

Commodity	Parts per million	Commodity	Parts per million
Cattle, meat .....	0.02	Sheep, meat .....	0.02
Cattle, meat byproducts .....	0.2	Sheep, meat byproducts, except kidney .....	0.2
Cotton, undelinted seed <sup>1</sup> .....	1.0	Sugarcane, molasses .....	1.5
Hog, fat .....	0.1	Tomato .....	2.0
Hog, kidney .....	0.1	Walnut .....	0.5
Hog, liver .....	0.1	Wheat, bran .....	5.0
Hog, meat .....	0.05	Wheat, germ .....	5.0
Hog, meat byproducts .....	0.3	Wheat, grain .....	2.0
Milk .....	0.03	Wheat, middlings .....	5.0
Milk, fat .....	0.2	Wheat, shorts .....	5.0
Pear .....	3.0	Wheat, straw .....	10.0

<sup>1</sup> There are no U.S. registrations on cotton, undelinted seed as of May 3, 2006.

\* \* \* \* \*

8. Section 180.300 is amended by revising the table in paragraph (a) to read as follows:

**§180.300 Ethephon; tolerances for residues.**

(a) \* \* \*

Commodity	Parts per million
Apple .....	5.0
Apple, juice .....	10.0
Barley, bran .....	5.0
Barley, grain .....	2.0
Barley, straw .....	10.0
Blackberry .....	30.0
Blueberry .....	20.0
Cantaloupe .....	2.0
Cattle, fat .....	0.02
Cattle, kidney .....	1.0
Cattle, meat .....	0.02
Cattle, meat byproducts, except kidney .....	0.2
Cherry .....	10.0
Coffee, bean, green .....	0.5
Cotton, gin byproducts .....	180.0
Cotton, undelinted seed .....	6.0
Cucumber .....	0.1
Egg .....	0.002
Filbert .....	0.80
Goat, fat .....	0.02
Goat, kidney .....	1.0
Goat, meat .....	0.02
Goat, meat byproducts, except kidney .....	0.2
Grape .....	2.0
Grape, raisin .....	12.0
Hog, fat .....	0.02
Hog, kidney .....	1.0
Hog, meat .....	0.02
Hog, meat byproducts, except kidney .....	0.2
Horse, fat .....	0.02
Horse, kidney .....	1.0
Horse, meat .....	0.02
Horse, meat byproducts, except kidney .....	0.2
Milk .....	0.01
Nut, macadamia .....	0.5
Pepper .....	30.0
Pineapple .....	2.0
Poultry, fat .....	0.02
Poultry, liver .....	0.05
Poultry, meat .....	0.01
Poultry, meat byproducts, except liver .....	0.01
Sheep, fat .....	0.02
Sheep, kidney .....	1.0

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 2, 90, and 95**

[WP Docket No. 07-100, FCC 07-85]

**Amendment of Part 90 of the Commission's Rules**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) initiates a proceeding to propose miscellaneous changes to its rules that govern new and existing wireless technologies, devices, and services. Specifically, the Commission seeks comment regarding particular changes to its rules governing the 4.9 GHz band and the Wireless Medical Telemetry Service which shares spectrum. The Commission also solicits comment on whether or not to revise or eliminate provisions that are duplicative, outmoded or otherwise unnecessary.

**DATES:** Submit comments on or before August 13, 2007, and reply comments are due on or before September 11, 2007.

**ADDRESSES:** You may submit comments, identified by WP Docket No. 07-100; FCC 07-85, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov)

or phone 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Rodney P. Conway, at [Rodney.Conway@FCC.gov](mailto:Rodney.Conway@FCC.gov), Wireless Telecommunications Bureau, (202) 418-2904, or TTY (202) 418-7233.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WP Docket No. 07-100, FCC 07-85, adopted on May 9, 2007, and released May 14, 2007. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by sending an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

1. Part 90 contains the rules for both the Private Land Mobile Radio (PLMR) Services and certain Commercial Mobile Radio Services (CMRS). PLMR licensees generally do not provide for-profit communications services. Some examples of PLMR licensees are public safety agencies, businesses that use radio only for their internal operations, utilities, transportation entities, and medical service providers. CMRS licensees, by comparison, do provide for-profit communications services, such as paging and Specialized Mobile Radio services that offer customers communications that are interconnected to the public switched network.

