

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 02-56, adopted March 6, 2002, and released March 15, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW, CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Merryville, Channel 221C3, and removing Channel 221C3 at De Ridder.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 02-8196 Filed 4-4-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-564; MM Docket No. 02-48; RM-10386]

Radio Broadcasting Services; Cuthbert and Buena Vista, Georgia

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Alaga Communications Corp., licensee of Station WMRZ(FM), Channel 264C3, Cuthbert, Georgia, requesting the reallocation of Channel 264C3 from Cuthbert to Buena Vista, Georgia, and modification of its authorization accordingly, pursuant to the provisions of section 1.420(i) of the Commission's Rules. The coordinates for requested Channel 264C3 at Buena Vista, Georgia, are 32-11-57 NL and 84-35-07 WL.

Petitioner's reallocation proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 264C3 at Buena Vista, Georgia, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before April 29, 2002, and reply comments on or before May 14, 2002.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: The Law Office of Dan J. Alpert; 2120 N. 21st Road; Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 02-48, adopted February 27, 2002, and released March 8, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW, CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-

863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. §§ 154, 303, 334, and 336.

§ 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Buena Vista, Channel 264C3, and removing Cuthbert, Channel 264A¹.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 02-8254 Filed 4-4-02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02-55; FCC 02-81]

Improving Public Safety Communications in the 800 MHz Band and Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

¹ On July 17, 2001, the authorization for Station WMRZ, Cuthbert, Georgia, was modified to specify operation on Channel 264C3 in lieu of Channel 264A (BLH-20010419AAJ). See Report and Order adopted March 25, 2002, and released March 29, 2002 (DA 02-736).

SUMMARY: In this document, the Commission seeks comment on proposals made by the National Association of Manufacturers and MRFAC, Inc. and Nextel Communications, Inc. for alleviation of interference to public safety communications in the 800 MHz band. The primary objective of the Notice of Proposed Rule Making is to explore all available options and alternatives for improving the spectrum environment for public safety operations in the 800 MHz Band and to ensure that public safety agencies have access to adequate spectrum resources in the 800 MHz band to support their critical missions. The Commission also requests comment on the terms and conditions of licenses in the 900 MHz land mobile band if it is used to relocate 800 MHz licensees to resolve interference. Finally, the Commission also seeks comment on a Petition for Rule Making filed by the Personal Communications Industry Association (PCIA) to consolidate the Business and Industrial/Land Transportation Pools.

DATES: Written comments by the public on the proposed are due on or before May 6, 2002, and reply comments are due on or before June 4, 2002.

ADDRESSES: Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Filings can be sent first class by the US Postal Service, by an overnight courier or hand and messenger-delivered. Hand and message-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

FOR FURTHER INFORMATION CONTACT: Michael J. Wilhelm, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, at (202) 418-0680 (voice), (202) 418-1169 (TTY), mwilhelm@fcc.gov (e-mail).

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rule Making, FCC 02-81, adopted on March 14, 2002 and released on March 15, 2002. The full text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text and graphical appendices may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW.,

Room CY-B402, Washington, DC 20554. The full text may also be downloaded at www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

1. In this *NPRM*, the Commission:

- Describes the current configuration of the 800 MHz band public safety and non-public safety systems.
- Discusses the causes of severe interference to public safety communications.
- Tentatively concludes that increasing levels of harmful interference to public safety communications on the 800 MHz band must be remedied.
- Discusses various means of reconfiguring the 800 MHz band in a manner that will effectively minimize interference to public safety radio systems from Commercial Mobile Radio Service stations using cellular architecture.
- Requests information on the amount of spectrum sufficient to meet the needs of public safety.

- Discusses means of handling licensing and frequency coordination if the 800 MHz band is restructured and incumbent 800 MHz licensees are relocated to other suitable bands.

- With respect to any necessary incumbent relocation, discusses what replacement spectrum would be appropriate for displaced incumbents, who would be reimbursed for relocating and who would pay the costs associated with relocation.

- Considers complementary means of reducing interference to 800 MHz public safety communications in addition to reconfiguration of the 800 MHz frequency band, including receiver standards, stricter limits on out of band emissions, and more robust public safety signals.

- Describes and discusses PCIA's petition for rule making seeking to consolidate the Business and Industrial/Land Transportation pools.

- Requests comment on the terms and conditions of licenses in the 900 MHz land mobile band if it is used to relocate displaced licensees.

