order*".

12. Accordingly, our current PCS rules permit licensees to provide any mobile communications service on their assigned frequencies to satisfy mobile communications needs. The rules also provide that "fixed services (except for broadcast services) may be provided if ancillary to mobile operations." 47 C.F.R. § 24.3. Otherwise, a carrier must seek a waiver to offer primarily fixed service, demonstrating that such service best meets the demands of an area. The rationale for prohibiting broadcast and non-ancillary fixed services in PCS spectrum was the limited amount of spectrum available to provide mobile service and the availability of other frequency bands or other media to provide broadcast and fixed services. The ancillary fixed use language was not intended, however, to exclude fixed services totally, but to preserve the anticipated mobile operations attributable to PCS technologies as understood in the earlier stages of PCS development.

13. The current restriction on fixed use of the channels in our PCS rules may not reflect current stages of the developing PCS market and could hinder carriers from quickly and economically using channel capacity to meet changing market demand. As indicated in the earlier PCS proceedings, we always have intended wireless local loop to be a part of the family of services that meet our definition of PCS, whether implemented as a mobile or fixed service. We therefore propose to amend our existing broadband PCS rules to clarify that broadband PCS providers may provide wireless local loop services, as defined above, along with mobile service as principal uses of spectrum allocated to broadband PCS. Under this proposal, the permissible communications language in the existing broadband PCS rules would be amended to explicitly encompass fixed wireless local loop.

14. While broadband PCS systems will use digital or other highly efficient technology to achieve tremendous

system capacity, current technology supports economical mobile services only up to approximately 3 GHz. Given this technological constraint, we seek comment on whether the currently allocated broadband PCS spectrum will provide sufficient capacity for mobile uses if fixed wireless local loop services are provided on broadband PCS spectrum. Alternatively, should the Commission allow the operation of the market to determine the most efficient use of the broadband PCS spectrum?

15. Finally, we seek comment on whether additional interference or other operational rules are needed to accommodate fixed wireless local loop uses of the broadband PCS channels. What changes are needed to our existing technical rules? Are additional technical rules required to govern fixed wireless local loop uses in the broadband PCS bands? Our intent is to have the necessary technical rules to minimize interference without unduly hindering a carrier's ability to offer a variety of services.

#### *B. Expanded Service Options on Other CMRS Channels*

16. The proposed changes in the broadband PCS rules to expand the service offerings permissible on broadband PCS channels to include fixed wireless local loop services would suggest that similar treatment be afforded to other categories of CMRS that have the potential to directly compete with PCS. The Commission previously has held that all commercial mobile radio services are "substantially similar" by virtue of existing competition or the potential for competition among the CMRS categories. In our recent report to Congress on CMRS competition, we reiterated our previous findings in the CMRS proceeding that cellular and SMR services in the short term are most likely to directly compete with each other and with broadband PCS, because each service consists largely of two-way, mobile telephony. Broadening the permissible service options for cellular and SMR results in those CMRS providers having more flexibility to meet market demand, including meeting demand that traditionally has been serviced by wireline common carriers. We therefore propose to permit licensees to provide fixed wireless local loop services on their licensed cellular and SMR spectrum.

17. As with PCS, we seek comment regarding (1) whether and to what extent cellular and SMR service rules should be changed to permit flexibility in the provision of fixed wireless local loop as well as mobile services; (2)

implications on the availability of spectrum for mobile services (see ¶ 14, *supra*); and (3) specific operational, interference or technical rules to permit fixed wireless local loop uses of the cellular and SMR channels.

18. In recognition that CMRS consists of "substantially similar" services by virtue of potential competition among and between all of those services, we also request comment on whether the public interest would be served by also permitting "narrowband" CMRS providers the operational flexibility to offer fixed wireless local loop services as proposed for broadband CMRS. These other "narrowband" CMRS offerings include paging, narrowband PCS, commercial 220 MHz service, and interconnected business radio service (collectively, "narrowband CMRS").