2. *Frequency Coordination and Related Matters.* Pursuant to § 90.621 of the Commission's rules, certain licensees are permitted to modify their licenses to authorize CMRS operations instead of PLMR operations, or vice versa. Currently, such applications require frequency coordination. We propose to eliminate the frequency coordination requirement for such applications. We ask for comment on this proposal. We also invite commenters to suggest other types of applications for which frequency coordination should no longer be required, such as applications to modify

a license to reduce the authorized bandwidth.

3. *Paging on Public Safety VHF Frequencies.* We seek comment on whether we should place any restrictions on paging operations on VHF public safety frequencies, especially those frequencies reserved under the rules for mutual aid/ interoperability communications. Finally, we ask whether we should eliminate paging operations in the VHF public safety frequencies altogether.

4. *Cross-Banding.* Section 90.243(b)(1) of the Commission's rules state that public safety medical service systems operating in the 150–160 MHz band are permitted to be cross-banded in order to communicate with systems operating in the 450–470 MHz band. All public safety licensees may operate cross-band repeaters under the general mobile relay rules in § 90.243. Therefore, we propose to modify this section to specifically state that cross-band repeaters are permitted for all public safety systems. We seek comment on this proposal.

5. *Mobile Repeaters.* Section 90.247(b) of the Commission's rules states that for frequencies below 450 MHz in the Industrial/Business pool, only low power frequencies (where power is limited to two watts) may be assigned for use by mobile repeaters and associated hand-held units, when separate frequencies are assigned for that purpose. After the part 90 radio services were consolidated, however, a greater number of high-power 150 MHz channels became available for use by Business and Special Industrial Radio (B/ILT) Services licensees and the number of low-power 150 MHz band frequencies available for mobile repeater operations was reduced when the Commission reallocated five channels to the part 95 Multi-Use Radio Service. In light of these developments, we seek tentatively conclude that restricting mobile repeaters to low-power channels is no longer necessary. We seek comment on this proposal.

6. *Expired Licenses.* The Land Mobile Communications Council (LMCC) has notified the Commission that all part 90 frequency coordinators have now agreed not to coordinate frequencies associated with an expired license until the frequency becomes available for reassignment. LMCC requests the Commission's cooperation in enforcing this policy. We seek comment on whether the rules should be amended to prohibit the coordination of frequencies associated with expired licenses until those frequencies are deleted from the ULS database.

7. *Multiple Licensing.* In 1999, the Commission sought comment on

whether to retain the multiple licensing rules. Since then, however, changes in the Commission's rules have created new means for multiple entities to share facilities. The availability and coverage of commercial communications systems has increased in recent years. Also, some PLMR licensees now may convert their stations to CMRS operation. In addition, users now may obtain spectrum in secondary market transactions. These developments lead us to revisit the Commission's conclusion, in 2000, that multiple licensing should be retained. Against this background, we request comment on whether multiple licensing has become unnecessary and administratively burdensome, considering the options discussed above.

8. *Transit Systems and Toll Roads.* Under the current rules, publicly-operated transit systems, as governmental entities, are eligible to hold authorizations in the Public Safety Pool. However, not all metropolitan transit systems are publicly-owned. We seek comment on whether 47 CFR 90.20 should be amended to allow privately-run metropolitan transit systems to use frequencies in the Public Safety Pool. When toll roads are operated by government entities, the operator is eligible to hold an authorization in the Public Safety Pool. A private entity that takes over operation of a toll road ordinarily is not eligible for that Public Safety Pool license. We seek comment on how best to administer licenses associated with toll roads that are transferred from government to private operation.

