

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Elevation in meters (MSL)		Communities affected
		Effective	Modified	

^ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Town of Magnolia

Maps are available for inspection at 510 Magnolia Boulevard, Magnolia, TX 77356.

Town of Roman Forest

Maps are available for inspection at 2430 Roman Forest Boulevard, New Caney, TX 77357.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 13, 2011.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011-25611 Filed 10-4-11; 8:45 am]

BILLING CODE 9110-12-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 10-26; FCC 11-133]

Definition of Part 15 Auditory Assistance Device

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the definition of "auditory assistance device" in the Commission's rules to allow such devices to be used by anyone at any location for simultaneous language interpretation, where the spoken words are translated continuously in near real time. This action is taken in response to a petition for declaratory ruling filed by Williams Sound Corporation (Williams Sound Petition), a provider of wireless auditory assistance devices. The current definition restricts the use of part 15 auditory assistance devices that operate in the 72.0-73.0 MHz, 74.6-74.8 MHz, and 75.2-76.0 MHz bands (72-76 MHz bands) to auditory assistance to a handicapped person or persons; such devices may be used for auricular training in an educational institution, for auditory assistance at places of public gatherings, such as a church,

theater, or auditorium, and to handicapped individuals, only, in other locations. The proposed amendment would permit part 15 auditory assistance devices that operate in the 72-76 MHz bands to be used by anyone at any location for simultaneous language interpretation.

DATES: Comments must be filed on or before November 4, 2011, and reply comments must be filed on or before November 21, 2011.

FOR FURTHER INFORMATION CONTACT: Patrick Forster, Office of Engineering and Technology, (202) 418-7061, e-mail: Patrick.Forster@fcc.gov, TTY (202) 418-2989.

ADDRESSES: You may submit comments, identified by ET Docket No. 10-26, by any of the following methods:

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- *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** of this document.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order and Notice of Proposed Rule Making*, ET Docket No. 10-26, FCC 11-133, adopted September 9, 2011, and released

September 16, 2011. 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 §§ 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 the Commission's Electronic Comment Filing System (ECFS). 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://fjallfoss.fcc.gov/ecfs2/>.

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy 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. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445

12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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 must 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).

Introduction

1. In the *Notice of Proposed Rule Making (NPRM)*, the Commission proposes to amend the definition of “auditory assistance device” in its part 15 rules to allow such devices to be used by anyone at any location for simultaneous language interpretation, where the spoken words are translated continuously in near real time. Auditory assistance devices transmit audio signals via radio frequency (RF) waves, magnetic fields, or infrared light waves to specialized receivers used by listeners to enhance the reception of speech. By minimizing the disproportionate effects of background noise and reverberation on speech perception by people with hearing disabilities, auditory assistance devices improve the quality of the sound over that which would be received via a loudspeaker system.

2. The Commission takes this action in response to a petition for declaratory ruling filed by Williams Sound Corporation (Williams Sound Petition), a provider of wireless auditory assistance devices. Williams Sound asks the Commission to clarify that part 15 auditory assistance devices may be used to provide simultaneous language interpretation. This proposed amendment would expand the opportunities to deploy auditory assistance devices and remove barriers to communication, provide greater flexibility and enhanced benefits for persons wishing to use auditory assistance technologies, and harmonize the definition of “auditory assistance device” in part 15 of our rules with the definition of “auditory assistance communications” in part 95 of our

rules. The Commission declines to grant the relief that Williams Sound has requested and instead is incorporating the issues raised in Williams Sound’s petition into the *NPRM*.

Order

3. The Commission first addresses the Williams Sound petition for declaratory ruling. Williams Sound seeks a ruling that auditory assistance devices which operate under the part 15 rules in the 72–76 MHz bands may be used to provide simultaneous language interpretation and that such use is expressly included in the uses defined by 47 CFR 15.3(a). Under such an interpretation, the existing definition of an “auditory assistance device” would allow part 15 devices that operate in the 72–76 MHz bands to be used to provide simultaneous language interpretation for any individual that does not understand the language spoken in an audio presentation.

