

10. If training were required would it be accomplished during off-season times?

11. How would additional training impact one's ability to fish?

12. If stability standards for vessels between 50 feet and 79 feet in length are considered, what standards should apply, and to which vessels should the standards apply?

13. How does a crew become experienced in safety procedures?

14. Should entry level crewmembers be expected to have a minimum level of familiarity with safety procedures?

15. How and when is stability guidance used? If stability guidance is available but not used, please explain why.

16. How are operating personnel made aware of stability and watertight integrity guidance?

17. How often should stability guidance be reviewed, updated, or validated?

18. How are modifications to a vessel or its gear accounted for relative to the vessel's maximum load, watertight integrity, and other stability considerations?

19. How adequate are current requirements for personal protection and survival equipment?

20. How do crew members become familiar with vessel safety and survival equipment?

21. How are safety risks aboard your vessel(s) identified and minimized?

22. If you are a small business, what economic impact on you, your business, or your organization would the rules we are considering have? In your comments please explain why, how, and to what degree such rules would have an economic impact.

23. Have you experienced—or are you aware of—any situations where any of the measures under consideration saved lives, or prevented/reduced harm/damage to vessels?

24. Are there areas not addressed that would benefit safety within the commercial fishing industry?

25. What are the costs of each requirement we are considering? Are there comparable alternative solutions to each requirement under consideration that may be more cost effective?

26. What are the direct and indirect costs of each requirement we are considering? For example, labor costs, training costs, and hourly wages of fishermen (or alternative measures of valuing their time if they are not salaried)? The costs of vessel losses, including equipment, lost catches, and any other opportunity costs?

27. Can any of the requirements we are considering be completed off-

season? If so, which ones? For those that cannot, how much time would be taken away from productive fishing time to complete the requirement? How would this affect revenue, i.e., fish catches?

28. What would be the impact on the domestic fishing industry, if any, of each requirement we are considering? Would there be a differential impact by size of vessel or region?

29. What would be the economic impact of each requirement we are considering on States, local, and tribal governments?

30. What other requirements, if any, should the Coast Guard be considering?

Dated: March 21, 2008.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.

[FR Doc. E8-6477 Filed 3-28-08; 8:45 am]

BILLING CODE 4910-15-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 74

[WT Docket No. 02-55; ET Docket Nos. 00-258 and 95-18; FCC 08-73]

Improving Public Safety Communications in the 800 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to eliminate, as of January 1, 2009, the requirement that Broadcast Auxiliary Service (BAS) licensees in the thirty largest markets and fixed BAS links in all markets be transitioned before the Mobile Satellite Service (MSS) operators can begin offering service. The Commission also seeks comment on how to mitigate interference between new MSS entrants and incumbent BAS licensees who have not completed relocation before the MSS entrants begin offering service. In addition, the Commission seeks comment on allowing MSS operators to begin providing service in those markets where BAS incumbents have been transitioned.

DATES: Comments must be filed on or before April 30, 2008, and reply comments must be filed on or before May 30, 2008.

ADDRESSES: You may submit comments, identified by [WT Docket No. 02-55, ET Docket No. 00-258 and ET Docket No. 95-18], 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.

- *E-mail:* [Optional: Include the E-mail address only if you plan to accept comments from the general public]. Include the docket number(s) in the subject line of the message.

- *Mail:* [Optional: Include the mailing address for paper, disk or CD-ROM submissions needed/requested by your Bureau or Office. Do not include the Office of the Secretary's mailing address here.]

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: 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: Nicholas Oros, Office of Engineering and Technology, (202) 418-0636, e-mail: Nicholas.Oros@fcc.gov, TTY (202) 418-2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making*, WT Docket No. 02-55, ET Docket No. 00-258, ET Docket No. 95-18, FCC 08-73, adopted March 5, 2008, and released March 5, 2008. The full text of this document 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 of this document also 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>.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* 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.

- 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, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- Paper Filers:** 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.

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.

- 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.

- 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.

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

People with Disabilities: 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 or call the Consumer & Governmental Affairs

Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Summary of Further Notice of Proposed Rulemaking

1. The Further Notice of Proposed Rulemaking, tentatively concludes to eliminate, starting on January 1, 2009, the rule that 2 GHz Mobile Satellite Service (MSS) systems may not begin operation until the relocation of the Broadcast Auxiliary Service (BAS) in the thirty largest markets and fixed BAS links in all markets is complete (top 30 market rule). In addition, the Commission seeks comment on the potential for interference that may occur if the 2 GHz MSS entrants begin operations prior to relocation of the BAS incumbents as well as means that interference may be avoided or corrected. The Commission also seeks comment on allowing MSS operators to begin providing service in those markets where BAS incumbents have been relocated, even if the top 30 market rule is not eliminated.