9. *Industrial/Business Pool Eligibility.* Section 90.35 of the Commission's rules permits licensing of entities engaged in "[t]he operation of a commercial activity," and does not state that government entities cannot hold licenses in the Industrial/Business Pool for these activities. We seek comment on whether there is any need to amend 47 CFR 90.35 to state explicitly that government entities engaged in commercial enterprises are eligible for Industrial/Business Pool frequencies. We also seek comment on a request filed by National Public Safety Telecommunications Council (NPSTC) requesting that the rule be amended to permit government surveying operations to utilize Industrial/Business Pool itinerant frequencies because modern surveying equipment is manufactured to operate only on Industrial/Business Pool frequencies.

10. *Disturbance of AM Broadcast Station Antenna Patterns.* The Commission's rules for other services

contain requirements for detuning antenna structures constructed near an AM transmitting antenna. We seek comment on the need, if any, for similar provisions in part 90 of the Commission's rules.

11. *FB8T Station Class.* The Commission established a new station class code, FB8, to identify those trunked radio systems' base and mobile relay channels that are not subject to a monitoring requirement because the applicant/licensee has obtained the necessary consent from co-channel licensees or has exclusive use of the channel. Authorizing temporary base stations anywhere within the licensee's authorized operating area could allow the licensee to expand the contour of its unmonitored operations into areas where it does not have exclusivity potentially resulting in interference to other licensees. Consequently, we no longer issue authorizations for systems with a station class of FB8T. We propose to renew existing FB8T authorizations with a station class code of FBT (temporary base), which would make it clear that these operations are subject to the monitoring requirement. We seek comment on this proposal, and on whether any corresponding amendment to part 90 is necessary.

12. *Reorganization of part 90.* The PLMR and CMRS operations governed under part 90 are similar in many respects, thus it may be appropriate to continue to include them in the same rule part. On the other hand, the differences among the services may be sufficient to warrant them being administered under different rule parts. For example, it may be appropriate to move the part 90 CMRS rules to parts 22 or 27, or to move the rules governing the Public Safety Pool to a separate rule part. Another option is to keep the rules in part 90, but reorganize them to minimize confusion and reduce regulatory burdens. We ask commenting parties for an analysis of the comparative costs and benefits associated with the foregoing alternatives.

13. *4.9 GHz Band.* We seek comment on M/A-COM's proposal to afford primary status to certain permanent fixed links in the 4.9 GHz band. Commenters should address whether, given the limited amount of spectrum in the 4.9 GHz band, permitting fixed operations on a primary basis may result in severely limiting the spectral availability and reliability of both permanent and *ad hoc* mobile networks. In addition, we propose to amend 47 CFR 90.1215 to reflect the revised measurement procedures subsequently adopted by the Commission for devices

that use digital modulation techniques and are regulated by part 15 of the rules. We find that measurement procedures should remain consistent between the part 15 rules and the 4.9 GHz band rules, given our understanding that manufacturers are considering technologies similar to those covered by part 15 for use in the 4.9 GHz band. We request comment on this proposal.

14. *Wireless Medical Telemetry Service Issues.* We seek comment on ASHE's proposed rule changes. We seek comment on whether the rules should expressly set forth the terms of the agreement, or if it is sufficient to cross-reference the coordination plan, as ASHE proposes. Although ASHE and LMCC support codifying the coordination plan, we also seek comment on whether this is necessary or appropriate, or if codification of the plan would impede ASHE and LMCC in the event that they agree in the future to modify their procedures. Finally, we note that the WMTS rules do not explicitly permit WMTS systems to operate on a secondary basis in the portion(s) of the 1427–1432 MHz band where non-medical telemetry is primary. The Wireless Telecommunications Bureau has received both a request that it clarify that such operations are permitted, and a request that it clarify that such operations are not permitted. We seek comment on how, or if, we should amend our rules with respect to this issue.

## I. Procedural Matters

### A. *Ex Parte Rules—Permit-But-Disclose Proceeding*

15. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

### B. *Comment Dates*

16. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 13, 2007 and reply comments on or before September 11, 2007. All filings related to this *NPRM* should refer to WT Docket No. 07–100.

17. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), the Federal Government's eRulemaking Portal, or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

18. Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

19. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

20. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

21. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

22. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

23. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

24. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

25. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

26. *Availability of documents.* The public may view the documents filed in this proceeding during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, and on the Commission's Internet Home Page: <http://www.fcc.gov>. Copies of comments and reply comments are also available through the Commission's duplicating contractor: Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160, may be reached by e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com) or via BCPI's Web site at <http://www.bcpiweb.com>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

### C. *Paperwork Reduction Act*

27. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

## II. Initial Regulatory Flexibility Analysis

28. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *NPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* as provided in paragraph 49 of the item. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the U.S. Small Business Administration. In addition, a copy of the *NPRM* and IRFA (or summaries thereof) will also be published in the **Federal Register**.

*Need for, and Objectives of, the Proposed Rules*

29. This proceeding is part of our continuing effort to provide clear and concise rules that facilitate new wireless technologies, devices and services, and are easy for licensees to comprehend and understand. We believe it appropriate to review all of our regulations relating to administering Private Land Mobile Radio (PLMR) Services to determine which regulations can be clarified, streamlined or eliminated. In the *NPRM*, we seek comment on miscellaneous rule amendments that are intended to clarify part 90 of the Commission's rules. In addition, the *NPRM* seeks comment on eliminating certain regulatory requirements contained in part 90 of the Commission's rules. The *NPRM* also seeks comment regarding changes to the rules governing the part 95 Wireless Medical Telemetry Service, to clarify those rules and implement a joint coordination agreement among the relevant frequency coordinators. We also solicit comment on other potential part 90 rules changes, including suggestions to revise or eliminate provisions that are duplicative, outmoded or otherwise unnecessary.

*Legal Basis for Proposed Rules*

30. Authority for issuance of this item is contained in sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

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

31. 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 the rules adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." See 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. See 5 U.S.C. 601(3). 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 established by the Small Business Administration (SBA). See Small Business Act, 5 U.S.C. 632 (1996). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and

is not dominant in its field." See 5 U.S.C. 601(4). Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules changes proposed in this *NPRM*.

32. *Governmental Entities.* Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. See SBA, Programs and Services, SBA Pamphlet No. CO-0028, at page 40 (July 2002). A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." See 5 U.S.C. 601(4). Nationwide, as of 2002, there were approximately 1.6 million small organizations. See Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002). The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." See 5 U.S.C. 601(5). Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, page 272, Table 415. We estimate that, of this total, 84,377 entities were "small governmental jurisdictions." See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, page 273, Table 417. Thus, we estimate that most governmental jurisdictions are small.

33. *Public Safety Radio Licensees.* As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. See subparts A and B of part 90 of the Commission's rules, 47 CFR 90.1-90.22. The SBA rules contain a definition for cellular and other wireless telecommunications companies which encompass business entities engaged in radiotelephone communications employing no more than 1,500 persons. See 13 CFR 121.201, NAICS code 517212. There are a total of approximately 127,540 licensees within these services. With respect to local governments, in particular, since many governmental entities as well as private businesses comprise the licensees for these services, we include under public safety services the number of government entities affected.

34. *Private Land Mobile Radio Licensees.* Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by

companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed a small business size standard specifically applicable to PLMR users. The SBA rules do, however, contain a size standard for small radiotelephone (wireless) companies which encompasses, business entities engaged in radiotelephone communications employing no more than 1,500 persons. See 13 CFR 121.201, NAICS code 517212. The SBA rules contain a definition for cellular and other wireless telecommunications companies which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. The Commission's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz. See Federal Communications Commission, *60th Annual Report, Fiscal Year 1994* at 120-121.