4. The Commission concludes that a declaratory ruling is not the appropriate vehicle to grant the relief requested by Williams Sound. Pursuant to § 1.2 of the Commission’s rules, it may issue a declaratory ruling for purposes of “terminating a controversy or removing uncertainty.” However, a declaratory ruling may not be used to substantively change a rule. An analysis of the Commission’s auditory assistance device rules in part 15 leads the Commission to the conclusion that by accepting Williams Sound’s proposed interpretation, the Commission would expand the scope of permitted uses so significantly as to constitute a change in the rule. Section 15.3(a) of the Commission’s rules states that an auditory assistance device is “[a]n intentional radiator used to provide auditory assistance to a handicapped person or persons. Such a device may be used for auricular training in an education institution, for auditory assistance at places of public gatherings, such as a church, theater, or auditorium, and for auditory assistance to handicapped individuals, only, in other locations.”

5. In 1982, the Commission addressed the issue of whether auditory assistance devices that operate in the 72–73 MHz and 75.4–76 MHz bands could be used for purposes other than serving handicapped individuals in response to petitions for rulemaking filed by Williams Sound and Phonic Ear, Inc. In that proceeding, the Commission expanded the use of auditory assistance devices that operate in the 72–73 MHz and 75.4–76 MHz bands beyond the initial limitations of operating solely in educational institutions and mere

amplification of sounds to include any aural assistance that may be given to a handicapped person (e.g., audio description for the blind) but maintained the restrictions that these devices be used only by and for handicapped persons.

6. In 2009, the Commission issued a citation to ProLingo, a provider of simultaneous interpretation equipment and services, for marketing, as a component of its simultaneous language interpretation systems, transmitters operating on frequencies in the 72–76 MHz bands. ProLingo was found to have violated Section 302(b) of the Communications Act and §§ 2.803(a)(1) and 15.237 of the Commission’s rules. Williams Sound appears to seek approval by declaratory ruling to conduct substantially the same activity that the Commission found to violate its rules. Furthermore, the Commission rejects Williams Sound’s assertion that the inability to understand a foreign language can be considered a handicap, which thereby justifies permitting auditory assistance devices that operate in the 72–76 MHz bands to be used for simultaneous language interpretation. Such an interpretation is not consistent with the meaning given to the term “handicap” historically in part 1, subpart N of the Commission’s rules, which was based on the Rehabilitation Act of 1973. The term was defined as a physical or mental impairment that substantially limits one or more of the major life activities of an individual. In 2003, the Commission replaced “handicap” with “disability” in part 1, subpart N, to be consistent with the Americans with Disabilities Act of 1990, but did not make any substantive changes to the definition. Williams Sound does not provide a basis for interpreting the term “handicap” in part 15 differently than the Commission has interpreted that term in part 1.

7. Together, these reasons lead the Commission to conclude that it would not be appropriate to grant the relief that Williams Sound has requested. The Commission believes, however, that Williams Sound provides good reasons for exploring whether expanding the part 15 definition of an “auditory assistance device” to permit such devices to be used for simultaneous language interpretation would benefit the public interest. Accordingly, on its own motion, the Commission addresses this matter in the *NPRM*.

Notice of Proposed Rulemaking

8. In this *NPRM*, the Commission proposes to amend the part 15 definition of an “auditory assistance device” to permit these devices to be

used by anyone at any location for simultaneous language interpretation. As discussed by Williams Sound, the Commission believes that there are sound public policy reasons for allowing auditory assistance devices that operate in the 72–76 MHz bands to be used by persons who have language barriers but who may not be disabled. Expanding the scope of the rule would appear to be consistent with the Commission's goal of facilitating public access to telecommunications technologies. Many commenters, several of them providers of auditory assistance devices and/or simultaneous interpretation systems, support Williams Sound's Petition. Several of these commenters submit that allowing auditory assistance devices to be used in support of simultaneous language interpretation would also benefit individuals who have a hearing disability by promoting wider availability of auditory assistance devices in general. This, in turn, could facilitate communications with individuals that require both amplification and language interpretation. The Commission also finds merit in Williams Sound's observation that the use of auditory assistance devices that operate in the 72–76 MHz bands in support of simultaneous language interpretation would not only improve the aural experience and comprehension of those who need interpretation, but also would lower the noise level for those who do not care to listen to an interpreter, thereby enhancing the auditory experience of both groups.