2. The 2 GHz BAS licensees are being relocated from 1990-2110 MHz to 2025-2110 MHz so as to provide spectrum for new services such as MSS. MSS operations in the 2 GHz MSS band will consist of both satellite uplink and ancillary terrestrial component (ATC) operations. Because these MSS facilities are licensed in the same spectrum as existing BAS operations, the Commission has had to adopt policies, such as the top 30 market rule, that take into account the likelihood of MSS and BAS interference. If MSS begins operation before BAS operations are relocated, MSS "would have to accept interference from the remaining BAS users until they are relocated." Such interference could be caused by BAS transmitters to both ATC base stations and satellite receivers. MSS operations also would have to avoid causing interference from MSS handset transmitters (satellite and ATC) to BAS receivers that are not yet relocated. Under the current rules, BAS licensees maintain primary status in the 1990-2025 MHz band until they are relocated by a new entrant; they decline relocation by a new entrant; or the BAS relocation rules sunset on December 13, 2013.

3. The Commission has tentatively concluded to eliminate the top 30 market rule as of January 1, 2009. This change would allow the 2 GHz MSS operators to begin offering nationwide service, both satellite and ATC, once the Commission has determined that they have met their operational milestones and even if the BAS relocation is not completed. Even in the absence of the

top 30 market rule, MSS would be primary in those TV markets where BAS relocation is completed but secondary in those TV markets where BAS is not yet relocated. However, if the Commission were to retain the top 30 market rule and BAS relocation were to follow the plan submitted by Sprint Nextel *et al.*, on December 6, 2007, the 2 GHz MSS operators would not be able to offer service until September 2009, well beyond the dates by which MSS operators ICO and TerreStar are required as a condition of their licenses to have operational satellite systems. The Commission seeks comment on this tentative conclusion to eliminate the top 30 market rule. It also seeks comment on whether it should modify other requirements to facilitate MSS entry into the 2 GHz MSS band.

4. In addition to the top 30 market rule, MSS operations cannot begin until all fixed BAS links in all markets are relocated. Fixed BAS links, unlike mobile BAS operations that can often be switched to other available BAS channels, can't easily change frequencies which may make it more challenging to avoid interference. Because MSS operations, including ATC, could begin nationwide before the BAS relocation has been completed in many markets, interference between the services could occur. Because only those fixed links in the MSS band (2000-2020 MHz) could potentially receive co-channel interference, the Commission seeks comment on requiring only fixed BAS links in the MSS band in all markets to be relocated before MSS can begin operations. If the Commission decides not to adopt this modified requirement for relocating fixed BAS links prior to MSS beginning operations in the MSS band, it seeks comment on maintaining the current interference requirement in order to minimize service disruptions, *i.e.*, require that MSS not cause interference to BAS in markets where BAS has not yet relocated, and MSS would have to accept interference caused by BAS in markets where BAS has not yet relocated.

5. Even if the Commission were to eliminate the top 30 market rule by Jan. 1, 2009, it does not propose to alter the current rule that BAS licensees maintain primary status in the 1990-2025 MHz band until they are relocated by a new entrant; they decline relocation by a new entrant; or the BAS relocation rules sunset on December 13, 2013. The Commission seeks comment on whether it should maintain this requirement or alter it in some way.

6. The MSS operators may be able to share spectrum with BAS licensees that

are not relocated if the 2 GHz MSS operators were to begin offering nationwide service by January 1, 2009. Sharing may be possible through coordination between the MSS operators and BAS licensees or BAS may be able to operate with reduced bandwidth using digital equipment where possible. The Commission seeks comment on the likelihood and extent of interference between MSS and BAS. It also seeks comment on how, if MSS was secondary to BAS in a market, MSS could avoid or correct interference that might occur.

