

no more than 1,500 persons.¹⁹⁷ There are a total of approximately 127,540 licensees within these services.¹⁹⁸ 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.

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.¹⁹⁹ 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.²⁰⁰ 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.²⁰¹

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"²⁰² and "Cellular and Other Wireless Telecommunications."²⁰³ 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.²⁰⁴ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.²⁰⁵ 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.²⁰⁶ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.²⁰⁷ Thus, under this second category and size standard, the majority of firms can, again, be considered small.

¹⁹⁷ See 13 C.F.R. § 121.201, NAICS code 517212.

¹⁹⁸ There is no information currently available about the number within the 127,540 that have less than 1500 employees.

¹⁹⁹ See 13 C.F.R. § 121.201, NAICS code 517212.

²⁰⁰ *Id.*

²⁰¹ See Federal Communications Commission, 60th Annual Report, Fiscal Year 1994 at 120-121.

²⁰² See 13 C.F.R. § 121.201, NAICS code 517211.

²⁰³ See 13 C.F.R. § 121.201, NAICS code 517212.

²⁰⁴ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517211 (issued Nov. 2005).

²⁰⁵ *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 for firms with "1000 employees or more."

²⁰⁶ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517212 (issued Nov. 2005).

²⁰⁷ *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 for firms with "1000 employees or more."

no more than 1,500 persons.¹⁹⁷ There are a total of approximately 127,540 licensees within these services.¹⁹⁸ 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.

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.¹⁹⁹ 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.²⁰⁰ 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.²⁰¹

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"²⁰² and "Cellular and Other Wireless Telecommunications."²⁰³ 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.²⁰⁴ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.²⁰⁵ 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.²⁰⁶ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.²⁰⁷ Thus, under this second category and size standard, the majority of firms can, again, be considered small.

¹⁹⁷ See 13 C.F.R. § 121.201, NAICS code 517212.

¹⁹⁸ There is no information currently available about the number within the 127,540 that have less than 1500 employees.

¹⁹⁹ See 13 C.F.R. § 121.201, NAICS code 517212.

²⁰⁰ *Id.*

²⁰¹ See Federal Communications Commission, 60th Annual Report, Fiscal Year 1994 at 120-121.

²⁰² See 13 C.F.R. § 121.201, NAICS code 517211.

²⁰³ See 13 C.F.R. § 121.201, NAICS code 517212.

²⁰⁴ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517211 (issued Nov. 2005).

²⁰⁵ *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 for firms with "1000 employees or more."

²⁰⁶ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 517212 (issued Nov. 2005).

²⁰⁷ *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 for firms with "1000 employees or more."

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.”²⁰⁸ 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.²⁰⁹ According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year.²¹⁰ Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.²¹¹ Thus, under this size standard, the majority of firms can be considered small.

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,²¹² the SBA deems an entity to be small if it has \$31.5 million or less in annual revenues.²¹³ Census Bureau data for 2002 show that there were 3,200 firms in this category that operated for the entire year.²¹⁴ Of this total, 1,313 firms had revenues of under \$25 million, and 471 had revenues of \$25 million to \$49,999,999.²¹⁵ Thus, in this category, over 41 percent of the firms can be considered small. For the category of Nursing Care Facilities,²¹⁶ the SBA deems an entity to be small if it has \$12.5 million or less in annual revenues.²¹⁷ Census Bureau data for 2002 show that there were 7,826 firms in this category that operated for the entire year.²¹⁸ Of this total, 6,594 firms had revenues of under \$10 million, and 871 had revenues of \$10 million

²⁰⁸ U.S. Census Bureau, 2002 NAICS Definitions, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing”; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

²⁰⁹ See 13 C.F.R. § 121.201, NAICS code 334220.

²¹⁰ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); <http://factfinder.census.gov>. The number of “establishments” is a less helpful indicator of small business prevalence in this context than would be the number of “firms” or “companies,” because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 929.

²¹¹ *Id.* An additional 18 establishments had employment of 1,000 or more.

²¹² U.S. Census Bureau, 2002 NAICS Definitions, “622110 General Medical and Surgical Hospitals”; <http://www.census.gov/epcd/naics02/def/ND622110.HTM#N622110>.

²¹³ See 13 C.F.R. § 121.201, NAICS code 622110.

²¹⁴ 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).

²¹⁵ *Id.* An additional 1416 firms had revenues of over \$50 million.