#### *C. Regulatory Treatment When Fixed Wireless Local Loop*

*Services Are Provided On CMRS Systems.*

19. If we ultimately decide to allow fixed wireless local loop services by CMRS providers, we also must decide how such services are to be regulated. It is clear that PCS providers intend to integrate mobile, wireless fixed, wireline networks, and cable facilities into seamless packaged offerings that could span several states. Some of these networks will go beyond regional coverage to achieve seamless nationwide coverage. The Omnibus Reconciliation Act of 1993 ("Budget Act"), which amended the Communications Act to create the CMRS regulatory classification, reflects Congress' intent to establish regulatory symmetry among mobile services. The broad goal of this legislation was to ensure that economic forces—not disparate regulatory requirements—shape the development of the CMRS marketplace. In addition, we established in the *CMRS Second Report and Order* that all auxiliary services provided by mobile services licensees would be included within the definition of mobile services, including ancillary fixed communications offered by PCS providers, to preserve the flexibility necessary to meet growing consumer demand for a broad range of mobile services.

20. The ability of a carrier to offer consumers a "menu" of services, which could include fixed wireless local loop services, adds value to the carrier's mobile services because it gives the mobile customer the option of using the fixed and mobile applications offered by a single provider. Presumably, to achieve economies of scale with such integrated networks, those carriers

would use the same facilities, regardless of whether the services are provided intrastate or interstate. Consequently, we do not want to discourage the development of such integrated networks by subjecting carriers to multiple layers of regulation. We, therefore, propose to treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider, so long as the carrier otherwise offers interconnected, for-profit mobile service to the public on licensed CMRS spectrum as provided by the Communications Act. We seek comment on this proposal and invite commenters to offer alternate proposals. We note that in the *CMRS Second Report and Order* we presumptively classified PCS as CMRS, allowing each PCS provider to make a showing that one or more of its services are private by demonstrating that the service is not within the CMRS definition. We will continue to allow PCS licensees to overcome the CMRS presumption upon the proper demonstration that such services do not qualify as CMRS.

#### *D. Universal Service Obligations*

21. The Commission has a number of universal service programs in place that seek to promote the availability of telephone service. Our Lifeline and Link Up programs provide assistance to low income and elderly residential subscribers, and the Universal Service Fund program provides assistance to telephone companies operating in high cost areas. These programs are administered by the National Exchange Carrier Association in cooperation with the states pursuant to Commission requirements. Should we ultimately adopt the rules we propose herein, CMRS licensees would be permitted to provide fixed wireless local loop services that in some respects could be similar to wireline telephone local exchange service. We seek comment on the extent to which any of our universal service programs should be modified to encompass, or impose obligations on, CMRS providers that offer the equivalent of local exchange service. We currently are examining universal service issues more broadly in separate proceedings, including the extent to which competitive local exchange service providers should be eligible for high cost support. As stated in those proceedings, competition in local exchange service can be provided by different kinds of service providers, including cellular carriers, and our universal service programs should not favor a particular technology. It is the Commission's preference, if feasible, to treat the universal service obligation

issues raised in this proceeding in our decisions in the universal service proceedings.

#### *E. Other Possible Fixed Services for CMRS*

22. In addition to proposing that CMRS providers be allowed to offer fixed as well as mobile wireless local loop, we seek comment on whether certain other fixed services should be allowed as well, or alternatively, whether CMRS providers should be allowed to provide any form of fixed service without restriction. We note that wireless local telephone service may not be the only technically and economically viable fixed service that could be accommodated on spectrum allocated to CMRS providers. Other potential wireless fixed services may include wireless Internet access, electronic funds transfers, point-of-purchase credit card verification, and remote monitoring. We seek comment on whether these potential uses are included or excluded in our proposed definition of wireless local loop. If excluded, should CMRS providers be allowed to provide these services in addition to wireless local loop? Are there other potential fixed services for which demand may exist? We seek comment on whether allowing CMRS providers to offer fixed wireless local loop but not other fixed services may unduly restrict the ability of carriers to develop wireless networks that otherwise would meet various needs of the consuming public.