35. *Frequency Coordinators.* Neither the Commission nor the SBA has developed a small business size standard specifically applicable to spectrum frequency coordinators. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications." See 13 CFR 121.201, NAICS code 517212. Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. See 13 CFR 121.201, NAICS code 517211. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. See 13 CFR 121.201, NAICS code 517212. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

36. *RF Equipment Manufacturers.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in

manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." See 13 CFR 121.201, NAICS code 334220. The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. See U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005). Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

37. *Hospitals, Nursing Care Facilities, and Other Residential Care Facilities.* The SBA has developed small business size standards for these three categories and other, related categories. For the commercial census category of General Medical and Surgical Hospitals, the SBA deems an entity to be small if it has \$31.5 million or less in annual revenues. See 13 CFR 121.201, NAICS code 622110. Census Bureau data for 2002 show that there were 3,200 firms in this category that operated for the entire year. See U.S. Census Bureau, 2002 Economic Census, Subject Series: Health Care and Social Assistance, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 622110 (issued Nov. 2005). Of this total, 1,313 firms had revenues of under \$25 million, and 471 had revenues of \$25 million to \$49,999,999. Thus, in this category, over 41 percent of the firms can be considered small. For the category of Nursing Care Facilities, the SBA deems an entity to be small if it has \$12.5 million or less in annual revenues. See 13 CFR 121.201, NAICS code 623110. Census Bureau data for 2002 show that there were 7,826 firms in this category that operated for the entire year. Of this total, 6,594 firms had revenues of under \$10 million, and 871 had revenues of \$10 million to \$24,999,999. Thus, in this category, the majority of firms can be considered small. For the category of Other

Residential Care Facilities, the SBA deems an entity to be small if it has \$6.5 million or less in annual revenues. See 13 CFR 121.201, NAICS code 623990. Census Bureau data for 2002 show that there were 3,131 firms in this category that operated for the entire year. See U.S. Census Bureau, 2002 Economic Census, Subject Series: Health Care and Social Assistance, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 623990 (issued Nov. 2005). Of this total, 2,774 firms had revenues of under \$5 million, and 202 had revenues of \$5 million to \$9,999,999. Thus, in this category, the majority of firms can be considered small.

38. *Aviation and Marine Radio.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees. See 13 CFR 121.201, NAICS code 517212. Also, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a "small" business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$15 million dollars. In addition, a "very small" business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them, along with the majority of other aviation and marine radio licensees, qualify as "small" businesses under the above special small business size standards.

A. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements:

39. There are no projected reporting, recordkeeping or other compliance requirements.

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

40. 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: (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. See 5 U.S.C. 603(c).

41. We believe the changes proposed in this *NPRM* will promote flexibility and more efficient use of the spectrum, reduce administrative burdens on both the Commission and licensees, and allow licensees to better meet their communication needs. In this *NPRM*, we seek comment on the proposals to modify the rules. Many of the proposed changes constitute clarification of existing requirements or elimination of existing limitations. Among other proposals, we seek comment on whether multiple licensing is obsolete and whether we should eliminate this administratively burdensome option in light of the various other services that are now more widely available. We also are considering the alternative of retaining the multiple licensing rules. The *NPRM* also seeks comment on the feasibility of including protection to broadcast AM station antenna patterns in part 90 of our rules, or whether such a rule is unnecessary. We seek comment on our proposal to reissue licenses that contain an invalid station class of FB8T as they come due for renewal with an appropriate station class of FBT (temporary base), indicating that operations are subject to monitoring.

C. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

42. None.

### III. Ordering Clauses

43. Pursuant to sections 4(i), 303(r), and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 303(r), and 403, that this *NPRM* is hereby adopted.

44. Notice is hereby given of the proposed regulatory changes described in this *NPRM* and comment is sought on these proposals.

45. The Commission's Consumer and Governmental Affairs Bureau, Reference

Information Center, *shall send* a copy of this *NPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 2, 90, and 95**

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.  
**Marlene H. Dortch,**  
*Secretary.*

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2, 90, and 95 to read as follows:

**PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS**

1. The authority citation for part 2 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Amend § 2.106 by revising the entry for “US350” to read as follows:

**§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

US350 In the band 1427–1432 MHz, Federal use of the land mobile service and non-Federal use of the fixed and land mobile services is limited to telemetry and telecommand operations as described further:

Location (see § 90.259(b)(4) of this chapter for a detailed description)	1427–1429 MHz 1431.5–1432 MHz	1429–1431.5 MHz
Austin/Georgetown, Texas, ..... Battle Creek, Michigan, Detroit, Michigan, Pittsburgh, Pennsylvania, Richmond/Norfolk, Virginia, Spokane, Washington, Washington, DC metropolitan area	Non-Government land mobile service is limited to telemetry and telecommand operations. Government and non-Government medical telemetry and telecommand use is permitted on a secondary basis.	Government and non-Government land mobile service is limited to medical telemetry and telecommand operations. Non-Government telemetry and telecommand use is permitted on a secondary basis.
	1427–1429.5 MHz	1429.5–1432 MHz
Rest of U.S. ....	Government and non-Government land mobile service is limited to medical telemetry and telecommand operations. Non-Government telemetry and telecommand use is permitted on a secondary basis.	Non-Government land mobile service is limited to telemetry and telecommand operations. Government and non-Government medical telemetry and telecommand use is permitted on a secondary basis.

\* \* \* \* \*

**PART 90—PRIVATE LAND MOBILE RADIO SERVICES**

3. The authority citation for part 90 continues to read as follows:

**Authority:** Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

4. Amend § 90.20 by adding paragraph (a)(2)(xiv) to read as follows:

**§ 90.20 Public Safety Pool.**

(a) \* \* \*

(2) \* \* \*

(xiv) Persons or organizations providing local or regional multiple-occupancy-vehicle passenger services over regular routes under contract or similar arrangement with a governmental entity for the transmission of messages pertaining to either the efficient operation of the service or the safety or general welfare of the passengers they are engaged in transporting. Each transit system operator may be authorized to operate one base station and a number of mobile units not in excess of the total of the number of passenger vehicles and maintenance vehicles regularly engaged in the operation. Additional base

stations or mobile units will be authorized only in exceptional circumstances when the applicant can show a specific need.

\* \* \* \* \*

5. Amend § 90.175 by adding paragraph (j)(18) to read as follows:

**§ 90.175 Frequency coordinator requirements.**

(j) \* \* \*

(18) Applications requesting to modify a license to authorize commercial operations pursuant to § 90.621(e)(2), or to reverse such a modification, if there is no change in technical parameters.

6. Amend § 90.176 by revising the section heading and paragraph (d) to read as follows:

**§ 90.176 Coordinator notification requirements on frequencies below 512 MHz, at 764–776/794–806 MHz, or at 1427–1432 MHz.**

\* \* \* \* \*

(d) *Frequencies in the 1427–1432 MHz band.* Within one business day of making a frequency recommendation, each frequency coordinator must notify and provide the information indicated in paragraph (g) of this section to the WMTS frequency coordinator designated in § 95.1112 of this chapter and to all other frequency coordinators

who are also certified to coordinate that frequency. In addition, the frequency coordinator must ensure compliance with all coordination requirements incorporated in the joint WMTS-part 90 coordination plan filed in WT Docket No. 02–8 on August 18, 2004.

\* \* \* \* \*

7. Amend § 90.243 by revising paragraph (b)(1) to read as follows:

**§ 90.242 Mobile relay stations.**

(b) \* \* \*

(1) In the Public Safety Pool, systems that operate in the 150 MHz band are permitted to be cross-banded for mobile and central stations operations with mobile relay stations authorized to operate in the 450 and 800 MHz bands.

\* \* \* \* \*

**§ 90.247 [Amended]**

8. Amend § 90.247 by removing and reserving paragraph (b).

9. Amend § 90.259 by revising paragraphs (b)(3) and (b)(4)(ii) to read as follows:

**§ 90.259 Assignment and use of frequencies in the bands 216–220 MHz and 1427–1432 MHz.**

\* \* \* \* \*

(b) \* \* \*

(3) All operations authorized under this section in the 1429.5–1432 MHz

band are primary in status (and Wireless Medical Telemetry Service operations are secondary) except in the locations specified in paragraph (b)(4) of this section. At the locations specified in paragraph (b)(4) of this section, all operations authorized under this section are primary in status (and Wireless Medical Telemetry Service operations are secondary) in the 1427–1429 MHz and 1431.5–1432 MHz bands.

