

TABLE 11.—PROJECTED IMPACT OF FY 2001 UPDATE TO THE SNF PPS—Continued

	Number of facilities	Transition to Federal rates (percent)	Add on to Federal rates (percent)	Update change (percent)	Wage index change (percent)	20 (percent) add on	Total FY 2001 change (percent)
East South Central .....	212	1.9	3.5	2.3	-0.7	6.9	14.5
West North Central .....	469	3.6	3.5	2.3	0.4	6.7	17.5
West South Central .....	519	-5.2	3.0	2.4	1.0	6.3	7.3
Mountain .....	303	-4.0	3.1	2.4	0.0	4.8	6.2
Pacific .....	1070	-2.3	3.2	2.4	-0.5	6.9	9.8
Rural by region:							
New England .....	88	14.4	3.9	2.2	-0.9	8.4	30.5
Middle Atlantic .....	144	13.1	3.9	2.2	0.0	9.0	30.9
South Atlantic .....	373	5.3	3.6	2.2	1.1	8.0	21.7
East North Central .....	561	9.2	3.7	2.2	1.0	7.4	25.5
East South Central .....	255	4.2	3.6	2.3	0.6	8.8	20.9
West North Central .....	581	11.1	3.7	2.2	0.8	8.3	28.5
West South Central .....	354	1.2	3.4	2.3	1.1	6.9	15.7
Mountain .....	204	3.3	3.5	2.3	0.7	6.4	17.2
Pacific .....	151	3.2	3.5	2.3	0.3	6.3	16.5

(**Authority:** Section 1888 of the Social Security Act (42 U.S.C. 1395yy))  
(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 2, 2001.

**Brian P. Burns,**

*Deputy Assistant Secretary for Information Resources Management.*

[FR Doc. 01–1187 Filed 1–12–01; 8:45 am]

**BILLING CODE 4120–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WT Docket No. 97–192; FCC 00–408]

### Procedures for Reviewing Requests for Relief from State and Local Regulations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission addresses the issues raised in a previous Commission Notice of Proposed Rule Making regarding its review of requests for relief from impermissible State and local regulation of personal wireless service facilities regarding environmental effects of radiofrequency (RF) emissions. We establish that such requests under the Communications Act of 1934, as amended, shall be filed as petitions for declaratory ruling. Further, we establish certain required and recommended procedures regarding the service of pleadings and comment periods in such proceedings. The procedures adopted will facilitate the prompt resolution of

such while ensuring that State and local governments have an opportunity to respond to issues raised in the context of these proceedings.

**DATES:** The rule change set forth in this document contains an information collection requirement that has not yet been approved by OMB. The FCC will publish a document in the **Federal Register** announcing the effective date of these rule changes. Comments from the public, OMB, and other agencies on the information collections contained in this document are due March 19, 2001.

**ADDRESSES:** A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [edward.springer@omb.eop.gov](mailto:edward.springer@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Joel Taubenblatt at (202) 418–1513 (Wireless Telecommunications Bureau). For additional information concerning the information collection contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Report and Order in WT Docket No. 97–192 (the “R&O”), FCC 00–408, adopted November 13, 2000 and released November 17, 2000. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission’s copy

contractor, International Transcription Services, (202) 857–3800, 445 12th Street, SW., CY–B400, Washington, DC 20554. The full text of this R&O is also available via the Internet at <http://www.fcc.gov/Bureaus/Wireless/Orders/2000/fcc00408.doc>.

### Paperwork Reduction Act

This R&O contains a new information collection. Specifically, the Report and Order amends Note 1 to paragraph (a) of 47 CFR .1206 of the Commission’s rules so that the expanded service requirements set forth in that note apply to petitions filed pursuant to 47 U.S.C. 332(c)(7)(B)(v) (i.e., petitions for relief from impermissible State and local regulation of personal wireless service facilities on the basis of RF emissions). Thus, petitioners seeking relief under 47 U.S.C. 332(c)(7)(B)(v) must serve a copy of such petitions on those State and local governments that are the subject of the petitions as well as on those State and local governments otherwise specifically identified in the petitions whose actions petitioners argue are inconsistent with federal law.

The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public, Office of Management and Budget (OMB), and other federal agencies to comment on the information collection(s) contained in this R&O as required by the Paperwork Reduction Act of 1995, Public Law 104–13. It will be submitted to the OMB for review under Section 3507(d) of the PRA. Public, OMB, and other agency comments are due March 19, 2001. Comments should address: (a) Whether the new 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.

All comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [edward.springer@omb.eop.gov](mailto:edward.springer@omb.eop.gov).