23. Assuming that we allow CMRS providers to offer fixed services other than fixed wireless local loop, we also seek comment on whether there should be any restrictions on fixed use of this spectrum. Allowing CMRS spectrum to be used for certain fixed applications does not necessarily mean that all fixed services should be permitted. On the other hand, imposing restrictions on fixed use of this spectrum could impose a regulatory burden on carriers, increase the need for oversight of CMRS operations by the Commission to verify compliance, and might inhibit development of beneficial uses of the spectrum that we cannot anticipate. We note that, as a practical matter, technical factors may limit CMRS providers' ability to offer some fixed services on channels allocated for mobile telecommunications. There are many point-to-point operations which may not be feasible on a system designed for mobile use. Under what circumstances should we limit fixed services by CMRS providers in order to ensure technical compatibility?

24. We believe that our regulatory approach should allow licensees to adapt quickly to technological innovation and changing consumer demands. We also seek to ensure, however, that our approach to fixed use of this spectrum does not restrict the potential future growth of mobile services, particularly in light of the relatively limited portion of the spectrum in which mobile use is feasible as compared to the much larger amount compatible with fixed use. Recently, the National Telecommunications and Information Administration concluded that demand for mobile spectrum will substantially increase over the next decade, while demand for fixed use will decrease. We solicit comment on these conclusions, including ways to ensure that spectrum is available to meet future mobile needs, and on the implications for our proposals herein. Parties identifying a potential deficiency for mobile services should also address whether that deficiency could be remedied by authorizing mobile services in spectrum currently designated for fixed services. Would the public benefit more from continuing to provide CMRS spectrum for principally mobile uses, from broadening our definition of permissible fixed services to include specific additional applications, or from permitting all fixed and mobile uses in the same spectrum?

25. To the extent that we permit CMRS providers to offer fixed services other than fixed wireless local loop, the issues raised in previous sections may also apply. We seek comment on those issues applicable to other fixed services. In particular, if we permit CMRS providers to offer fixed services in addition to fixed wireless local loop, we must determine how those services are to be regulated. We therefore ask for comment on the issues raised in §§ 19-20, *supra*.

#### *F. Proposed Changes to Table of Frequency Allocations*

26. In accordance with our proposals listed above, we propose to amend the domestic Table of Frequency Allocations as set forth below. See 47 CFR § 2.105. Currently, wide-area SMR and cellular bands are allocated internationally to fixed and mobile services on a co-primary basis, but within the United States they are allocated only to land mobile services. Therefore, we propose to amend the domestic Table of Frequency Allocations for the 806-821, 851-866, 896-901, and 935-940 MHz bands to permit them to make use of the allocations for both fixed and mobile

services on a co-primary basis. The extent to which such allocations may be used will be determined by final decisions resulting from the service rules proposals in this proceeding. We request comment on this proposal.

#### IV. Conclusion

27. The proposals set forth in this Notice expand the services available to consumers and the service options available to broadband CMRS providers developing competitive wireless offerings. The Notice proposes to allow all broadband CMRS providers the regulatory flexibility to offer fixed wireless local loop services, and seeks comment on whether the public interest is served by further expansion to include some or all other fixed services. Where fixed wireless local loop services are offered, we propose that CMRS regulation continue to apply if a carrier offers interconnected, for-profit mobile service to subscribers. Comment is sought on similar treatment for other categories of fixed services. Our purpose is to reduce any undue regulatory burdens on CMRS providers, as contemplated by the Communications Act, and to enhance competition. Our efforts should promote the development and deployment of new and innovative wireless telecommunications networks.

#### V. Procedural Matters

##### A. Regulatory Flexibility Act

28. 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. The IRFA is set forth in Appendix A of the proposed rule. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

##### B. Paperwork Reduction Act

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the

following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments should be submitted on or before April 16, 1996. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554, or via Internet to [dconway@fcc.gov](mailto:dconway@fcc.gov); and Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th St., N.W., Washington, DC 20503, or via Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

For further information contact: Dorothy Conway, (202) 418-0217, or via Internet at [dconway@fcc.gov](mailto:dconway@fcc.gov).

*Title:* Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services.

*Type of Review:* New collection.

*Respondents:* Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

*Number of Respondents:* 2,500.

*Estimated Time Per Response:* Approximately 1-2 hours.

*Total Annual Burden:* Approximately 1,875 hours.

*Total Annual Cost:* \$337,688; this includes the costs for filing the information electronically or mailing submissions and hiring consultants that may be necessary to respond to the requests.