(4) \* \* \*

(ii) Washington, DC metropolitan area—Counties of Montgomery, Prince George’s and Charles in Maryland; Arlington, Prince William, Fauquier, Loudon, and Fairfax, and Cities of Alexandria, Falls Church, Fairfax, Manassas and Manassas Park in Virginia; and District of Columbia.

\* \* \* \* \*

10. Amend § 90.1215 by revising paragraphs (a), (b), and (c), and by adding paragraph (e) to read as follows:

**§ 90.1215 Power limits.**

\* \* \* \* \*

(a) The maximum conducted output power should not exceed:

Channel bandwidth (MHz)	Low power peak transmitter power (dBm)	High power peak transmitter power (dBm)
1	7	20
5	14	27
10	17	30
15	18.8	31.8
20	20	33

High power devices are also limited to a peak power spectral density of 20 dBm per one MHz. High power devices using channel bandwidths other than those listed above are permitted; however, they are limited to a maximum conducted power spectral density of 20 dBm/MHz. If transmitting antennas of directional gain greater than 9 dBi are used, both the maximum conducted output power and the peak power spectral density should be reduced by the amount in decibels that the directional gain of the antenna exceeds 9 dBi. However, high power point-to-point and point-to-multipoint operation (both fixed and temporary-fixed rapid deployment) may employ transmitting antennas with directional gain up to 26 dBi without any corresponding reduction in the maximum conducted output power or spectral density. Corresponding reduction in the transmit power and peak power spectral density should be the amount in decibels that the directional gain of the antenna exceeds 26 dBi.

(b) Low power devices are also limited to a peak power spectral density of 8 dBm per one MHz. Low power devices using channel bandwidths other than those listed above are permitted; however, they are limited to a peak power spectral density of 8 dBm/MHz. If transmitting antennas of directional gain greater than 9 dBi are used, both the maximum conducted output power and the peak power spectral density should be reduced by the amount in decibels that the directional gain of the antenna exceeds 9 dBi.

(c) The maximum conducted power is measured as a conducted emission over any interval of continuous transmission calibrated in terms of an RMS-equivalent voltage. If the device cannot

be connected directly, alternative techniques acceptable to the Commission may be used. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, etc., so as to obtain a true maximum conducted power measurement conforming to the definitions in this paragraph for the emission in question.

\* \* \* \* \*

(e) The ratio of the peak excursion of the modulation envelope (measured using a peak hold function) to the maximum conducted output power shall not exceed 13 dB across any 1 MHz bandwidth or the emission bandwidth whichever is less.

11. Add § 90.XXX to read as follows:

**§ 90.XXX Disturbance of AM broadcast station antenna patterns.**

Public Safety Pool and Industrial/Business Pool licensees that construct or modify towers in the immediate vicinity of AM broadcast stations are responsible for measures necessary to correct disturbance of the AM station antenna pattern which causes operation outside of the radiation parameters specified by the FCC for the AM station, if the disturbance occurred as a result of such construction or modification.

(a) *Non-directional AM stations.* If tower construction or modification is planned within 1 kilometer (0.6 mile) of a non-directional AM broadcast station tower, the Public Safety Pool or Industrial/Business Pool licensee must notify the licensee of the AM broadcast station in advance of the planned construction or modification. Measurements must be made to determine whether the construction or

modification would affect the AM station antenna pattern. The Public Safety Pool or Industrial/Business Pool licensee is responsible for the installation and continued maintenance of any detuning apparatus necessary to restore proper non-directional performance of the AM station tower.

(b) *Directional AM stations.* If tower construction or modification is planned within 3 kilometers (1.9 miles) of a directional AM broadcast station array, the Public Safety Pool or Industrial/Business Pool licensee must notify the licensee of the AM broadcast station in advance of the planned construction or modification. Measurements must be made to determine whether the construction or modification would affect the AM station antenna pattern. The Public Safety Pool or Industrial/Business Pool licensee is responsible for the installation and continued maintenance of any detuning apparatus necessary to restore proper performance of the AM station array.