2. If commenting parties believe 800 MHz band restructuring is necessary to mitigate interference to 800 MHz public safety systems, they should describe their restructuring proposals in sufficiently exact detail that the Commission can ascertain whether they meet our goal of resolving interference with minimum disruption to existing services. If the 800 MHz band is restructured, there is the potential for gaining additional spectrum for use by public safety agencies. Before adopting any plan that would realize additional

public safety spectrum, the Commission requires quantitative information on public safety agencies' needs for additional spectrum. The Commission seeks such information in this *NPRM*. In order that the Commission may build a record sufficient to take timely and effective action to alleviate interference to public safety communications, it solicits comments from the public safety community, telecommunications carriers, Specialized Mobile Radio, Business and Industrial/Land Transportation licensees and their representatives, equipment manufacturers, government agencies and any other parties who can contribute to a solution to an interference problem potentially threatening to life and property. Also, the Commission seeks comment from all interested parties on PCIA's proposal to merge the 900 MHz Business and Industrial/Land Transportation pools into a single pool accessible to both services.

I. Procedural Matters

A. Ex Parte Rules

3. Pursuant to § 1.1206 of the Commission's ex parte rules, 47 CFR 1.1206, this rulemaking proceeding is a permit-but-disclose proceeding. Provided they are disclosed in accordance with the Commission's rules, ex parte presentations are permitted, except during the Sunshine Agenda period.

B. Filing Procedures

4. Pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on this *Notice of Proposed Rule Making* on or before May 6, 2002, and reply comments on or before June 4, 2002. Comments and reply comments should be filed in WT Docket No. 02-55. All relevant and timely filings will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, interested parties must file an original and four copies of each comment or reply comment. Commenting parties who wish each Commissioner to receive personal copies of their submissions must file an original and nine copies of each comment and reply comment. Comments and reply comments must be directed to William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Copies of all comments also should be provided to (1) the Commission's duplicating contractor, Qualex International, Portals

II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, and (2) Michael J. Wilhelm, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Filings can be sent first class by the US Postal Service, by an overnight courier or hand and messenger-delivered. Hand and messenger-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

5. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenting parties should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply. Or, you may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

6. Comments and reply comments will be available for public inspection during regular business hours at the FCC Reference Information Center, Room CY-A257, at the Federal Communications Commission, 445 12th St., SW, Washington, DC, 20554. Copies of comments and reply comments are available through the Commission's duplicating contractor: Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail at qualexint@aol.com. This *Notice of Proposed Rulemaking* can be found on the Wireless Telecommunications Bureau home page at <http://wireless.fcc.gov>.

C. Regulatory Flexibility Act

7. Pursuant to the Regulatory Flexibility Act, *see* 5 U.S.C. 603, the Initial Regulatory Flexibility Act Analysis is set forth beginning at paragraph nine. We request written public comments on the Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines as the

comments on the rest of the *Notice of Proposed Rule Making*, and must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

8. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

II. Initial Regulatory Flexibility Analysis for Notice of Proposed Rulemaking

9. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this *Notice of Proposed Rulemaking (Notice)*. Written public comments are requested regarding this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice* provided in paragraph 4 of the item. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

10. In the *Notice*, we consider proposals submitted by Nextel, Inc. (Nextel) and the National Association of Manufacturers and MRFAC, Inc. (NAM). Nextel proposes to: (1) Expand the 800 MHz public safety spectrum by consolidating it into 10 MHz blocks of contiguous channels at 806-816 MHz and 851-861 MHz; (2) relocate National Public Safety Planning Advisory Committee (NPSPAC) licensees from their current 821-824 MHz and 866-869 MHz channels into the above blocks of contiguous public safety spectrum; (3) relocate Business, Industrial and Land Transportation (I/LT), and Specialized Mobile Radio (SMR) licensees from their current channels in the 809.75-816 MHz and 854.75-861 MHz band to

channels in the 896-901 MHz and 935-940 MHz band and in the 762-764 MHz and 792-794 MHz Guard Band Block B; (4) establish an allocation for "low site, low power digital SMR" licensees in the 816-824 MHz and 861-869 MHz band; and (5) establish two 5 MHz blocks for "Nextel SMR" in the 2 GHz Mobile Satellite Service (MSS) band. NAM proposes that the 800 MHz land mobile band be restructured so that there is a public safety segment from 806-811 MHz and 851-856 MHz; an SMR, Business, and Industrial and Land Transportation segment from 811-816 MHz and 856-861 MHz; and a Cellular Architecture Digital SMR segment at 816-824 MHz and 861-869 MHz. We will also give consideration to other reallocation proposals. We have tentatively concluded that spectrum reallocation would be in the public interest because it would solve current and future harmful interference to 800 MHz public safety communications.