*Needs and Uses:* The information will be used by the Commission to determine if the service provider is technically qualified to offer fixed wireless local services and as part of the Commission's management of spectrum for commercial uses. Without such information, the Commission could not determine whether the provider is operating in compliance with the Commission's Rules.

##### C. Ex Parte Rules—Non-Restricted Proceeding

29. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

##### D. Comment Dates

30. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments by February 26, 1996; reply comments are due on or before March 18, 1996. To file formally in this proceeding you must file an original and four copies of all comments and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send your comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. A copy of all comments should also be filed with the Commission's copy contractor, ITS, Inc., 2100 M Street, N.W., Suite 140, (202) 857-3800. Comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, 2025 M Street, N.W., Room 5608, Washington, D.C. 20554.

##### E. Ordering Clause

31. Authority for issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i), 4(j), 7(a), 303(b), 303(f), 303(g), 303(r), 309(j), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 303(b), 303(f), 303(g), 303(r), 309(j) and 332(c).

##### F. Contact Person

32. For further information concerning this proceeding, contact Sandra K. Danner (Acting Chief, Legal Branch, Commercial Wireless Division, Wireless Telecommunications Bureau) at (202) 418-0620.

##### List of Subjects in 47 CFR Part 2

Common carriers, Radio.  
Federal Communications Commission.  
William F. Caton,  
*Acting Secretary.*

##### Proposed Rules

Part 2 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:



International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)		
BROADCASTING  676 677A 683 684 685 686 686A 687 689 693 694	RADIO ASTRONOMY Mobile-Satellite except aeronautical mobile-satellite (Earth-to-space)	FIXED MOBILE BROADCASTING RADIO-NAVIGATION  677 688 689 690 691 693 701	RADIO ASTRONOMY  US74 US246	RADIO ASTRONOMY  US74 US246		
614-790 BROADCASTING  676 677A 683 684 685 686 686A 687 689 693 694	614-790 BROADCASTING Fixed Mobile	614-790 FIXED MOBILE BROADCASTING  677 688 689 690 691 693 701	614-790	614-790 BROADCASTING  NG30 NG128 NG149	RADIO BROADCAST (TV) (73) Auxiliary Broadcasting (74)	
790-806 FIXED BROADCASTING  694 695 695A 696 697 700B 702	790-806 BROADCASTING Fixed Mobile	790-806 FIXED MOBILE BROADCASTING  677 688 689 690 691 693 701	790-806	790-806 BROADCASTING  NG30 NG43 NG128 NG149	RADIO BROADCAST (TV) (73) Auxiliary Broadcasting (74)	
806-821 FIXED BROADCASTING  694 695 695A 696 697 700B 702	806-821 FIXED MOBILE BROADCASTING  692A 700 700A	806-821 FIXED MOBILE BROADCASTING  677 688 689 690 691 693 701	806-821	806-821 FIXED LAND MOBILE  NG30 NG31 NG43 NG63 NG128	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
821-824 FIXED BROADCASTING  694 695 695A 696 697 700B 702	821-824 FIXED MOBILE BROADCASTING  692A 700 700A	821-824 FIXED MOBILE BROADCASTING  677 688 689 690 691 693 701	821-824	821-824 LAND MOBILE  NG30 NG43 NG63 NG128	PRIVATE LAND MOBILE (90)	
824-849 FIXED BROADCASTING  694 695 695A 696 697 700B 702	824-849 FIXED MOBILE BROADCASTING  692A 700 700A	824-849 FIXED MOBILE BROADCASTING  677 688 689 690 691 693 701	824-849	824-849 LAND MOBILE  NG30 NG43 NG63 NG128 NG151	PUBLIC MOBILE (22)	
849-851 FIXED BROADCASTING  694 695 695A 696 697 700B 702	849-851 FIXED MOBILE BROADCASTING  692A 700 700A	849-851 FIXED MOBILE BROADCASTING  677 688 689 690 691 693 701	849-851	849-851 AERONAUTICAL MOBILE  NG30 NG63 NG128	PUBLIC MOBILE (22)	
851-862 FIXED BROADCASTING	851-862 FIXED MOBILE BROADCASTING	851-862 FIXED MOBILE BROADCASTING	851-862	851-862 FIXED LAND MOBILE	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	





