public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the Federal Register. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to interested parties by the Regional Office.

IV. Basis for Intended Site Deletion

A. Site Background

The Louisiana-Pacific (L–P) Superfund Site consists of a wood processing plant and landfill located in Butte County just south of the city limits of Oroville, California (population 10,560). The plant and landfill are located about ½ mile apart and are separated by the Koppers Company, Inc., Superfund site, which is also on the NPL.

Log storage, lumber production and hardboard manufacturing take place at the L–P plant. It lies in the Feather River floodplain at an elevation of about 145 feet above mean sea level in an area of tailings piles created by dredger mining activities that ceased around 1936. The northern part of the plant is occupied by buildings and paved with asphalt. The central part of the plant has been graded relatively level for log storage. The western margin and southwest corner of the plant retain much of the historic, irregular dredge-tailing topography since modified by quarrying for log-deck base material.

Land use in the vicinity of the Site is mixed agricultural, residential, commercial and industrial. One- to five-acre farms exist, and much of the produce and livestock is raised for home use and not sold commercially. Residential areas are located to the south, southeast, west and northeast of the Site. Three schools are located within a two-mile radius of the Site.

B. History

Georgia-Pacific Corporation purchased the present L–P site in 1969 and completed construction of the sawmill facility in 1970. Louisiana-Pacific Corporation took control of the property in 1973. The hardboard facility was constructed in 1973, and L–P began operations at the landfill in 1978.

Between 1970 and 1984, L–P used a fungicide spray containing pentachlorophenol (PCP) to prevent fungal discoloration of sawn lumber. In 1973, a state agency discovered PCP contamination in local groundwater south of the L–P and Koppers plants. PCP contamination was also detected in surface water, sawdust and wood waste at the L–P plant and landfill. As a result, the L–P site was placed on the NPL in February 1986. In December 1986, EPA began remedial investigations of surface water, soil, sediment, groundwater, wood waste and air at the L–P site to characterize the nature and extent of contamination. EPA issued the Remedial Investigation (RI) report and the Endangerment Assessment in 1989. Concurrent investigations of air quality were conducted by L–P and the Butte County Air Pollution Control District over a one-year period beginning in 1988. The Feasibility Study (FS) report was issued in May 1990.

In September 1990, EPA issued an Interim Record of Decision that required institutional controls as well as further soil sampling for arsenic and groundwater monitoring for arsenic and formaldehyde. L–P conducted the required sampling and monitoring pursuant to an administrative order issued by EPA in July 1991. The results indicated that contaminant concentrations in soil and groundwater at the Site do not pose a significant risk to human health or the environment. EPA issued a final ROD in August, 1995, documenting that no further remedial action was necessary at the L–P site.

C. Community Relations Activities

Fact sheets were sent out to the public at key progress points in the investigation. Technical exchange meetings were held monthly or bimonthly at the Site during the field work phase of the RI, with representatives of public agencies and local citizen groups invited to attend. RI/FS documents, including the Remedial Investigation report, the Endangerment Assessment report, and the Feasibility Study report, were sent to the local libraries and a representative of a community group. Similarly, documents prepared by L–P and EPA following the 1990 Interim ROD also were sent to local libraries.

The May 1995 proposed plan was distributed using EPA's mailing list for this site. A public comment period on the proposed plan was held between May 20, 1995 and June 19, 1995. Public notice appeared in local newspapers, including the Oroville Mercury-Register, prior to the opening of the public comment period. A formal public meeting was held on June 1, 1995.

D. Characterization of Risk

The results of the EPA and L–P investigations have shown that groundwater, surface water, soil, sediment and wood waste contain various contaminants used by L–P and Koppers. Concentrations on the L–P plant were found to be highest in an area along the L–P/Koppers boundary. Contaminants in this area will be addressed as part of the Koppers cleanup. Although PCP, arsenic and formaldehyde were detected in soils and groundwater elsewhere at the L–P site, the concentrations were below state and federal drinking water standards (for arsenic and PCP) and health-based levels of concern (for formaldehyde). EPA believes that conditions at the Site pose no unacceptable risks to human health or the environment.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if ''all appropriate response under CERCLA has been implemented and no further action by responsible parties is appropriate''. EPA, with the concurrence of the California Department of Toxic Substances Control, believes that this criterion for deletion has been met. Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available in the Regional NPL Docket.