7. In order to develop a complete record on approaches other than the top 30 market rule that would allow 2 GHz MSS operators to begin operations in the MSS band by January 1, 2009, the Commission also seeks comment on a market-by-market approach for MSS entry. Under a market-by-market approach, MSS could begin providing service, both satellite and ATC, in a market once all BAS operations, including fixed BAS links there have been relocated, rather than wait until BAS in the top 30 markets and all fixed BAS links in all markets are relocated. MSS deployment would be incremental and tied to BAS relocation, rather than a nationwide cut-over at a specific date. This approach may be feasible because ICO's and TerreStar's satellites are designed with multiple spot beams that can operate independently of each other. Each spot beam can concentrate the signals from the satellite to an area on the ground with a radius of several hundred miles. Although the footprint of a spot beam may not exactly match a TV market, many of the BAS operations are being relocated in market clusters according to the Sprint Nextel *et al.*, plan. The result is that BAS relocation will be occurring in large regional areas of the country, which should allow the satellites' spot beams to provide service in many places while effectively avoiding BAS operations that are not yet relocated. The market-by-market approach also would facilitate the MSS operators' ability to conduct market trials of their satellite and ATC networks in different areas of the country as BAS operations are relocated but before the top 30 markets are relocated. Although a market-by-market approach would reduce the likelihood of interference between MSS and BAS, interference between the two services would not be completely avoided. Because ATC stations could not be operational in a market until BAS there was relocated, co-channel interference from BAS transmitters to ATC base station receivers and from MSS

handsets (operating with ATC base stations) to BAS receivers will be avoided. However, because the spot beam footprint may not match exactly the BAS market areas, co-channel interference from BAS transmitters to satellite receivers and from MSS handsets (transmitting to MSS satellites) to BAS receivers still may occur, although it is unlikely. The Commission seeks comment on the likelihood and extent of interference between MSS and BAS if it were to adopt a market-by-market approach.

Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Further Notice of Proposed Rule Making* (FNPRM). 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 in the FNPRM. The Commission will send a copy of this FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.³

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

10. In the *Further Notice of Proposed Rulemaking*, the Commission seeks comment on a tentative conclusion to modify the requirement that BAS licensees in the thirty largest markets be transitioned before the two 2 GHz Mobile-Satellite Service (MSS) operators (ICO and TerreStar) can begin offering service. Because the transition of the 2 GHz BAS licensees may be completed beyond the dates by which the 2 GHz MSS systems are expected to be operational, the Commission explores alternative ways of balancing the needs of incumbent Broadcast Auxiliary Services (BAS) licensees to provide service without suffering harmful interference and the introduction of new MSS operations in a timely manner.

11. In the *Further Notice of Proposed Rulemaking*, the Commission request comments on a tentative conclusion to

eliminate, as of January 1, 2009, the rule requiring that BAS in the top 30 markets by population and all fixed BAS links be transitioned before 2 GHz MSS operators may begin offering service. In addition, the Commission seeks comment on whether and how to modify the requirement that fixed BAS links in all markets be relocated before MSS operations can commence. It also seeks comment on whether it should maintain the requirement that BAS licensees maintain primary status in the 1990–2025 MHz band until they are relocated; they decline relocation by a new entrant; or the BAS relocation rules sunset on December 13, 2013. Furthermore, the Commission seeks comment on what would be the extent and likelihood of interference between MSS and BAS, if MSS operators enter the band before the completion of the BAS transition. The Commission seeks comment on how, if MSS was secondary to BAS in a market, MSS could avoid or correct any interference that might occur. Finally, the Commission seeks comment on using a market-by-market approach for MSS entry to the band as an alternative to modifying the top 30 market rule. Under a market-by-market approach, MSS could begin providing service, both satellite and ATC, in a market once all BAS operations have been relocated, rather than wait until the top 30 market rule is satisfied.

B. Legal Basis

12. The proposed action is taken pursuant to Sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 CFR 154(i) and (j), and Section 1.3 of the Commission's Rules.

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 the proposed rules, if adopted.⁴ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁵ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁶ A small

⁴ 5 U.S.C. 603(b)(3).

⁵ 5 U.S.C. 601(6).

¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104–121, Title II, 110 Stat. 847 (1996).

² See 5 U.S.C. 603(a).

³ *Id.*

⁶ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or

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 SBA.⁷

14. The proposed rule modifications may affect the interest of BAS, LTTS, and CARS licensees (which we have been referring to throughout this document generically as "BAS"). BAS services involve a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit to the studio). The CARS service includes transmitters generally used to relay cable programming within cable television system distribution systems. The Commission has not developed a definition of small entities applicable to Broadcast Auxiliary Service, Local Television Transmission Service or Cable Television Relay Service. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies.

15. *BAS*. This service uses a variety of transmitters to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the stations). There are approximately 712 TV BAS licensees in the 1990–2110 MHz band, and these licensees will ultimately be required to use only the 2020–2110 MHz portion of that band. It is unclear how many of these will be affected by our new rules.