9. Although current law requires operators of public gathering places to provide auditory assistance devices for use by persons with disabilities, operators of such venues may not decide who may benefit from these devices. However, the interference potential of an auditory assistance device is unrelated to the number of users or type of use. The Commission expects that expanding the permitted uses of part 15 auditory assistance devices that operate in the 72–76 MHz bands to include simultaneous language interpretation by anyone at any location will not increase their potential for harmful interference to authorized users in the 72–76 MHz or adjacent bands or impede the operation of other part 15 auditory assistance devices operating in the 72–76 MHz bands. In addition, because part 15 auditory assistance devices that operate in the 72–76 MHz bands use 200-kilohertz wide channels, ample spectrum is available for multiple applications. Thus, the Commission

believes that part 15 auditory assistance devices that operate in the 72–76 MHz bands and provide simultaneous language interpretation should be able to simultaneously provide auditory assistance to persons with disabilities, and in any event, will not diminish the ability to provide auditory assistance to persons with disabilities.

10. For these reasons, the Commission proposes to amend the part 15 definition of "auditory assistance device" to permit these devices to be used by anyone at any location for simultaneous language interpretation as permitted under part 95, as reflected in the proposed rules set forth in Appendix A of the *NPRM*. The expanded definition would include any person requiring simultaneous language interpretation at any location. The Commission seeks comment on this proposal and its advantages and disadvantages. The Commission believes this action would serve the public interest by aiding the comprehension of individuals who require such interpretation. Moreover, expanding the permissible uses of part 15 auditory assistance devices to include simultaneous language interpretation would allow these devices to be used to provide either simultaneous language interpretation or auditory assistance, or both, thereby potentially providing a significant benefit to the public at no apparent additional cost. The Commission seeks comment on the potential benefits of expanding the allowable uses of part 15 auditory assistance devices to include simultaneous language interpretation. Do commenters agree with the Commission's assessment that its proposed rule change would not appear to impose additional costs? If not, the Commission seeks comment on any qualitative or quantitative costs associated with its proposal.

11. The Commission expects that expanding the types of operation permitted for part 15 auditory assistance devices to include simultaneous language interpretation for anyone at any location will result in an increase in their use. This could include operation of devices at locations where they are not also used to provide auditory assistance to disabled individuals. In addition, a greater number of channels may be operated at any given location where auditory assistance devices are used to provide both simultaneous language interpretation and auditory assistance for persons with disabilities. Thus, the Commission must also consider the effect that such increased use may have on other in-band, as well as adjacent-band, services.

12. The 72–73 MHz, 74.6–74.8 MHz, and 75.2–76 MHz bands, where part 15 auditory assistance device transmitters operate, are allocated on a primary basis to the fixed and mobile services. As indicated, these bands are available for licensed use under the Public Mobile Service (part 22), the Aviation Service (part 87), the Private Land Mobile Radio Service (part 90), and the Radio Control (R/C) Radio Service (part 95). In the bands adjacent to those where Part 15 auditory assistance devices operate, the 73–74.6 MHz band is allocated on a primary basis for radio astronomy, and the 74.8–75.2 MHz band is allocated on a primary basis to the aeronautical radionavigation service and is available for licensed use in the Radiodetermination Service (part 87). Additionally, the 66–72 MHz and 76–82 MHz bands (VHF TV channels 4 and 5, respectively) are allocated to the broadcast service and are available for licensed television broadcast stations (part 73).