Dated: August 9, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–21572 Filed 8–26–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–54: FCC 96–284]

Provision of Roaming Services by Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission adopts a *Second Report and Order and Third Notice of Proposed Rulemaking* regarding the offering of roaming services by commercial mobile radio service providers. The *Second Report and Order* portion of this decision is summarized elsewhere in this issue of the Federal Register. The *Third Notice of Proposed Rulemaking (Third NPRM)* seeks comment on whether the Commission should adopt rules governing cellular, broadband personal communications services and certain specialized mobile radio (covered SMR)

carriers' obligations to provide automatic roaming service, and on a range of related issues. The action is taken to promote competition in commercial mobile radio services, thus securing lower prices and high quality services for consumers while encouraging the rapid deployment of new telecommunications technologies.

DATES: Comments are due on or before October 4, 1996, and reply comments are due on or before November 22, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jeffrey Steinberg, Wireless Telecommunications Bureau, (202) 418–1310.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Third Notice of Proposed Rulemaking* segment of the *Second Report and Order and Third Notice of Proposed Rulemaking* in CC Docket No. 94–54, FCC 96–284, adopted June 27, 1996, and released August 13, 1996. The *Second Report and Order* portion of this decision is summarized elsewhere in this edition of the Federal Register. The complete text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of Third Notice of Proposed Rulemaking

1. In this *Third Notice of Proposed Rulemaking (Third NPRM)*, the Commission continues its examination of issues concerning the offering of roaming services by commercial mobile radio service (CMRS) providers. ''Roaming'' occurs when the subscriber of one CMRS provider utilizes the facilities of another CMRS provider with which the subscriber has no direct pre-existing service or financial relationship to place an outgoing call, to receive an incoming call, or to continue an in-progress call. Typically, although not always, roaming occurs when the subscriber is physically located outside the service area of the provider to which he or she subscribes. Under § 22.901 of the Commission's rules, cellular system licensees ''must provide cellular mobile radiotelephone service upon request to all cellular subscribers in good standing, including roamers, while such subscribers are located within any portion of the authorized cellular geographic service area * * * where facilities have been constructed and service to subscribers has commenced.''

2. Roaming service can be provided through a variety of technical and contractual arrangements. The most rudimentary form of roaming is manual roaming. Manual roaming is the only form of roaming that is available when there is no pre-existing contractual relationship between a subscriber, or her home system, and the system on which she wants to roam. In order to make or receive a call, a manual roamer must establish such a relationship. Automatic roaming, by contrast, means that the roaming subscriber is able to originate or terminate a call without taking any action other than turning on her telephone. This form of roaming requires a contractual agreement between the home and roamed-on systems.

3. This proceeding was initiated in a *Notice of Proposed Rulemaking and Notice of Inquiry*, which may be found at 59 FR 35664, July 13, 1994. A *Second Notice of Proposed Rulemaking (Second NPRM)* concerning roaming was released more than one year ago (60 FR 20949, April 28, 1995). At that point, the Commission's initial broadband PCS auctions had just been conducted and licenses were not yet issued. The business plans of companies entering the market for broadband PCS services were in their formative stages. No dual band or dual mode phones were yet available, and no broadband PCS provider had experience trying to negotiate a roaming agreement. The comments received in response to the *Second NPRM* largely reflected the nascent nature of the market's development. Based on this record, the Commission promulgated rules governing manual roaming in the *Second Report and Order*, which is summarized elsewhere in this issue of the Federal Register. However, the record yielded by these comments was inconclusive with respect to automatic roaming issues.

4. The record established by the comments submitted to date, while not providing a basis for the Commission to adopt automatic roaming rules, does persuade the Commission of the need to seek up-to-date information on events of the past year concerning automatic roaming issues. In general, the record raises the question whether, during the broadband PCS buildout period, market conditions may create economic incentives for certain CMRS carriers to discriminate unreasonably in the provision of roaming, or to otherwise engage in unjust or unreasonable practices with regard to roaming. Given the importance that the Commission attaches to ensuring the widespread availability of roaming, and the inconclusiveness of the current record, the Commission requests additional comment on whether it would serve the public interest to adopt rules governing the provision of automatic roaming service by CMRS providers to other CMRS providers.

5. The Commission's consideration of automatic roaming issues is framed by three general questions. First, is there a need for Commission action? Second, if the Commission is persuaded that regulation would serve the public interest, what specific action should be taken? Third, what are the disadvantages of such action, especially as to network costs and additional burdens on providers, particularly smaller providers?