OMB Control Number: 3060-XXXX.

Title: Procedures for Reviewing Requests for Relief from State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934, *Report and Order* (Preemption of State and Local Government Regulation of Tower Siting on the Basis of the Environmental Effect of Radiofrequency Emissions).

Form No.: NA.

Type of Review: New collection.

Respondents: Business or other for-profit; not-for-profit institutions; state and/or local or tribal governments.

Number of Respondents: 10.

Estimated Time per Response: .5 hr.

Total Annual Burden: 5 hrs.

Total Annual Costs: \$100.

Needs and Uses: These procedures will ensure that petitions seeking relief under 47 U.S.C. 332(c)(7)(B)(v) will be resolved efficiently, with an opportunity for all interested parties to participate.

### Synopsis of Report and Order

The Report and Order ("R&O") addresses the issues raised in the *RF Procedures NPRM*, 62 FR 48034, regarding the Commission's review of requests for relief from impermissible State and local regulation of personal wireless service facilities based on the environmental effects of radiofrequency (RF) emissions. Specifically, the R&O provides that such requests under 47 U.S.C. 332(c)(7)(B)(v) shall be filed as petitions for declaratory ruling, and establishes certain required and recommended procedures regarding the service of pleadings and comment periods in such proceedings. The R&O also concludes that the other issues raised in the *RF Procedures NPRM* are best addressed through case-by-case adjudication. In particular, the R&O notes the Commission's expectation that

the recently-adopted *Local Official's Guide* will facilitate the common sense resolution of disputes regarding demonstrations of compliance with the Commission's RF emissions rules, without resort to litigation or other formal dispute resolution.

### Discussion

The R&O provides that requests for relief from the Commission under 47 U.S.C. 332(c)(7)(B)(v) shall be filed as petitions for declaratory ruling pursuant to 47 CFR 1.2 of the Commission's rules. In addition, the R&O concludes that such petitions shall be subject to the Commission's procedures applicable to petitions for declaratory ruling, with the exception of the pleading cycle guidelines and service rules set forth as follows. The pleading cycle guidelines set forth in the *Section 253 Procedures Public Notice* are equally appropriate for petitions for declaratory ruling that seek relief under 47 U.S.C. 332(c)(7)(B)(v). Specifically, the R&O anticipates that the pleading cycle for petitions for declaratory ruling that seek relief under 47 U.S.C. 332(c)(7)(B)(v) will be approximately 30 days for oppositions and approximately 15 days for replies. The specific pleading cycle for each petition will be established by the Wireless Telecommunications Bureau (Bureau) by public notice, and may vary from the approximate timeframe listed above if the Bureau finds that variation is appropriate.

The R&O also finds that petitions for declaratory ruling seeking relief under 47 U.S.C. 332(c)(7)(B)(v) are similar to petitions seeking Commission preemption of State or local government authority, and should be subject to the *Ex Parte Order's* expanded service rules referenced above. Accordingly, the R&O amends the expanded service requirements in the *ex parte* rules to include petitioners seeking relief under 47 U.S.C. 332(c)(7)(B)(v). Thus, petitioners seeking relief under 47 U.S.C. 332(c)(7)(B)(v) must serve a copy of such petitions not only on those State and local governments that are the subject of the petitions, but also on those State and local governments otherwise specifically identified in the petitions whose actions petitioners argue are inconsistent with federal law.

In addition, the R&O recommends that, if a petition involves a local statute, regulation, ordinance or legal requirement, the petitioner should serve the appropriate state entity, in addition to the appropriate local entity. The R&O also recommends that, subsequent to the filing and service of the initial petition, each party, including the petitioner and each respondent State or local

government entity, should serve all other parties with a copy of its pleadings and any filing made pursuant to the *Commission's ex parte* rules.

The R&O finds that these procedural guidelines, in combination with the *Ex Parte Order's* expanded service rules and other Commission rules generally applicable to petitions for declaratory ruling, will facilitate the prompt resolution of petitions seeking relief from the Commission under 47 U.S.C. 332(c)(7)(B)(v), while ensuring that State and local governments have an opportunity to respond to allegations raised against them in the context of these proceedings.

The R&O also concludes that the other issues raised in the *RF Procedures NPRM* are best addressed through case-by-case adjudication. In particular, with respect to requirements related to demonstrating compliance with the Commission's RF emissions rules, the R&O notes the Commission's expectation that the *Local Official's Guide* will facilitate voluntary resolution of most disputes regarding this issue. With respect to the other issues, the R&O finds that a rulemaking is unnecessary in light of the relatively low level of controversy and the complexity of the issues.