13. With a maximum permissible ERP of 1.2 mW, the power of auditory assistance devices that operate in the 72–76 MHz bands is relatively low compared to that of authorized services in the 72–76 MHz and adjacent bands. Under the current rules which limit the location and types of use of part 15 auditory assistance devices, these devices have not been sources of interference to authorized services in these bands. The Commission seeks comment on whether increased use of part 15 auditory assistance devices for simultaneous language interpretation would increase the potential for harmful interference to authorized services in the 72–76 MHz and adjacent bands. If so, by how much, and what would the specific effects of such harmful interference be? If commenters believe there are qualitative or quantitative costs associated with increased use of part 15 auditory assistance devices for simultaneous language interpretation, the Commission asks that they discuss them. In particular, the Commission seeks comment on whether increased use of part 15 auditory assistance devices for simultaneous language interpretation would require additional safeguards or changes to the technical requirements to prevent harmful interference to authorized services in the 72–76 MHz (72–73 MHz, 74.6–74.8 MHz, and 75.2–76 MHz) and adjacent (66–72 MHz, 73–74.6 MHz, 74.8–75.2 MHz, and 76–82 MHz) bands, and if so, what rule changes are necessary. Are there any qualitative or quantitative costs associated with such rule changes?

If so, the Commission asks commenters to discuss them.

14. Outside of the 72–76 MHz bands in which they operate, part 15 auditory assistance devices must comply with an emissions limit of 1,500 microvolts per meter ($\mu\text{V}/\text{m}$) measured at a distance of 3 meters. As noted above, the aeronautical radiodetermination, radio astronomy, and TV broadcast services are in bands adjacent to the part 15 auditory assistance device bands and are therefore potentially affected by out-of-band emissions from these auditory assistance devices. As with the case of in-band emissions from part 15 auditory assistance devices, the Commission is not aware of instances where auditory assistance devices have caused harmful interference to authorized services in adjacent bands. However, since the time the Commission adopted the rules for auditory assistance device transmitters in 1972, all full-service TV stations have converted from analog to digital transmissions. The Commission notes that in its proceeding proposing steps to open the TV spectrum to new wireless broadband services, it has sought comment on measures it could take to improve TV reception for consumers on VHF channels and encourage broadcasters to use these channels in the future. It noted that one of the problems with indoor VHF reception is noise from nearby consumer electronics equipment. The Commission stated that it would be desirable to reduce that noise, and while it declined to propose any specific changes, it sought comment on what actions it might take to reduce noise in the VHF TV bands.

15. The Commission notes that the allowed out-of-band emissions limit of 1,500 $\mu\text{V}/\text{m}$ at 3 meters for auditory assistance devices that operate in the 72–76 MHz bands is 15 times higher (23.5 dB more power) than the § 15.209 emissions limit of 100 $\mu\text{V}/\text{m}$ at 3 meters that applies to most other part 15 devices' emissions in the 72–76 MHz and adjacent bands. It is also 18 times higher (25 dB more power) than the out-of-band emissions limit that applies to part 15 personal/portable TV bands devices that operate in bands adjacent to occupied TV channels, which corresponds to 84 $\mu\text{V}/\text{m}$ at 3 meters for a device operating at 40 mW. In light of the Commission's proposal to expand the permissible uses for part 15 auditory assistance devices to include simultaneous language interpretation and its goal of improving VHF TV reception, it seeks comment on whether there is a need to tighten the out-of-band emissions limits for part 15 auditory assistance devices. If so, what limit is appropriate—the § 15.209 limit, the

unlicensed TV bands device limit, or some other limit? What are the potential advantages and disadvantages of each limit, and what specific qualitative or quantitative costs are associated with each limit? Are any other safeguards or technical requirements necessary to prevent harmful interference to authorized services in the adjacent 66–72 MHz, 73–74.6 MHz, 74.8–75.2 MHz, and 76–82 MHz bands? If so, what are the potential advantages and disadvantages and specific qualitative or quantitative costs associated with each? The Commission also notes that, based upon its review of the equipment authorization records for auditory assistance devices that operate in the 72–76 MHz bands, currently available equipment would not comply with the § 15.209 limits. If tighter limits are necessary, what would be the appropriate transition period for compliance with new limits? Should currently approved equipment be grandfathered, either for a limited time or permanently? If not, what specific qualitative or quantitative costs would be associated with acquiring equipment that complies with the § 15.209 limits?