6. Commenters disagree on whether incumbent CMRS providers have the market power and the economic incentive to deny roaming agreements to new entrants. The Commission requests comment on this issue, and also on whether the geographic scope of broadband PCS licenses may reduce the importance of roaming to ensuring the ability of PCS providers to compete. Most roaming appears to occur in adjacent markets. The relatively limited geographic scope of cellular service areas prompted cellular carriers to compete for customers based on the extent of their roaming networks and their roaming rates and features. In contrast, broadband PCS license areas are significantly larger than cellular. Accordingly, broadband PCS customers can go much further distances without roaming. This raises the question of whether broadband PCS providers need to be able to offer automatic roaming arrangements in order to be able to compete.

7. In order to determine whether incumbent wireless providers have an incentive to, and will, deny roaming agreements to other providers, the Commission seeks evidence of the denial of such agreements, or unreasonable discrimination in the provision of agreements. Additionally, comment is requested on the likelihood of discrimination among wireless carriers belonging to partnerships, joint ventures, and other alliances among cellular carriers. The Commission further seeks comment on whether the geographic extent of a carrier's license holdings (in particular, carriers whose cellular and/or PCS holdings give them essentially nationwide, facilities-based operating ''footprints'') affects its incentive to enter into roaming agreements with smaller competitors in a way that merits a roaming

requirement. The Commission seeks comment, too, on whether requiring carriers to enter into roaming agreements will affect the value of these carriers' nationwide footprints.

8. The Commission next seeks comment on whether new entrants currently have viable options to obtain automatic roaming if incumbent cellular providers unreasonably deny such agreements. The Commission notes that although the deployment of multiple CMRS networks will, in the long run, increase the number of parties with which roaming agreements can be obtained in any area, such networks will not be widely available during the construction period of broadband PCS. The Commission solicits comment on the timing of such construction period. AT&T argues that, to the extent this is a problem at all, a PCS carrier can obtain roaming service during the buildout period in any market by entering into a contractual agreement with a cellular carrier that already possesses a roaming agreement in that market. The Commission seeks comment on whether AT&T's proposal for new entrants to ''piggyback'' on existing roaming arrangements is a reasonable means for carriers to obtain roaming capability.

9. To the extent that a basis for Commission action on automatic roaming is established, comment is invited on what the nature of that action should be. The Commission requests comment on whether, as a condition of license, it should require cellular, broadband PCS and covered SMR providers which enter into roaming agreements with other such providers to make like agreements available to similarly situated providers, where technically compatible handsets are being used, under nondiscriminatory rates, terms and conditions. The Commission clarifies that such a rule would need to recognize that not all carriers are similarly situated. Thus, such a rule need not require carriers to offer roaming agreements to all other carriers on the same terms and conditions, or even to offer roaming service to any carrier at all. The Commission seeks comment on the question of whether a covered CMRS provider that enters into a roaming agreement with another CMRS provider, however, should be required to offer like roaming agreements to other similarly situated providers upon reasonable request, without unreasonably discriminating on rates, terms, and conditions. The Commission seeks information and comment on the cost and burden of such a requirement.

10. In response to suggestions raised in the comments, the Commission asks whether a carrier should be able to offer a more favorable rate to its affiliates. Similarly, the Commission seeks comment on whether a carrier should be able to offer a lower rate to a geographically proximate carrier. The Commission also seeks comment on whether, as a general matter, it would serve the public interest to require carriers to make roaming service available to other carriers pursuant to one-way agreements under the same terms and conditions as under reciprocal agreements. The Commission invites comment on whether carriers should be permitted to refuse to enter into automatic roaming agreements with other facilities-based carriers in their markets, and on the advantages and disadvantages of a rule that would facilitate such ''in-region'' roaming. Comment is further solicited on how in-region roaming may affect carriers' incentives to build out their networks. The Commission also seeks comment on how an exception that permits carriers to deny roaming agreements to in-region competitors could be administered, given the different geographic scope of cellular, broadband PCS and covered SMR licenses and operations.

11. The Commission, in response to arguments that special rules are necessary to protect the right of resellers to enter into roaming agreements, does not propose to regulate the prices that carriers may charge resellers (or anyone else) for roaming, other than perhaps to prohibit discrimination in the prices charged to similarly situated carriers. However, the Commission seeks comment on the additional costs and burdens that may be imposed on facilities-based carriers if they are required to separately enter into agreements with multiple resellers. The Commission also seeks comment on what, if any, benefits might be generated by enabling resellers to obtain roaming agreements.