International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	FIXED MOBILE except aeronautical mobile Radiolocation 705	FIXED MOBILE BROADCASTING Radiolocation 706	US116 US215 US268 G2	FIXED LAND MOBILE US116 US215 US268 NG120	PRIVATE LAND MOBILE (90) PUBLIC MOBILE (22)	
940-941 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	940-941 FIXED MOBILE except aeronautical mobile Radiolocation 705	940-941 FIXED MOBILE BROADCASTING Radiolocation 706	940-941 US116 US268 G2	940-941 FIXED MOBILE US116 US268 US330 NG120	PERSONAL COMMUNICATIONS (24)	
941-942 FIXED MOBILE except aeronautical mobile BROADCASTING 703 Radiolocation 704	941-942 FIXED MOBILE except aeronautical mobile Radiolocation 705	941-942 FIXED MOBILE BROADCASTING Radiolocation 706	941-942 FIXED US268 62	941-942 FIXED US268 NG120	DOMESTIC PUBLIC FIXED (21) PUBLIC MOBILE (22)	
942-944 FIXED MOBILE except aeronautical mobile BROADCASTING 703 704	942-944 FIXED MOBILE	942-944 FIXED MOBILE BROADCASTING 701	942-944 FIXED US301 US302	942-944 FIXED US301 US302 NG120	DOMESTIC PUBLIC FIXED (21)	
944-960 FIXED MOBILE except aeronautical mobile BROADCASTING 703 704	944-960 FIXED MOBILE	944-960 FIXED MOBILE BROADCASTING 701	944-960	944-960 FIXED NG120	AUXILIARY BROADCASTING 74 PUBLIC MOBILE (22) INTERNATIONAL PUBLIC FIXED (23) PRIVATE OPERATIONAL FIXED (94)	
*	*	*	*	*	*	*

International Footnotes

\* \* \* \*

675 Additional allocation: in Chile, Colombia, Cuba, Ecuador, the United States, Guyana, Honduras, Jamaica, Mexico and Panama, the allocation of the bands 470-512 MHz and 614-806 MHz to the fixed and mobile services is on a primary basis (see No. 425), subject to agreement obtained under the procedure set forth in Article 14.

676 Additional allocation: in Burundi, Cameroon, the Congo, Ethiopia, Israel, Kenya, Lebanon, Libya, Malawi, Senegal, Sudan, Syria, and Yemen, the band 470-582 MHz is also allocated to the fixed service on a secondary basis.

\* \* \* \* \*

678 Additional allocation: in Costa Rica, Cuba, El Salvador, Ecuador, the United States, Guatemala, Guyana,

Honduras, Jamaica, Mexico and Venezuela, the band 512-608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under the procedures set forth in Article 14.

\* \* \* \* \*

682 [Reserved]

\* \* \* \* \*

697 Additional allocation: in the Federal Republic of Germany, Burkina

Faso, Cameroon, Côte d'Ivoire, Denmark, Egypt, Finland, Israel, Kenya, Libya, Liechtenstein, Monaco, Norway, the Netherlands, Portugal, Sweden, Switzerland and Yugoslavia, the band 790–830 MHz, and in these same countries and in Spain, France, Malta, the Gabonese Republic and Syria, the band 830–862 MHz, are also allocated to the mobile, except aeronautical mobile, service on a primary basis. However, stations of the mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with this band.

\* \* \* \* \*

703 In Region 1, in the band 862–960 MHz, stations of the broadcasting service shall be operated only in the African Broadcasting Area (see Nos. 400 to 403) excluding Algeria, Egypt, Spain, Libya and Morocco, subject to agreement obtained under the procedure set forth in Article 14.

\* \* \* \* \*

708 [Reserved]

\* \* \* \* \*

[FR Doc. 96–3557 Filed 2–15–96; 8:45 am]

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#### 47 CFR Parts 22 and 90

[WT Docket No. 96–18; PP Docket No. 93–253; FCC 96–52]

#### Future Development of Paging Systems and Implementation of Section 309(j) of the Communications Act—Competitive Bidding

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** In this *Notice of Proposed Rule Making* in WT Docket No. 96–18 and PP Docket No. 93–253 (*Notice*), the Commission proposes to implement geographic licensing for paging services to streamline licensing procedures for Common Carrier Paging (CCP) and Private Carrier Paging (PCP). The Commission proposes to transition to a geographic licensing approach, and issue licenses for geographic areas, rather than on a transmitter-by-transmitter basis. The Commission also proposes to adopt competitive bidding rules to select among mutually exclusive paging applications.