²¹⁶ U.S. Census Bureau, 2002 NAICS Definitions, “623110 Nursing Care Facilities”; <http://www.census.gov/epcd/naics02/def/ND623110.HTM#N623110>.

²¹⁷ See 13 C.F.R. § 121.201, NAICS code 623110.

²¹⁸ 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 623110 (issued Nov. 2005).

to \$24,999,999.²¹⁹ Thus, in this category, the majority of firms can be considered small. For the category of Other Residential Care Facilities,²²⁰ the SBA deems an entity to be small if it has \$6.5 million or less in annual revenues.²²¹ Census Bureau data for 2002 show that there were 3,131 firms in this category that operated for the entire year.²²² Of this total, 2,774 firms had revenues of under \$5 million, and 202 had revenues of \$5 million to \$9,999,999.²²³ Thus, in this category, the majority of firms can be considered small.

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

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

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

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.²²⁴

We believe the changes adopted in the *Second Report and Order (2ndR&O)* 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 *2ndR&O*, we will not change rules concerning multiple licensing because it still appears to be a viable and is not obsolete. Additionally, the *2ndR&O* decides that determining the feasibility of protection to broadcast AM station antenna patterns in Part 90 of our rules would be best handled in another ongoing Commission proceeding. The *2ndR&O* also clarifies the Commission's stance on the discontinuance of station classes FB8T and MO8T. The *2ndR&O* declines to reorganize the Part 90 rules. The *2ndR&O* also clarifies that WMTS operations are not permitted on a secondary basis.

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

None.

²¹⁹ *Id.* An additional 361 firms had revenues of over \$25 million.

²²⁰ U.S. Census Bureau, 2002 NAICS Definitions, "623990 Other Residential Care Facilities"; <http://www.census.gov/epcd/naics02/def/ND623990.HTM#N623990>.

²²¹ See 13 C.F.R. § 121.201, NAICS code 623990.

²²² 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).

²²³ *Id.* An additional 155 firms had revenues of over \$10 million.

²²⁴ See 5 U.S.C. § 603(c).

APPENDIX B**Initial Regulatory Flexibility Analysis**

As required by the Regulatory Flexibility Act (RFA),²²⁵ 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 *Second Further Notice of Proposed Rule Making* in WP Docket No. 07-100 (*Second 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 on the *Second FNPRM* as provided in paragraph 53 of this *Second FNPRM*. The Commission will send a copy of the *Second FNPRM*, including the IRFA, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.²²⁶ In addition, the *Second FNPRM* and IRFA (or summaries thereof) will be published in the Federal Register.²²⁷

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

This proceeding is part of our continuing effort to provide clear rules that are easy for licensees to comprehend. The *Second FNPRM* seeks comment regarding changes to certain regulatory requirements contained in Part 90 of the Commission's Rules pertaining to telemetry operations by railroad licensees, and trunking of private land mobile radio operations below 512 MHz.

B. Legal Basis for Proposed Rules

The proposed action is authorized under sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 403.

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

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."²²⁸ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.²²⁹ 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).²³⁰ A small organization is

²²⁵ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, was amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

²²⁶ *Id.* § 603(a).

²²⁷ *See id.*

²²⁸ *See* 5 U.S.C. § 601(6).

²²⁹ *See* 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 which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.

²³⁰ *See* Small Business Act, 5 U.S.C. § 632 (1996).

generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”²³¹ 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 *Second FNPRM*.

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.²³² 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.²³³ 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.²³⁴

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”²³⁵ and “Cellular and Other Wireless Telecommunications.”²³⁶ 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.²³⁷ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.²³⁸ 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.²³⁹ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.²⁴⁰ Thus, under this second category and size standard, the majority of firms can, again, be considered small.

RF Equipment Manufacturers. The Census Bureau defines this category as follows: “This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and

²³¹ See 5 U.S.C. § 601(4).

²³² See 13 C.F.R. § 121.201, NAICS code 517212.

²³³ *Id.*

²³⁴ See Federal Communications Commission, 60th Annual Report, Fiscal Year 1994 at 120-121.

²³⁵ See 13 C.F.R. § 121.201, NAICS code 517211.

²³⁶ See 13 C.F.R. § 121.201, NAICS code 517212.

²³⁷ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization,” Table 5, NAICS code 517211 (issued Nov. 2005).

²³⁸ *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 for firms with “1000 employees or more.”

²³⁹ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization,” Table 5, NAICS code 517212 (issued Nov. 2005).

²⁴⁰ *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 for firms with “1000 employees or more.”