12. One of the principal reasons for the Commission's tentative conclusion in the *Second NPRM* to monitor the development of roaming, rather than to propose rules at that time, was its concern that technical factors might render compliance with rules unduly costly for providers, or that its rules might inadvertently impede technological progress. Based on the comments received, the Commission is not persuaded that an automatic roaming rule would have such an effect unless it required direct interconnection of networks for the continuation of calls in progress. While handoff of calls in progress is available at this time in some cellular markets, it is much less widespread than originating and terminating access. More importantly, the record does not indicate that broadband PCS or cellular providers need to be able to obtain ''continuation of calls in progress'' roaming capability in order to compete. For these reasons, the Commission does not propose to require continuation of calls in progress. The Commission seeks additional technical information on this subject, and requests comment on this analysis.

13. Comment is also sought on whether and how rules governing automatic roaming could be at odds with the Commission's general policy of allowing market forces, rather than regulation, to shape the development of wireless technologies. The Commission's goal would be to make any rule it adopts consistent with such a policy. For example, under such a rule, if systems used different technologies or operated on different frequencies, the Commission believes the carrier seeking to enable its subscribers to roam on another system would have the burden of developing and implementing any technology necessary to achieve that result. Furthermore, on the basis of the existing record, the Commission believes any automatic roaming rule should be sufficiently flexible to permit a carrier to change its technology for legitimate business reasons without any obligation to make its system accessible to roamers using different technologies, to the extent such a technology change is otherwise permitted by the Commission's rules. A carrier could not, however, introduce features into its system in order to obstruct service to roamers from systems using otherwise compatible technologies. The Commission seeks comment on this analysis.

14. Requiring non-discrimination in roaming agreements would, theoretically, generate certain benefits. However, there also are potential downsides to imposing an automatic roaming requirement. First, imposing such a requirement is inconsistent with the Commission's general policy of allowing market forces, rather than regulation, to shape the development of wireless services. Similarly, it could be viewed as at odds with Congress' goal in adopting the Telecommunications Act of 1996 of creating a ''pro-competitive, deregulatory national policy framework'' for the United States telecommunications industry. Does the importance of roaming and the potential for discrimination warrant a departure from the Commission's general

competitive, deregulatory approach to wireless?

15. Second, cellular carriers compete vigorously on the basis of their roaming services. If the Commission adopts an automatic roaming non-discrimination requirement, will carriers still be able to differentiate their roaming services? If they cannot, will this lessen competition in the wireless market? Also, what impact will a roaming requirement have on the development of new and improved roaming features?

16. Third, the imposition of an automatic roaming requirement could be costly and burdensome. There are currently approximately 1,400 cellular systems; the Commission anticipates that broadband PCS and covered SMR providers, once licensed, will expand that number appreciably. What network and administrative costs are associated with entering into and maintaining roaming agreements among all such carriers? Will carriers, particularly smaller carriers, be able to absorb these costs or to recover them from their customers or other carriers? In this regard, the Commission emphasizes that it is *not* considering requiring carriers to upgrade their networks or implement any technology solely to enable roamers on different frequencies or with different air interface devices to complete calls on their systems. Similarly, the Commission is not considering requiring carriers to interconnect their networks to ensure that calls in progress can continue.

17. Some commenters argue that a roaming requirement would unduly expose CMRS providers to losses due to fraud, or that fraud cannot be controlled without direct interconnection of switches. The Commission seeks further comment on these arguments. The Commission notes that cellular carriers have exercised various options to protect themselves under the existing manual roaming rule, such as requiring manual roamers to supply a valid credit card number. The Commission seeks comment on whether similar protective measures would be available and equally effective if an automatic roaming rule is adopted. The Commission also seeks comment on whether carriers could include in their agreements with other carriers provisions to suspend roaming service in case of fraud, or other appropriate anti-fraud provisions, so long as they do so on a nondiscriminatory basis, and whether a particular carrier that poses an unusually high risk of fraud could for that reason be differently treated with respect to the terms of a roaming agreement.