11. We also consider a proposal that the 800 MHz and 900 MHz Business and Industrial/Land Transportation (I/LT) pools be consolidated into a single pool accessible by both services. In the alternative, we propose to lift the freeze on intercategory sharing that prevents the use of I/LT channels by Business entities.

B. Legal Basis

12. Authority for issuance of this item is contained in Sections 4(i), and 303(f) and (r) and Section 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f) and (r), 332.

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

13. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by proposed rules, if adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under Section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a small business concern is one that: (1) Is independently owned and operated, (2) is not dominant in its field of operation, and (3) satisfies any additional criteria established by the Small Business Administration.

14. A small organization is generally any not-for-profit enterprise which is independently owned and operated and

is not dominant in its field. Nationwide, as of 1992, there were approximately 275,801 small organizations. A "small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number included 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (ninety-one percent) are small entities. Below, we further describe and estimate the number of small entities—applicants, licensees, and radio equipment manufacturers—that may be affected by the proposals, if adopted, in this Notice.

15. *Public Safety Radio Licensees.* There are currently 1320 public safety and NSPAC licensees who would be required to relocate their station facilities, with some reimbursement, if the NAM or Nextel proposals described in the *Notice of Proposed Rulemaking* were adopted. The NSPAC licensees operate on six (6) MHz of spectrum from 821–824 and 866–869 MHz known as the NSPAC channels. In this band the public safety channels are not interleaved with channels of other services; however, the band abuts the upper 200 SMR channels ending at 821/866 MHz and the cellular band beginning at 824/869 MHz. The other public safety licensees—operating on channels interleaved with channels of other services—affected by this proceeding include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services operating in the 800 MHz band. Non-Federal government entities, as well as private businesses, are licensees for these services. As indicated above, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

16. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward public safety licensees. Therefore, the applicable definition of small business is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small business is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms that operated

during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were public safety licensees, nearly all would be small businesses under the SBA's definition, if independently owned and operated.

17. *Business, I/LT, and SMR licensees.* At present, there are 2,100 Business and I/LT licensees who would be required to relocate their station facilities, without reimbursement, if the Nextel proposal described in the *Notice* were adopted. Also, there are currently 1,100 SMR licensees who would be required to relocate their station facilities, without reimbursement, if the Nextel proposal were implemented. Significantly fewer such licensees would have to be relocated under the NAM proposal. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward these licensees. Therefore, the applicable definition of small business is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small business is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were business, ILT, SMR, or MSS licensees, nearly all would be small businesses under the SBA's definition, if independently owned and operated.

18. *Communications Equipment Manufacturers.* This proposal will provide marketing opportunities for radio manufacturers, some of which may be small businesses. According to the Small Business Administration's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and, therefore, would be classified as small entities. We do not have information that indicates how many radio equipment manufacturers who would be interested in manufacturing the new radio equipment are among these 778 small firms. Motorola and M/A COM Private Radio Systems, Inc., however, are major, nationwide radio equipment manufacturers, and thus, would not qualify as small businesses.

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

19. The *Notice of Proposed Rulemaking* does not propose a rule that will entail additional reporting, recordkeeping, and/or third-party consultation or other compliance efforts.

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

20. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603.

21. As an alternative to relocating Business, I/LT, and SMR systems, we will consider: (a) Allowing the licensees of these systems to remain on the public safety channels, on a secondary basis, after the realignment plan is implemented, as proposed by Nextel; or (b) allowing Business, I/LT and SMR systems to remain in the 800 MHz band as proposed by NAM. We will also consider such alternatives as may be recommended in comments to the *Notice*. We will also evaluate whether the 700 MHz public safety allocation, though currently encumbered with television stations, can satisfactorily meet public safety's spectrum needs.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

22. None.

III. Ordering Clause

23. Authority for the issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i), 303(f) and (r), 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f) and (r), 332.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02-8304 Filed 4-4-02; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 191, 192, and 195

[Docket Number RSPA-99-6132]

RIN 2137-AD42

Pipeline Safety: Producer-Operated Outer Continental Shelf Natural Gas and Hazardous Liquid Pipelines That Cross Directly Into State Waters

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to implement a provision of the December 10, 1996, Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and the Department of Transportation (DOT) regarding safety regulations of Outer Continental Shelf (OCS) natural gas and hazardous liquid pipelines. This rule addresses producer-operated natural gas and hazardous liquid pipelines that cross into State waters without first connecting to a transporting operator's facility on the OCS. This proposed rule would also address the procedures by which producer operators could petition for approval to operate under RSPA regulations governing pipeline design, construction, operation, and maintenance.

DATES: Comments on the subject of this proposed rule must be received on or before June 4, 2002.