### Final Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> the *RF Procedures NPRM* incorporated an Initial Regulatory Flexibility Analysis (IRFA) of the proposed rules pursuant to 5 U.S.C. 605. No comments were filed on the IRFA. Section 604 of the Regulatory Flexibility Act, as amended, requires a final regulatory flexibility analysis in a notice and comment rulemaking proceeding unless the Commission certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et Seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

established by the Small Business Administration (SBA). The Commission believes, as discussed below, that the rule adopted in this proceeding will not have a significant economic impact on a substantial number of small entities.

The Commission is making one rule change in this Report and Order. Specifically, the Commission amends Note 1 to paragraph (a) of 47 C.F.R. 1.1206 of its rules so that the expanded service requirements set forth in that note apply to petitions filed pursuant to 47 U.S.C. 332(c)(7)(B)(v) (i.e., petitions for relief from impermissible State and local regulation of personal wireless service facilities on the basis of RF emissions). Thus, petitioners seeking relief under 47 U.S.C. 332(c)(7)(B)(v) must serve a copy of such petitions on those State and local governments that are the subject of the petitions as well as on those State and local governments otherwise specifically identified in the petitions whose actions petitioners argue are inconsistent with federal law. Given that the Commission has received only one petition for relief under 47 U.S.C. 332(c)(7)(B)(v), we do not anticipate that numerous State and local governments will be the subject of such petitions or identified in such petitions. Thus, we do not expect that the service requirement adopted in this Report and Order will impose a significant burden of cost and time on petitioners, including petitioners that are small entities. We believe that this service requirement will facilitate the efficient resolution of petitions seeking relief under 47 U.S.C. 332(c)(7)(B)(v). Moreover, we believe that this requirement will ensure that State and local governments, including those governments that are small entities, have an opportunity to participate in proceedings under 47 U.S.C. 332(c)(7)(B)(v).

Accordingly, the Commission certifies, pursuant to 5 U.S.C. 605(b) of the Regulatory Flexibility Act, as amended by the Contract with America Advancement Act of 1996, that the rule adopted in this Report and Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Report and Order, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Report and Order and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and a summary will be published in the **Federal Register**

### Report to Congress

The Commission will send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Report and Order (or summary thereof) and the Final Regulatory Flexibility Certification will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

### Ordering Clauses

Accordingly, pursuant to the authority of Sections 4(i), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 332(c)(7), it is ordered that this Report and Order is hereby adopted.

The rule changes set forth in this Report and Order contain an information collection requirement that has not yet been approved by OMB. The FCC will publish a document in the **Federal Register** announcing the effective date of these rule changes.

The motion of the City of Fountain, Colorado, to consider late-filed comments is granted.

The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

### List of Subjects in 47 CFR Part 1

Communications common carriers, Telecommunications, Permit-but-disclose proceedings.

Federal Communications Commission.  
**Shirley S. Suggs,**  
*Chief, Publications Group.*

### Rule Change

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 1 as follows:

### PART 1—PRACTICE AND PROCEDURES

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

**Authority:** 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

2. Section 1.1206, Note 1 to Paragraph(A) is revised to read as follows:

#### § 1.1206 Permit-but-disclose proceedings. (a) \* \* \*

**Note 1 to Paragraph (A):** In the case of petitions for declaratory ruling that seek Commission preemption of state or local regulatory authority and petitions for relief under 47 U.S.C. 332(c)(7)(B)(v), the petitioner must serve the original petition on any state or local government, the actions of which are specifically cited as a basis for requesting preemption. Service should be made on those bodies within the state or local governments that are legally authorized to accept service of legal documents in a civil context. Such pleadings that are not served will be dismissed without consideration as a defective pleading and treated as a violation of the ex parte rules unless the Commission determines that the matter should be entertained by making it part of the record under § 1.1212(d) and the parties are so informed.

\* \* \* \* \*

[FR Doc. 01-1086 Filed 1-12-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[I.D. 122200B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Bycatch Rate Standards for the First Half of 2001

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Pacific halibut and red king crab bycatch rate standards; request for comments.

**SUMMARY:** NMFS announces Pacific halibut and red king crab bycatch rate standards for the first half of 2001. Publication of these bycatch rate standards is necessary under regulations implementing the vessel incentive program. This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to avoid excessive prohibited species bycatch rates and to promote conservation of groundfish and other fishery resources.

**DATES:** Effective 1201 hours, Alaska local time (A.l.t.), January 20, 2001, through 2400 hours, A.l.t., June 30, 2001. Comments on this action must be