18. Regarding establishment of a sunset period, the Commission agrees with those who contend that roaming regulations should apply only for a transitional period. The Commission believes that once broadband PCS providers' buildout periods are completed, sufficient wireless capacity will be available in the market and, as a result, any roaming regulations, whether manual or automatic, likely will become superfluous. The Commission further believes that, given the availability of sufficient capacity, a carrier would not have either the incentive or the ability to unreasonably deny manual roaming to an individual subscriber, or to unreasonably refuse to enter into an automatic roaming agreement with another CMRS provider, because some other carrier in its service area would be willing to do so. The Commission anticipates, due to its broadband PCS build-out requirement,[1] that the market for cellular, broadband PCS and covered SMR services will be substantially competitive within five years after the Commission completes the initial round of licensing broadband PCS providers. The Commission therefore believes that any action taken concerning automatic roaming should sunset five years after award of the last group of initial licenses for currently allocated broadband PCS spectrum. The Commission seeks comment on this issue. The Commission also seeks comment on whether, for the same reasons, the manual roaming rule adopted in the *Second Report and Order* portion of this decision also should sunset at the expiration of this five-year period. The Commission notes that this is the same sunset period recently adopted for its resale rule, and that the commencement of the five-year period will be announced by Public Notice.

19. Finally, in order to provide automatic roaming and adequately protect itself against fraud, a carrier would have to make arrangements with a subscriber's home system to verify the validity of the subscriber's account. The *Second NPRM* noted that such arrangements, as well as other arrangements that may be necessary for subscribers to use special features while roaming, may implicate concerns relating to subscriber privacy and carrier control over proprietary information, and it requested comment on these issues. Since that time, however, Congress has amended the Communications Act by adding a new section 222, which generally prohibits a carrier that obtains proprietary information from another carrier for purposes of providing a telecommunications service from using that information for any other purpose. The Commission tentatively concludes that the treatment of roaming-related access to proprietary information is governed by section 222.

Filing Procedures

20. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules,[2] interested parties may file comments on or before October 4, 1996, and reply comments on or before November 22, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus eight copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. A copy of each filing also should be sent to International Transcription Service (ITS), 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800, and to Rita McDonald, Federal Communications Commission, Wireless Telecommunications Bureau (WTB), Policy Division, 2025 M Street, NW., Room 5202, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, 1919 M Street, NW., Room 239, Washington, DC 20054.

21. Parties are encouraged to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements presented above. Parties submitting diskettes should submit them to Rita McDonald of the WTB Policy Division. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using WordPerfect 5.1 for Windows software. The diskette should be submitted in ''read only'' mode, and should be clearly labelled with the party's name, the proceeding (CC Docket No. 94–54), the type of pleading (comment or reply comment) and the date of submission.

22. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda

[1] *See* 47 CFR 24.203.

[2] 47 CFR 1.415, 1.419.

period, provided they are disclosed as provided in the Commission's Rules.[3]

Initial Regulatory Flexibility Analysis

I. Reason for Action.

23. This *Third Notice of Proposed Rulemaking* (*Third NPRM*) requests comment on whether the Commission should promulgate transitional regulations governing certain commercial mobile radio service (CMRS) providers' obligations to enter into ''automatic'' roaming agreements with other carriers. The Commission determines that a further NPRM is necessary because the existing record does not sufficiently illuminate the costs and benefits of an automatic roaming rule. In particular, at the time comments were filed no broadband PCS providers were in operation, and most providers were only beginning to formulate their business plans. Therefore, the record does not reflect the actual experience of broadband PCS providers in attempting to negotiate roaming agreements. Although some comments in the record suggest that an automatic roaming rule may be necessary to ensure new entrants an equal opportunity to compete, other commenters argue that established providers do not have an incentive to deny automatic roaming agreements or unreasonably discriminate against new entrants.

24. The Commission also requests comment on whether the manual roaming rule adopted in the *Second Report and Order* portion of this decision should sunset five years after the last group of initial licenses for currently allotted broadband PCS spectrum is awarded. Although the Commission expects that market forces will render a manual roaming rule unnecessary once broadband PCS licensees have substantially built out their networks, the existing record is insufficiently developed to support a decision regarding the advantages, disadvantages, and implications of sunsetting the manual roaming rule.