The Commission also addresses how paging applications should be treated during the pendency of this rulemaking.

The Commission proposes to hold in abeyance and not process applications for paging channels received after the adoption date of this *Notice*, except during the pendency of this proceeding incumbent licensees may add sites to existing systems or modify existing sites, so long as such additions or modifications do not expand the interference contour of the incumbent's existing system. With respect to CCP and PCP licensees who have obtained nationwide exclusivity, the Commission will allow applications for additional sites, without restrictions.

With respect to paging applications that were filed prior to the February 8, 1996 adoption date of this *Notice* and remain pending, the Commission proposes to process such applications provided that they are not mutually exclusive with other applications, and the relevant period for filing competing applications has expired as of the adoption date of this *Notice*. The processing of mutually exclusive pending applications and applications for which the relevant period for filing competing applications has not yet expired will be held in abeyance until the conclusion of this proceeding. In the *Notice*, the Commission examines ways to promote continued growth and preserve vigorous competition in the paging industry through revisions to the common carrier and private carrier paging regulations. The Commission seeks to establish a comprehensive and consistent regulatory scheme that will simplify and streamline licensing procedures. To reach this objective, the Commission proposes to transition to geographic licensing and to adopt competitive bidding rules for mutually exclusive paging applications.

**DATES:** Comments are to be filed on or before March 18, 1996. Reply Comments are to be filed on or before April 2, 1996. Comments on the Interim Licensing Proposal are to be filed on or before March 1, 1996. Reply Comments on the Interim Licensing Proposal are to be filed on or before March 11, 1996.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mika Savir or Rhonda Lien, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0620.

**SUPPLEMENTARY INFORMATION:** This *Notice of Proposed Rule Making* in WT Docket No. 96–18 and PP Docket No. 93–253, adopted February 8, 1996, and released February 9, 1996, is available for inspection and copying during normal business hours in the FCC

Dockets Branch, Room 230, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.E., Suite 140, Washington, D.C. 20037 (202) 857–3800).

#### Synopsis of Notice of Proposed Rule Making:

##### I. Background

1. The Commission first allocated spectrum for the CCP service in 1949. The Commission responded to the growth of the paging market in 1982 by allocating 40 new channels in the 931 MHz band exclusively for use by CCP operators and dedicating three of these channels for use by nationwide systems.

2. PCP was established by the Commission, and authorized on specified channels within each private radio service category, with licensees authorized either to operate systems for their own internal use or to provide service to limited categories of eligible users. In 1982, the Commission allocated 40 channels in the 929 MHz band for PCP, with some channels to be licensed for internal-use systems and others for PCP systems that could provide commercial paging service to eligible users under Part 90. In 1993, the Commission allowed PCP operators to provide service to the public on virtually the same unrestricted basis as CCP operators.

3. The Omnibus Budget Reconciliation Act of 1993 amended the Communications Act of 1934, as amended (the Act) to divide all mobile services into two categories: Commercial Mobile Radio Services (CMRS) and private mobile radio service (PMRS), and mandated that “substantially similar” mobile services receive comparable regulatory treatment. The Commission concluded in the *CMRS Second Report and Order*, Implementation of Sections 3(n) and 332 of the Communications Act, *Second Report and Order*, GN Docket No. 93–252, 59 Fed. Reg. 18493 (April 19, 1994) (*CMRS Second Report and Order*), that PCP services were subject to reclassification as CMRS as of August 10, 1996. In the *CMRS Third Report and Order*, Implementation of Sections 3(n) and 332 of the Communications Act, *Third Report and Order*, GN Docket No. 93–252, 59 Fed. Reg. 59945 (Nov. 21, 1994) (*CMRS Third Report and Order*), the Commission concluded that PCP and CCP are substantially similar services that should be subject to comparable regulation to the extent feasible, and that geographic licensing should be considered in both services.