ADDRESSES: Comments should identify the docket number of this proposed rule, RSPA-99-6132, and be mailed to the Dockets Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Plaza 401, Washington, DC 20590-0001. You should submit the original and one copy. Anyone who wants confirmation of receipt of their comments must include a stamped, self-addressed postcard. The Dockets facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays. Alternatively, you may submit written comments to the docket electronically. To do so, log on to the Internet Web address <http://dms.dot.gov> and click on "Help" for instructions on electronic filing of comments. All written comments should identify the docket and notice

numbers which appear in the heading of this notice.

FOR FURTHER INFORMATION CONTACT: You may contact L.E. Herrick by telephone at (202) 366-5523, by fax at (202) 366-4566, by mail at U.S. Department of Transportation, RSPA, DPS-10, room 7128, 400 Seventh Street, SW., Washington, DC 20590, or via e-mail to le.herrick@rspa.dot.gov regarding the subject matter of this notice. For copies of this notice or other material that is referenced herein you may contact the Dockets Facility by telephone at (202) 366-5046 or at the addresses listed above.

SUPPLEMENTARY INFORMATION: This rule is complementary to the RSPA Direct Final Rule (DFR) that addressed OCS natural gas or hazardous liquid pipeline facilities located upstream of the points at which operating responsibility for the pipeline facility transfers from a producing operator to a transporting operator (November 19, 1997; 62 FR 61692 and March 16, 1998; 63 FR 12659) and to the DOI Minerals Management Service (MMS) rule, "Producer Operated Pipelines that Cross Directly into State Waters," which was published in the *Federal Register* on July 27, 2000 (65 FR 46092).

Background

In May 1996, MMS and RSPA met with a joint industry workgroup, which was led by the American Petroleum Institute. The workgroup proposed that the agencies rely upon individual operators of natural gas and hazardous liquid production and transportation pipeline facilities to identify the boundaries of their respective facilities. The MMS and RSPA agreed with the industry proposal and entered into an interagency Memorandum of Understanding (MOU) on December 10, 1996. The MOU was published in a joint MMS-RSPA *Federal Register* Notice (February 14, 1997; 62 FR 7037-7039).

The MOU placed, to the greatest practical extent, OCS production pipelines under DOI responsibility and OCS transportation pipelines under DOT responsibility. Therefore, RSPA has primary regulatory responsibility for transporter-operated pipelines and associated pumping or compressor facilities on the OCS, while MMS has primary regulatory responsibility for producer-operated facilities and pipelines. Producing operators are companies which are engaged in the extraction and processing of hydrocarbons on the OCS. Transporting operators are companies which are engaged in the transportation of those hydrocarbons from the OCS. There are approximately 150 operators of

producer pipelines and 75 operators of transportation pipelines on the OCS.

The MOU established a regulatory boundary on the OCS at the point where operating responsibility for the pipeline transfers from a producing operator to a transporting operator. The MOU did not address the producer-operated pipelines that cross the Federal/State boundary without a transfer on the OCS. However, the MOU provided the agencies with the flexibility to address situations that do not correspond to the general definition of the regulatory boundary.

The purpose of this proposed rule is to address regulatory questions regarding producer-operated pipeline facilities that cross the Federal/State boundary without first connecting to a transporting operator's facility on the OCS and to establish a procedure whereby OCS producing operators may petition to have their pipelines regulated by RSPA. The rule would amend 49 CFR parts 191.1(b)(1), 192.1(b)(1) and 195.1(b)(5).

When we published the DFR to implement the December 1996 MOU on November 19, 1997 (62 FR 61692), we received comments from Chevron U.S.A. Production Company and Chevron Pipe Line Company in which they observed that the proposed regulation did not appear to allow OCS producer-operated pipelines to remain under DOT regulatory authority. The commenters requested that provision be made to allow producers to continue to operate under DOT regulations if approval is obtained from DOI.

This arose because the regulatory boundaries in the MOU and the DFR were described in terms of specific points on OCS pipelines where operating responsibility transfers from a producing operator to a connecting transporting operator. The producer-operated pipelines that cross the Federal/State boundary into State waters without first connecting to a transporter-operated facility were not affected. Nor were the producer lines that flow from State waters to production platforms located on the OCS.

Regardless of the direction of flow, producer pipelines that cross the Federal/State boundary are always subject to RSPA regulation on the portions of the lines located in State waters. However, it does not make operational sense to have a pipeline segment crossing the Federal/State boundary subject to MMS regulations on the OCS side of the boundary and RSPA regulations on the State side of the boundary. We believe that a regulatory