16. The Commission has not developed a definition of small entities specific to BAS licensees. The U.S. Small Business Administration (SBA) has developed small business size standards, as follows: For TV BAS, we use the size standard for Television Broadcasting, which consists of all such companies having annual receipts of no more than \$12.0 million.⁸ According to Census Bureau data for 1997, there were 906 Television Broadcasting firms, total that operated for the entire year.⁹ Of this total, 734 firms had annual receipts of \$9,999,999.00 or less and an additional 71 had receipts of \$10 million to

\$24,999,999.00.¹⁰ Thus, under this standard, the majority of firms can be considered small.

17. *CARS*. There are nine CARS mobile licensees in the 1990–2110 MHz band, and these licensees will ultimately be required to use only the 2020–2110 MHz portion of that band. It is unclear how many of these will be affected by our new rules. The SBA has developed a small business size standard for Cable and other Program Distribution, which consists of all such companies having annual receipts of no more than \$12.5 million.¹¹ According to Census Bureau data for 1997, there were 1,311 firms within the industry category Cable and Other Program Distribution, total, that operated for the entire year.¹² Of this total, 1,180 firms had annual receipts of \$9,999,999.00 or less, and an additional 52 firms had receipts of \$10 million to \$24,999,999.00.¹³ Thus, under this standard, the majority of firms can be considered small.

18. *LTTS*. There are 34 LTTS licensees in the 1990–2110 MHz band, and these licensees will ultimately be required to use only the 2020–2110 MHz portion of that band. It is unclear how many of these will be affected by our new rules. The Commission has not yet defined a small business with respect to local television transmission services. For purposes of this IRFA, we will use the SBA's definition applicable to Cellular and Other Wireless Telecommunications—*i.e.*, an entity with no more than 1,500 persons.¹⁴ According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year.¹⁵ Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.¹⁶ Thus, under this size standard, the majority of firms can be considered small.

19. *MSS*. The appropriate SBA size standard for mobile satellite service is for the category of "Other Telecommunications." This category "comprises establishments primarily

engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems."¹⁷ Under this category, such a business is small if it has \$13.5 million or less in average annual receipts.¹⁸ For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year.¹⁹ Of this total, 303 firms had annual receipts of under \$10 million and 15 firms had annual receipts of \$10 million to \$24,999,999.00. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action. The proposed rule changes would affect two 2 GHz MSS operators. While the Commission does not believe these two MSS operators to be small due to the high costs associated with launching their service, it has nonetheless included them in this analysis.

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

20. The interest of BAS licensees would be affected by the proposed rule changes by either subjecting them to the threat of increased interference from MSS or by making their licenses secondary to MSS in a portion of the spectrum. The potential harm to BAS will depend on the particular changes made to the rule. If MSS is allowed to enter the band on a market-by-market basis only where BAS has been transitioned, BAS would likely suffer little or no interference. If MSS is allowed to enter the band before BAS has been transitioned, but is required to cause no interference to BAS, then BAS would also likely suffer little or no interference. However, if BAS licensees are made secondary when MSS enters the band, those BAS licensees who have not been relocated could suffer interference. If such interference does occur, the BAS licensee may be able to

more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3).

⁷ Small Business Act, 15 U.S.C. 632 (1996).

⁸ 13 CFR 121.201, NAICS code 515120.

⁹ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Receipts Size of Firms Subject to Federal Income Tax: 1997," Table 4, NAICS code 515120 (issued Oct. 2000).

¹⁰ *Id.* The census data do not provide a more precise estimate.

¹¹ *Id.* at NAICS code 515120.

¹² *Id.*

¹³ *Id.* The census data do not provide a more precise estimate.

¹⁴ 13 CFR 121.201, NAICS code 517212.

¹⁵ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Employment Size of Firms Subject to Federal Income Tax: 1997," Table 5, NAICS code 517212 (issued Oct. 2000).

¹⁶ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more."

¹⁷ U.S. Census Bureau, 2002 NAICS Definitions, "517910 Other Telecommunications"; <http://www.census.gov/epcd/naics02/def/NDEF517.HTM>.

¹⁸ 13 CFR 121.201, NAICS codes 517410.

¹⁹ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 517910 (issued Nov. 2005).

²⁰ *Id.* An additional 14 firms had annual receipts of \$25 million or more.

avoid the interference by operating on another BAS channel. Moreover, this interference would be temporary because all the BAS licensees are scheduled to relocate by September 7, 2009 to spectrum that does not conflict with MSS.