16. The Commission recognizes that further restricting the out-of-band emissions of part 15 auditory assistance devices to protect the adjacent VHF TV bands would impose additional costs on manufacturers of these devices. Would the advantages of improving the reception of VHF TV channels 4 and 5 outweigh the disadvantages associated with further restricting part 15 auditory assistance device emissions to both manufacturers and users of these devices? The Commission requests specific information and data on the qualitative and quantitative costs associated with complying with additional safeguards or changes to the technical requirements and/or more restrictive out-of-band emissions limits. For example, the Commission requests information on technologies that could be used to decrease out-of-band emissions and the advantages and disadvantages of each; the cost to manufacturers and users to meet lower out-of-band emissions limits; and whether further reducing the out-of-band emissions would in any way impair the device's performance in other ways and how. The Commission also requests comment on any benefits for authorized services in the 72–76 MHz and adjacent bands by reducing the out-of-band emissions of these devices.

Ordering Clauses

17. Pursuant to Sections 2, 4(i), 302(a), 303(f), and 303(r) of the

Communications Act of 1934, 47 U.S.C. 152, 154(i), 302(a), 303(f), and 303(r), this Notice of Proposed Rulemaking is hereby *adopted*.

18. Pursuant to Sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), and 303(r), the petition for declaratory ruling filed by Williams Sound Corporation filed on September 25, 2009, is *denied*.

19. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Regulatory Flexibility Analysis

20. 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 small entities by the policies and rules proposed in this *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 specified on the first page of this *NPRM*. The Commission will send a copy of this *NPRM*, 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 Rule

21. This *NPRM* proposes to modify § 15.3(a) definition of "auditory assistance device" to allow part 15 unlicensed auditory assistance devices to be used by anyone at any location for simultaneous language interpretation. The proposal is designed to expand the permitted uses of part 15 auditory assistance devices to include a use other than those for the disabled (*i.e.*, amplification of sound for those with a hearing disability and audio description for the blind) to facilitate public access to telecommunications technology. Permitting part 15 audio assistance devices that operate in the 72.0–73.0 MHz, 74.6–74.8 MHz, and 75.2–76.0 MHz bands (72–76 MHz bands) to be

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 104–121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. 603(a).

³ See 5 U.S.C. 603(a).

used by anyone at any location for simultaneous language interpretation would benefit persons requiring simultaneous language interpretation whether or not they have a disability. The *NPRM* seeks comment on whether allowing auditory assistance devices that operate in the 72–76 MHz bands to also be used by anyone at any location for simultaneous language interpretation will increase the potential for harmful interference to authorized services in the 72–76 MHz and adjacent bands (i.e., 66–72 MHz, 73–74.6 MHz, 74.8–75.2 MHz, and 76–82 MHz), and if so, whether additional safeguards or technical requirements are necessary to prevent harmful interference to these authorized services.

B. Legal Basis

22. This action is authorized under Sections 1, 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 4(i), 154(i), 302a, 303(f) and (r), 332, 337.

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

23. 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.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁵ 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 SBA.⁶

24. Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.⁷ A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and

is not dominant in its field.”⁸ Nationwide, as of 2002, there were approximately 1.6 million small organizations.⁹ 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.”¹⁰ Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.¹¹ The Commission estimates that, of this total, 84,377 entities were “small governmental jurisdictions.”¹² Thus, the Commission estimates that most governmental jurisdictions are small.