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.”²⁴¹ The SBA small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is all such firms having 750 or fewer employees.²⁴² According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year.²⁴³ Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.²⁴⁴ Thus, under this size standard, the majority of firms can be considered small.

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

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

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

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.²⁴⁵

We believe the changes proposed in this *Second FNPRM* will promote flexibility and more efficient use of the spectrum, reduce administrative burdens, and allow licensees to better meet their communication needs. In this *Second FNPRM*, 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 our trunking regulations should be refined for ease of understanding and to reduce the administrative and licensee regulatory burden. We also are considering the alternative of retaining the existing trunking regulations. The *Second FNPRM* also seeks comment on the feasibility of increasing the allowed power for end of train devices to provide a more robust communications link from the front to the back of long trains.

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

None.

²⁴¹ U.S. Census Bureau, 2002 NAICS Definitions, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing”; <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

²⁴² See 13 C.F.R. § 121.201, NAICS code 334220.

²⁴³ U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005); <http://factfinder.census.gov>. The number of “establishments” is a less helpful indicator of small business prevalence in this context than would be the number of “firms” or “companies,” because the latter take into account the concept of common ownership or control. Any single physical location for an entity is an establishment, even though that location may be owned by a different establishment. Thus, the numbers given may reflect inflated numbers of businesses in this category, including the numbers of small businesses. In this category, the Census breaks-out data for firms or companies only to give the total number of such entities for 2002, which was 929.

²⁴⁴ *Id.* An additional 18 establishments had employment of 1,000 or more.

²⁴⁵ See 5 U.S.C. § 603(c).

APPENDIX C

Final Rules

Parts 2, 90 and 95 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

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. Section 2.106 is amended by revising note 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:

(a) *Medical operations.* The use of the band 1427-1432 MHz for medical telemetry and telecommand operations (medical operations) shall be authorized for both Federal and non-Federal stations.

(1) Medical operations shall be authorized in the band 1427-1429.5 MHz in the United States and its insular areas, except in the following locations: Austin/Georgetown, Texas; Detroit and Battle Creek, Michigan; Pittsburgh, Pennsylvania; Richmond/Norfolk, Virginia; Spokane, Washington; and Washington DC metropolitan area (collectively, the “carved-out” locations). See Section 47 C.F.R. 90.259(b)(4) for a detailed description of these areas.

(2) In the carved-out locations, medical operations shall be authorized in the band 1429-1431.5 MHz.

(3) Medical operations may operate on frequencies in the band 1427-1432 MHz other than those described in paragraphs (a)(1) and (2) only if the operations were registered with a designated frequency coordinator prior to **[insert date of Federal Register publication]**.

(b) *Non-medical operations.* The use of the band 1427-1432 MHz for non-medical telemetry and telecommand operations (non-medical operations) shall be limited to non-Federal stations.

(1) Non-medical operations shall be authorized on a secondary basis to the Wireless Medical Telemetry Service (WMTS) in the band 1427-1429.5 MHz and on a primary basis in the band 1429.5-1432 MHz in the United States and its insular areas, except in the carved-out locations.

(2) In the carved-out locations, non-medical operations shall be authorized on a secondary basis in the band 1429-1431.5 MHz and on a primary basis in the bands 1427-1429 MHz and 1431.5-1432 MHz.

* * * * *

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. Section 90.20 is amended by adding paragraph (e)(7) to read as follows:

* * * * *

(e) * * * * *

(7) Frequencies governed by section 90.35(c)(17) of this chapter.

* * * * *

5. Section 90.35 is amended by removing paragraphs (c)(61)(v) and (c)(68)(iv), adding paragraphs (a)(5) and (c)(91), relocating the entry in the table in paragraph (b)(3) for “5850-5925” to the proper location in numerical order and revising it, and revising paragraph (c)(67) to read as follows:

§ 90.35 Industrial/Business Pool.

(a) * * * * *

(5) Public Safety Pool eligibles are eligible for Industrial/Business Pool spectrum only to the extent that they are engaged in activities listed in paragraphs (a)(1)-(4) of this section. Industrial/Business Pool spectrum may not be utilized for the purposes set forth in Section 90.20(a) of this chapter.