21. The proposed rule changes would also affect the interest of the two 2 GHz MSS operators, TerreStar and ICO. Under the current rules TerreStar and ICO cannot begin operations in this band until after the top 30 markets have been relocated. Consequently, modifying the top 30 market rule to allow them to enter the band sooner will provide the 2 GHz MSS operators with a benefit and not a burden.

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

22. Our primary concern in this proceeding continues to be balancing the needs of incumbent BAS licensees to provide service without suffering harmful interference and the introduction of new MSS in a timely manner. If the Sprint Nextel *et al.*, plan for BAS relocation is successfully implemented, ICO's and TerreStar's ability to begin operation in the 2 GHz MSS band could be delayed until September 2009 under the current rules. On the other hand, if BAS relocation of the top 30 markets and fixed BAS links in all markets is completed earlier than is now anticipated but before all BAS markets are relocated, interference between MSS, including ATC, and BAS is likely to occur in those markets not yet relocated. In the latter case, MSS would have to accept interference from the remaining BAS users until they are relocated. It seeks comment on whether to maintain this non-interference requirement. The Commission also seeks comment on whether it should modify other requirements for MSS entry into the 2 GHz MSS band.

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

23. None.

Ordering Clauses

24. The *Further Notice of Proposed Rule Making* is adopted. This authority is taken pursuant to Sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 CFR 154(i) and (j), and Section 1.3 of the Commission's Rules.

25. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the *Further Notice of Proposed Rulemaking*, including the Initial

Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. E8-6494 Filed 3-28-08; 8:45 am]

BILLING CODE 6712-01-P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice of proposed rulemaking.

SUMMARY: The NTSB is proposing to amend its regulations concerning notification and reporting requirements with regard to aircraft accidents or incidents. The existing version of the definitions section does not address unmanned aircraft accidents; therefore, the NTSB proposes to update the definitions section in order to define "unmanned aircraft accident."

DATES: Submit comments on or before June 30, 2008.

ADDRESSES: You may send written comments using any of the following methods:

1. *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

2. *Mail:* Mail comments concerning this proposed rule to Dana Schulze, AS-IO, National Transportation Safety Board, 490 L'Enfant Plaza, SW., Washington, DC 20594-2000.

3. *Fax:* (202) 314-6319, Attention: Dana Schulze.

4. *Hand Delivery:* 6th Floor, 490 L'Enfant Plaza, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dana Schulze, Office of Aviation Safety, (202) 314-6323.

SUPPLEMENTARY INFORMATION:

Statutory and Regulatory Evaluation

This rule proposes to add a definition of "unmanned aircraft accident" alongside the existing definition of "aircraft accident," to include a requirement to report unmanned aircraft accidents under the notification requirements of 49 CFR 830.5(a), which requires immediate notification of any

aircraft accident, as defined at 49 CFR 830.2. The NTSB also seeks to add a reference to this new definition in the existing definition of "aircraft accident." These additions will enhance aviation safety by providing the NTSB with notification of events in which persons are injured or the aircraft sustains substantial damage. Such reports will enable the NTSB to conduct investigations, influence corrective actions, and propose safety recommendations with regard to unmanned aircraft in a timely manner. In addition, these reports will assist the NTSB with safety studies and analysis of any trends in aviation transportation that could affect aviation safety.

The NTSB has considered whether this rule is a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and has determined that this rule does not meet the definition of "significant regulatory action." In particular, the rule will not: have an annual effect on the economy of \$100 million or more or adversely affect the economy; create a serious inconsistency or interfere with an action that another agency has taken or plans to take; materially alter the budgetary impact of any grants, entitlements, or the like; or raise novel legal or policy issues. As such, Executive Order 12866 does not require the NTSB to complete an assessment of the potential costs and benefits under section 6(a)(3) of that Order.

Likewise, the NTSB has analyzed this rule under the Unfunded Mandates Reform Act, 2 U.S.C. 1501-1571. The NTSB acknowledges that this proposed reporting requirement may affect state, local, and tribal entities because those entities may utilize unmanned aircraft for a variety of purposes. However, the NTSB maintains that requiring such entities to report to the NTSB transportation accidents arising from the operation of unmanned aircraft will not result in any expenditure by any private sector organization or entity that would exceed \$100 million. As such, the NTSB asserts that the Unfunded Mandates Reform Act does not prevent the NTSB's enactment of this proposed regulation. Likewise, the NTSB has analyzed this proposed rule as required by the National Environmental Policy Act, 42 U.S.C. 4321-4347, and has determined that this proposed regulation does not necessitate further analysis under the provisions of the National Environmental Policy Act.

In addition, the NTSB has considered whether this rule would have a significant economic impact on a substantial number of small entities,