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

25. This *NPRM* addresses the possibility of allowing additional flexibility for part 15 auditory assistance devices that operate in the 72–76 MHz bands by expanding the definition of allowed uses of part 15 auditory assistance devices to include simultaneous language interpretation for anyone at any location. This item does not contain any new reporting or recording keeping requirements.

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

26. 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.¹³

27. If the part 15 definition of auditory assistance device is expanded to include simultaneous language interpretation for anyone as an allowed use at any location, it may be necessary to modify the administrative and/or technical requirements for auditory assistance devices that operate in the 72–76 MHz bands to prevent harmful interference to authorized services in the 72–76 MHz and adjacent bands (i.e., 66–72 MHz, 73–74.6 MHz, 74.8–75.2 MHz, and 76–82 MHz).

28. Although the proposed rule is not expected to have a significant economic impact on small entities, the Commission will continue to examine alternatives with the objectives of eliminating unnecessary regulations and minimizing significant economic impact on small entities. The Commission seeks comment on significant alternatives that should be adopted.

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

29. None.

List of Subjects in 47 CFR Part 15

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

For the reasons set forth in the preamble, the Federal Communications Commission proposes to amend part 15 of Title 47 of the Code of Federal Regulations to read as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

2. Section 15.3 is amended by revising paragraph (a) to read as follows:

§ 15.3 Definitions.

(a) *Auditory assistance device.* An intentional radiator used to provide auditory assistance communications (including but not limited to applications such as assistive listening, auricular training, audio description for the blind, and simultaneous language translation) for:

(1) Persons with disabilities. In the context of the part 15 rules, the term “disability,” with respect to the individual, has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)), i.e., a physical or mental impairment that substantially limits one

⁴ *Id.* at 603(b)(3).

⁵ 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 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).

⁶ Small Business Act, 15 U.S.C. 632 (1996).

⁷ See SBA, Office of Advocacy, “Frequently Asked Questions,” <http://web.sba.gov/faqs/faqindex.cfm?areaID=24> (revised Sept. 2009).

⁸ 5 U.S.C. 601(4).

⁹ Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

¹⁰ 5 U.S.C. 601(5).

¹¹ U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Section 8, page 272, Table 415.

¹² The Commission assumes that villages, school districts, and special districts are small, and they total 48,558. See U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

¹³ 5 U.S.C. 603(c).

or more of the major life activities of such individuals;

(2) Persons who require language translation; or

(3) Persons who may otherwise benefit from auditory assistance communications in places of public gatherings, such as a church, theater, auditorium, or educational institution.

* * * * *

[FR Doc. 2011-25756 Filed 10-4-11; 8:45 am]

BILLING CODE 6712-01-P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9903

Cost Accounting Standards: Clarification of the Exemption From Cost Accounting Standards for Firm-Fixed-Price Contracts and Subcontracts Awarded Without Submission of Certified Cost or Pricing Data

AGENCY: Office of Management and Budget (OMB), Office of Federal Procurement Policy, Cost Accounting Standards Board.

ACTION: Proposed rule.

SUMMARY: The Office of Federal Procurement Policy (OFPP), Cost Accounting Standards (CAS) Board, invites public comments concerning this proposed to clarify the application of the exemption from CAS at 48 CFR 9903.201-1(b)(15) for firm-fixed-price (FFP) contracts and subcontracts awarded on the basis of adequate price competition without submission of cost or pricing data (hereafter referred to as the “(b)(15) FFP exemption”). The proposed rule will revise the (b)(15) FFP exemption to clarify that the exemption applies to firm-fixed-price contracts and subcontracts awarded on the basis of adequate price competition without submission of certified cost or pricing data.

DATES: *Comment date:* Comments must be in writing and must be received by December 5, 2011.