* * * * *

(b) * * * * *

(3) *Frequencies.* * * *

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE

| Frequency or band | Class of station(s) | Limitations | Coordinator |
|-------------------|---------------------|-------------|----------------|
| * * * * * | * * * * * | * * * * * | * * * * * |
| 27.86 | Base or mobile | 89 | |
| * * * * * | * * * * * | * * * * * | * * * * * |
| 5850-5925 | do | 90, 91. | Not applicable |
| * * * * * | * * * * * | * * * * * | * * * * * |

* * * * *

(c) * * * * *

(67) Medical telemetry operations are authorized on this frequency on a secondary basis. Medical telemetry operations are subject to the provisions of § 90.267(h)(2).

* * * * *

(91) Subpart M of this part contains rules for assignment of frequencies in the 5850-5925 MHz band.

* * * * *

6. Section 90.103 is amended by revising the entries in the table in paragraph (b) for “1900 to 1950,” “1950 to 2000,” and “13,750 to 14,000,” and amending paragraph (c)(1), to read as follows:

§ 90.103 Radiolocation Service.

* * * * *

(b) * * *

| Frequency or band | Class of station(s) | Limitation(s) |
|------------------------------------------------------------|----------------------------------------------|------------------------------------------------------------|
| Kilohertz | | |
| * * * 1900 to 1950 1950 to 2000 * * * | * * *do.....do..... * * * | * * * 6, 25, 26, 27 and 28 6, 25, 27 and 28 * * * |
| Megahertz | | |
| * * * 13,750 to 14,000 * * * | * * *do..... * * * | * * * 29 * * * |

(c) * * * * *

(1) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to stations licensed in the Maritime Mobile Service.

* * * * *

7. Section 90.175 is amended by revising paragraph (j)(5) and adding paragraphs (j)(19), (j)(20), (j)(21) to read as follows:

§ 90.175 Frequency coordinator requirements.

* * * * *

(j) * * * * *

(5) Applications in the Industrial/Business Pool requesting a frequency designated for itinerant operations.

* * * * *

(19) Applications filed exclusively to return channels that had been authorized for commercial operation pursuant to Section 90.621(e) or (f) of this chapter to non-commercial operation (including removal of the authorization to interconnect with the public switched telephone network).

(20) Applications for a reduction in the currently authorized emission bandwidth or a deletion of an existing emission designator.

(21) Applications for a reduction in antenna height or authorized power.

8. Section 90.247 is amended by removing and reserving paragraphs (b) and (c) and modifying paragraph (f) to read as follows:

§ 90.247 Mobile repeater stations.

* * * * *

(b) [Reserved]

(c) [Reserved]

* * * * *

(f) When automatically retransmitting messages originated by or destined for hand-carried units, each mobile station shall activate the mobile transmitter only with a continuous access signal, the absence of which will de-activate the mobile transmitter. The continuous access signal is not required when the mobile unit is equipped with a switch that activates the automatic mode of the mobile unit and an automatic time-delay device that de-activates the transmitter after any uninterrupted transmission period in excess of 3 minutes. For the purposes of this rule section the continuous access signal can be achieved by use of digital or analog methods.

* * * * *

9. Section 90.259 is amended by revising paragraph (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) * * * * *

(4) * * * * *

(ii) Washington, DC metropolitan area—Counties of Montgomery, Prince George’s and Charles in Maryland; Counties of 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. Section 90.267 is amended by removing paragraph (e)(3) and redesignating paragraph (e)(4) as (e)(3).

11. Section 90.353 is amended by revising paragraph (f) to read as follows:

§ 90.353 LMS operations in the 902-928 MHz band.

* * * * *

(f) Multilateration EA licensees may be authorized to operate on both the 919.75-921.75 MHz and 921.75-927.75 MHz bands within a given EA (see § 90.209(b)(5)).

* * * * *

12. Section 90.357 is amended by revising paragraph (a) to read as follows:

§ 90.357 Frequencies for LMS systems in the 902-928 MHz band.

* * * * *

(a) Multilateration LMS systems will be authorized on the following LMS sub-bands:

| LMS Sub-band | Forward Link ¹ |
|----------------------------------|---------------------------|
| 904.000-909.750 MHz | 927.750-928.000 MHz |
| 919.750-921.750 MHz ² | 927.500-927.750 MHz |
| 921.750-927.250 MHz | 927.250-927.500 MHz |

¹Forward links for LMS systems may also be contained within the LMS sub-band. However, the maximum allowable power in these sub-bands is 30 Watts ERP in accordance with § 90.205(l).

²The frequency band 919.750-921.750 MHz is shared co-equally between multilateration and non-multilateration LMS systems.

* * * * *

13. Section 90.621 is amended to read as follows:

§ 90.621 Selection and assignment of frequencies.