II. Objectives of Proposed Rules.

25. The Commission's principal objective in this *Third NPRM* is to obtain information on the costs and benefits of an automatic roaming rule. In particular, the Commission seeks comment on whether it should adopt a rule requiring providers that enter into roaming agreements with any other provider to make like agreements available to similarly situated providers under nondiscriminatory rates, terms, and conditions. The Commission also seeks comment on the potential costs of an automatic roaming rule, including whether such a rule would inadvertently impede technological progress, whether it would interfere with free and open competition, whether it would expose providers to the risk of losses due to fraud, and what administrative costs would be involved. The Commission seeks comment on how any rule should be drafted to minimize such costs. An additional objective is to obtain information on the advantages, disadvantages, and implications of sunsetting the manual roaming rule.

III. Legal Basis for Proposed Rules.

26. If adopted, any changes to the Commission's roaming rules would be authorized under sections 1, 4(i), 4(j), 201, 202, 303(r), 309, 332, and 403 of the Communications Act of 1934, as amended, 47 USC 151, 154(i), 154(j), 201, 202, 303(r), 309, 332, 403.

IV. Description and Estimate of Small Entities Subject to the Rules.

27. Pursuant to the Contract with America Advancement Act of 1996,[4] the Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total CMRS entities would be affected by the regulations on which the Commission seeks comment in this *Third NPRM*. In particular, the Commission seeks estimates of how many affected entities will be considered small businesses.

28. The regulations on which the Commission seeks comment, if adopted, would apply to providers of cellular, broadband PCS, and geographic area 800 MHz and 900 MHz specialized mobile radio services, including licensees who have extended implementation authorizations in the 800 MHz or 900 MHz SMR services, either by waiver or under § 90.629 of the Commission's rules. However, the rules would apply to SMR licensees only if they offer real-time, two-way voice service that is interconnected with the public switched network.

29. As explained in the Final Regulatory Flexibility Analysis included in the full text of this *Second Report and Order and Third Notice of Proposed Rulemaking,* there are different definitions of ''small business'' for the various services affected by this proceeding. Since the Commission has not defined small business with respect to cellular service, we are utilizing the Small Business Administration's definition applicable to radiotelephone companies—i.e., an entity employing fewer than 1,500 persons.[5] With respect to broadband PCS, the Commission has refined the definition of a small business to mean firms that have had average gross revenues of not more than $40 million in the preceding three calendar years.[6] With respect to 800 MHz and 900 MHz SMR services, the Commission has defined small businesses as firms that have had average gross revenues of not more than $15 million in the preceding three calendar years.[7]

30. The Commission seeks comment as to whether our use of these definitions is appropriate in this context. Additionally, we request commenters to identify whether they are small businesses under these definitions. For commenters that are a subsidiary of another entity, we seek this information for both the subsidiary and the parent corporation or entity.

V. Reporting, Recordkeeping, and Other Compliance Requirements.

31. The proposals under consideration in this *Third NPRM* would not involve any reporting or recordkeeping requirements. The only likely compliance requirement would be to refrain from prohibited discrimination in offering roaming agreements to other carriers. If a sunset of the manual roaming rule is adopted, the effect would be to relieve affected providers from compliance requirements after the sunset takes effect.

VI. Significant Alternatives Considered and Rejected.

32. The Commission considered and rejected the alternative of adopting an automatic roaming rule without further comment because it concluded that the record before it did not establish that an automatic roaming rule is necessary, and did not sufficiently develop the costs of any such rule. At the same time, the Commission rejected the alternative of declining to adopt an automatic roaming rule without further inquiry. Some commenters made cogent arguments that established providers might have the ability and incentive to disadvantage their competitors by

[3] *See generally* 47 CFR 1.1202, 1.1203, 1.1206(a).

[4] Pub. L. 104–121, 110 Stat. 847 (1996).

[5] 13 CFR § 121.201, Standard Industrial Classification Code 4812.

[6] *See* 47 CFR § 24.720(b).

[7] *See* 47 CFR § 90.814(b)(1).

denying them nondiscriminatory roaming agreements, and the Commission believed these arguments should be further explored in light of ongoing developments.

33. The Commission did determine, however, that certain forms of regulation should not be proposed in the *Third NPRM*. In particular, the Commission rejected any proposal that would require carriers to adopt particular technology or modify their networks so as to offer roaming arrangements to any provider. Similarly, the Commission determined not to propose regulation of agreements between carriers to hand off calls in progress because the record indicated that such arrangements may be technically and administratively complex and because there was no evidence that access to such arrangements is important to providers' ability to compete. The Commission also rejected any alternative that would require carriers to do more than refrain from discrimination among similarly situated providers. Thus, the Commission does not propose to require carriers to offer roaming agreements under any particular terms and conditions, or even to offer roaming service to any carrier at all.