**PART 95—PERSONAL RADIO SERVICES**

12. The authority citation for part 95 continues to read as follows:

**Authority:** Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

13. Revise § 95.630 to read as follows:

**§ 95.630 WMTS transmitter frequencies.**

WMTS transmitters may operate in the frequency bands specified as follows:

- 608–614 MHz
- 1395–1400 MHz

1427–1432 MHz (see § 90.259(b) of this part regarding where WMTS operations are primary in status, and where they are secondary to part 90 operations)

14. Revise § 95.1101 to read as follows:

**§ 95.1101 Scope.**

This subpart sets out the regulations governing the operation of Wireless Medical Telemetry Devices in the 608–614 MHz, 1395–1400 MHz, and 1427–1432 MHz frequency bands.

15. Amend § 95.1113 by revising paragraphs (b)(1), (b)(5), and (b)(6) to read as follows:

**§ 95.1113 Frequency coordinator.**

\* \* \*

(b) \* \* \*

(1) Review and process registration requests submitted by authorized health cares providers as required in § 95.1111;

\* \* \* \* \*

(5) Upon receipt of a registration request for WMTS equipment operating in the 1427–1432 MHz band, notify all part 90 frequency coordinators of the intended activation in accordance with the joint WMTS-part 90 coordination plan filed in WT Docket No. 02–8 on August 18, 2004. The part 90 frequency coordinators shall, in turn, determine potentially affected part 90 licensees and notify those part 90 licensees operating in the 1427–1432 MHz band in accordance with § 90.259 of this chapter of their obligation to ensure compliance with the field strength limit of § 90.259(b)(11) of this chapter, as measured at the WMTS site.

(6) Upon receipt of a registration request for WMTS equipment operating in the 1395–1400 MHz band, notify each party licensed to operate in the 1392–1395 MHz band in the applicable geographic area pursuant to subpart I of part 27 of this chapter of the need to comply with the field strength limit set forth in § 27.804 of this chapter.

[FR Doc. E7–11221 Filed 6–12–07; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 07–2194; MB Docket No. 07–107; RM–11330]

**Radio Broadcasting Services; Bokchito and Clayton, OK**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by Charles Crawford (“Petitioner”) proposing the allotment of Channel 241A at Bokchito, Oklahoma, as a first

local service. The proposed coordinates for Channel 241A at Bokchito are 33–55–00 NL and 96–06–00 WL with a site restriction of 11.8 km (7.4 miles) south of town reference. To accommodate the proposed allotment at Bokchito, Petitioner proposes to substitute Channel 263A for vacant Channel 241A at Clayton, Oklahoma. The proposed coordinates for Channel 263A at Clayton are 34–32–48 NL and 95–29–46 WL with a site restriction of 14 km (8.7 miles) west of town reference.

**DATES:** Comments must be filed on or before July 16, 2007, and reply comments on or before July 31, 2007.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner and her counsel, as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205 and Gene A. Bechtel, Esquire, Law Office of Gene Bechtel, 1050 17th Street, NW., Suite 600, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Helen McLean, Media Bureau, (202) 418–2738.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Notice of Proposed Rule Making*, MB Docket No. 07–107, adopted May 23, 2007, and released May 25, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission’s Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission’s duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *See* 44 U.S.C. 3506(c)(4).

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 of 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 Section 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR Sections 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, 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, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 241A and by adding Channel 263A at Clayton and by adding Bokchito, Channel 241A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 07–2901 Filed 6–12–07; 8:45 am]

BILLING CODE 6712–07–M

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Colorado River Cutthroat Trout as Threatened or Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of a 12-month petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce our 12-month finding for a petition to list the Colorado River cutthroat trout (CRCT) (*Oncorhynchus clarkii pleuriticus*) as a threatened species throughout its range in the United States, pursuant to the Endangered Species Act of 1973, as amended. After a thorough review of all available scientific and commercial information, we find that listing the CRCT as either threatened or endangered is not warranted at this time. We ask the public to continue to submit to us any new information that becomes available