(a) Applicants for frequencies in the Public Safety and Business/Industrial/Land Transportation Categories must specify on the application the frequencies on which the proposed system will operate

pursuant to a recommendation by the applicable frequency coordinator. Applicants for frequencies in the SMR Category must request specific frequencies by including in their applications the frequencies requested.

(1) For trunked systems, the assignment of frequencies will be made in accordance with applicable loading criteria and in accordance with the following:

(i) Channels will be chosen and assigned in accordance with §§ 90.615, 90.617, or 90.619.

(ii) A mobile station is authorized to transmit on any frequency assigned to its associated base station.

(iii) There are no limitations on the number of frequencies that may be trunked. Authorizations for non-SMR stations may be granted for up to 20 trunked frequency pairs at a time in accordance with the frequencies listed in §§ 90.615, 90.617, and 90.619.

(2) For conventional systems the assignment of frequencies will be made in accordance with applicable loading criteria. Accordingly, depending upon the number of mobile units to be served, an applicant may either be required to share a channel, or, if an applicant shows a sufficient number of mobile units to warrant the assignment of one or more channels for its exclusive use, it may be licensed to use such channel or channels on an unshared basis in the area of operation specified in its application.

(i) Channels will be chosen and assigned in accordance with §§ 90.615, 90.617, or 90.619.

(ii) A mobile station is authorized to transmit on any frequency assigned to its associated base station.

(b) * * * * *

* * * * *

14. 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.

15. Section 95.1101 is amended 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. See section 95.630 of this chapter regarding permissible frequencies.

16. Section 95.1103 is amended by revising paragraph (c) to read as follows:

§ 95.1103 Definitions.

* * * * *

(c) Wireless medical telemetry. The measurement and recording of physiological parameters and other patient-related information via radiated bi-or unidirectional electromagnetic signals in the 608-614, 1395-1400 MHz and 1427-1432 MHz frequency bands.

17. Section 95.1111 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 95.1111 Frequency coordination.

(a) Prior to operation, authorized health care providers who desire to use wireless medical telemetry devices must register all devices with a designated frequency coordinator. Except as specified in § 95.1105, operation of WMTS equipment prior to registration is not authorized under this Part. The registration must include the following information:

* * * * *

(c) As of [insert date of Federal Register publication], no registrations may be accepted for frequencies where WMTS does not have primary status. Previously registered secondary facilities may continue to operate as registered.

18. Section 95.1115 is amended by revising paragraphs (a)(2) and (d)(1) as follows:

§ 95.1115 General technical requirements.

(a) * * * * *

(2) In the 1395-1400 MHz and 1427-1432 MHz bands, the maximum allowable field strength is 740 mV/m, as measured at a distance of 3 meters, using measuring equipment with an averaging detector and a 1MHz measurement bandwidth.

* * * * *

(d) * * * * *

(1) In the 1395-1400 MHz and 1427-1432 MHz bands, no specific channels are specified. Wireless medical telemetry devices may operate on any channel within the bands authorized for wireless medical telemetry use in this part.

* * * * *

19. Section 95.1121 is amended to read as follows:

§ 95.1121 Specific requirements for wireless medical telemetry devices operating in the 1395-1400 and 1427-1432 MHz bands.

Due to the critical nature of communications transmitted under this part, the frequency coordinator in consultation with the National Telecommunications and Information Administration shall determine whether there are any Federal Government systems whose operations could affect, or could be affected by, proposed wireless medical telemetry operations in the 1395-1400 MHz and 1427-1432 MHz bands. The locations of government systems in these bands are specified in footnotes US351 and US352 of § 2.106 of this chapter.

APPENDIX D**Proposed Rules**

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

1. 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).

2. Section 90.7 is amended by adding definitions for “centralized trunked system” and “decentralized trunked system” in alphabetical order and by revising the definition of “trunked radio system” to read as follows:

§ 90.7 Definitions.

* * * * *

Centralized trunked system. A system in which there is dynamic assignment of communications paths by automatically searching all communications paths in the system for and assigning to a user an open communications path within that system. Individual communications paths within a trunked system may be classified as centralized or decentralized in accordance with the requirements of Section 90.187 of this chapter.

* * * * *

Decentralized trunked system. A system which monitors the communications paths within its assigned channels for activity within and outside of the trunked system and transmits only when an available communications path is found. Individual communications paths within trunked system may be classified as centralized or decentralized in accordance with the requirements of Section 90.187 of this chapter.