34. In addition, the Commission rejected the alternative of proposing to apply any automatic roaming rule to CMRS providers other than cellular, broadband PCS, and covered SMR carriers because the record did not establish that ubiquitous roaming capability is important to the competitive success or utility of these services. The Commission also rejected the alternative of proposing to continue any automatic roaming rule indefinitely because it believes that any necessity that may now exist for such a rule would be obviated once broadband PCS networks are substantially built out. With respect to manual roaming, the Commission requests comment on a sunset for similar reasons, but it rejected the alternative of imposing a sunset at this time because the existing record does not develop the implications of such a sunset.

VII. Federal Rules That Overlap, Duplicate, or Conflict with These Proposed Rules.

35. None.

VIII. IRFA Comments

36. The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis (IRFA). Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines specified in paragraph 37 of the *Second Report and Order and Third Notice of Proposed Rulemaking.*

List of Subjects in 47 CFR Part 20

Communications common carriers.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–21796 Filed 8–26–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96–093; Notice 1]

Public Meeting—Heavy Vehicle Safety

AGENCY: National Highway Traffic Safety Administration, Transportation.

ACTION: Notice of public meeting.

SUMMARY: This document announces a public meeting at which the National Highway Traffic Safety Administration (NHTSA) will seek information from interested persons on the design and performance of heavy trucks and intercity and transit buses, as related to their safe operation. NHTSA also will consider suggestions for rulemakings and other actions that the agency should take to enhance the safety performance of heavy vehicles. This document also invites written comments on the same subject. School bus issues are excluded from this notice, since they are being addressed under separate agency actions.

DATES: *Public meeting:* The meeting will be held on October 17, 1996, from 10:00 am until 4:00 pm. Those wishing to make an oral presentation at the meeting should contact Darlene Curtin at the address, telephone number, or fax number listed below by September 30, 1996.

Written comments: Written comments are due by October 28, 1996.

ADDRESS: *Public meeting:* The public meeting will be held at the Westin Hotel, Renaissance Center, Detroit, Michigan 48243, Phone (313) 568–8200.

Written comments: All written comments should be mailed to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW., Washington, DC 20590. Please refer to the docket and notice number at the top of this notice when submitting written comments.

FOR FURTHER INFORMATION CONTACT: Darlene Curtin, Office of Crash Avoidance Standards, NHTSA, 400 7th Street, SW, Room 5320, Washington, DC 20590. Telephone 202–366–4931; Fax 202–366–4329.

SUPPLEMENTARY INFORMATION:

Regulatory Reform

Calling for a new approach to the way government interacts with the private sector, President Clinton asked the Executive Branch agencies to improve the regulatory process and seek non-regulatory means of working with the public and regulated industries. Specifically, the President requested that agencies: (1) cut obsolete regulations; (2) reward results; (3) meet with persons affected by and interested in its regulations; and (4) use consensual rulemaking more frequently. This notice responds to the third item by scheduling a meeting with the public with regard to the safety of heavy vehicles as affected by their design and performance characteristics.

Issues to be Addressed

This public outreach meeting represents a continuation of the agency's longstanding policy of working collaboratively with all parties who are concerned about this vital aspect of motor vehicle and highway safety. Truck crash involvement rates have improved markedly over the past 10 years, a time period during which truck travel grew 43 percent. Between 1982 and 1992, the fatal crash involvement rate for medium and heavy trucks fell 38 percent. The comparable rate for passenger cars dropped 39 percent during that same time period. Between 1989 and 1993, the involvement rate of medium and heavy trucks in all crashes (both fatal and non-fatal) decreased 11 percent. Notwithstanding these positive trends, there were 445,000 crashes in 1994 involving a medium/heavy truck. A total of 5,112 people were killed in those crashes, 13 percent of all those killed in highway related crashes that year. The majority of those killed were occupants of other vehicles involved in collisions with medium/heavy trucks.

To address this issue, the agency has worked extensively with industry and other interested parties to develop programs that will lead to effective and practical solutions for improving heavy vehicle safety. Most recently, in June 1995, the agency published a 5-year Heavy Vehicle Safety Research Program Plan which contains a listing of topics that were identified as being appropriate targets for further improvements in heavy vehicle safety design and performance. Prospective commenters and participants are referred to that