ADDRESSES: All comments to this proposed rule must be in writing. Electronic comments may be submitted in any one of three ways:

1. *Federal eRulemaking Portal:* Comments may be directly sent via <http://www.regulations.gov>—a Federal E-Government Web site that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply

type “(b)(15) FFP exemption” (without quotation marks) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments;

2. *E-mail:* Comments may be included in an e-mail message sent to casb2@omb.eop.gov. The comments may be submitted in the text of the e-mail message or as an attachment;

3. *Facsimile:* Comments may also be submitted via facsimile to (202) 395-5105; or

4. *Mail:* If you choose to submit your responses via regular mail, please mail them to: Office of Federal Procurement Policy, 725 17th Street, NW., Room 9013, Washington, DC 20503, ATTN: Raymond J.M. Wong. Due to delays caused by the screening and processing of mail, respondents are strongly encouraged to submit responses electronically.

Be sure to include your name, title, organization, postal address, telephone number, and e-mail address in the text of your public comment and reference “(b)(15) FFP exemption” in the subject line irrespective of how you submit your comments. Comments received by the date specified above will be included as part of the official record. Comments delayed due to use of regular mail may not be considered.

Please note that all public comments received will be available in their entirety at http://www.whitehouse.gov/omb/casb_index_public_comments/ and <http://www.regulations.gov> after the close of the comment period. Do not include any information whose disclosure you would object to.

FOR FURTHER INFORMATION CONTACT: Raymond J.M. Wong, Director, Cost Accounting Standards Board (*telephone:* 202-395-6805; *e-mail:* Raymond_wong@omb.eop.gov).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

Rules, Regulations and Standards issued by the CAS Accounting Standards Board (Board) are codified at 48 CFR Chapter 99. This proposed rule concerns the amendment of a CAS Board regulation other than a Standard, and as such is not subject to the statutorily prescribed rulemaking process for the promulgation of a Standard at 41 U.S.C. 1502(c) [formerly, 41 U.S.C. 422(g)].

B. Background and Summary

Section 802 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106-65) contained a provision for “Streamlined Applicability of Cost Accounting Standards.” Included in the

provision was a revision to paragraph (2)(B) of Section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 1502(b)(1)(C) [formerly, 41 U.S.C. 422(f)(2)(B)]) that exempted from the application of CAS, “Firm-fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of certified cost or pricing data.”

Section 802 adopted the recommendation of the Cost Accounting Standards Board Review Panel of the General Accounting Office (GAO) (as it was then called—the name was changed effective July 7, 2004 to the Government Accountability Office) that examined the future role of the CAS Board. In its report of April 2, 1999, the panel observed that a contracting officer is generally not allowed to request certified cost or pricing data where there is adequate price competition, the prices are set by law or regulation, or the acquisition is for commercial items. The panel noted that the risk to the Government in negotiating contract prices in these circumstances is not considered high enough to warrant obtaining certified cost or pricing data. The panel opined that the Government’s risk assessment should be equally applicable to CAS and concluded that when certified cost or pricing data were not obtained for FFP contracts and subcontracts, the safeguards provided by CAS were likewise not necessary.

Section 802 was implemented by the CAS Board as an interim rule on February 7, 2000 (65 FR 5990), and as a final rule on June 9, 2000 (65 FR 36768). At the time, the CAS Board chose to express the (b)(15) FFP exemption as follows: “Firm-fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of cost or pricing data.” The term “certified” was not used. The CAS Board explained that it chose this wording in order to conform to the statutory requirements of 10 U.S.C. 2306(h)(1) and 41 U.S.C. 3502(b) [formerly, 41 U.S.C. 254(b)] which defined “cost or pricing data” as data that requires certification. That is, the phrase “cost or pricing data” was understood to mean “certified cost or pricing data.”

On August 30, 2010, the Civilian Agency Acquisition Council and Defense Acquisition Regulations Council (Councils) issued a final rule to clarify the distinction between “certified cost or pricing data” and “data other than certified cost or pricing data,” as well as to clarify requirements for submission of cost or pricing data (75 FR 53135). Among other things, the Councils revised the definitions at