* * * * *

Trunked radio system. A radio system employing technology that provides the availability to search two or more available communications paths and automatically assign a user an open communications path.

* * * * *

3. Section 90.187 is amended to read as follows:

§ 90.187 Trunking in the bands between 150 and 512 MHz.

(a) Applicants for centralized and decentralized trunked systems operating on frequencies between 150 and 512 MHz (except 220-222 MHz) must indicate on their applications (radio service and class of station code, instructions for FCC Form 601) that their system will be trunked. Licensees of stations that are not trunked may trunk their systems only after modifying their license (see Section 1.927 of this chapter).

(b) Trunked systems operating under this section must employ equipment that prevents transmission on a trunked frequency if a signal from another system is present on that frequency. The level of monitoring must be sufficient to avoid harmful interference to other systems.

(c) The monitoring requirement in paragraph (b) of this section does not apply to centralized trunked systems operating in the 470-512 MHz band that meet the loading requirements of section 90.313 of this part and have exclusive use of their frequencies in their service area.

(d) The monitoring requirement in paragraph (b) of this section does not apply to centralized trunked systems if the application is accompanied by written consent from all affected licensees.

(1) Affected licensees for the purposes of this section are licensees (and previously filed pending applicants) meeting both of these criteria:

(A) Spectral overlap. Licensees (and filers of previously filed pending applications) with an assigned (or proposed) frequency having a spectral separation from a frequency of the proposed centralized trunked station that does not exceed these values:

| Proposed Station | Incumbent Authorized Bandwidth | | |
|------------------|--------------------------------|------------------|--------------|
| | <i>20 kHz</i> | <i>11.25 kHz</i> | <i>6 kHz</i> |
| <i>25 kHz</i> | 15.0 kHz | 15.0 kHz | 15.0 kHz |
| <i>12.5 kHz</i> | 15.0 kHz | 7.5 kHz | 7.5 kHz |
| <i>6.25 kHz</i> | 15.0 kHz | 7.5 kHz | 3.125 kHz |

The left column is the authorized bandwidth requested for the proposed trunked station. The second row is the authorized bandwidth of the incumbent. The other cells in the table show the frequency range above and below the frequency of the proposed centralized trunked station that must be considered.

(B) Contour overlap. (i) Licensees (and filers of previously filed pending applications) with a service contour (37 dBu for stations in the 150-174 MHz band, and 39 dBu for stations in the 421-512 MHz band) that is overlapped by the proposed centralized trunked station's interference contour (19 dBu for stations in the 150-174 MHz band, and 21 dBu for stations in the 421-512 MHz band), or with an interference contour that is overlapped by the proposed centralized trunked station's service contour.

(ii) The calculation of service and interference contours shall be performed using generally accepted engineering practices and standards, including appropriate derating factors, agreed to by a consensus of all certified frequency coordinators. Frequency coordinators shall make this information available to the Commission upon request.

(2) Licensees (and filers of previously filed pending applicants) with no permanent base station may be deemed to be affected licensees for the purposes of this section only if center geographic coordinates are specified for the authorized operating area. In such a case, the contours set forth in paragraph (c)(1)(B) of this section shall be calculated with respect to a station located at the center coordinates.

(3) After January 1, 2013, licensees with an authorized bandwidth exceeding 12.5 kHz will not be deemed affected licensees, unless the licensee meets the efficiency standard set forth in section 90.203(j)(3) of this chapter.

(4) The written consent from an affected licensee shall state all terms agreed to by the parties and shall be signed by the parties. The written consent shall be maintained by the operator of the centralized trunked station and be made available to the Commission upon request. An application for a centralized trunked station shall include either a certification from the applicant that written consent has been obtained from all affected licensees, or a certification from the frequency coordinator that there are no affected licensees.

(5) The exclusive service area of a station that has been authorized for centralized trunked operation will be protected from proposed centralized trunked, decentralized trunked or conventional operations in accordance with the standards of subsections (d)(1)(A)(i) and (ii) above.

(d) Trunking of systems licensed on paging-only channels or licensed in the Radiolocation Service (subpart F) is not permitted.

(e) No more than 10 channels for new centralized trunked operation in the Industrial/Business Pool may be applied for at a single transmitter location or at locations with overlapping service contours as specified in paragraph (c)(1)(b) of this section. Subsequent applications for centralized trunked operation are limited to no more than an additional 10 channels, and must be accompanied by a certification, submitted to the certified frequency coordinator coordinating the application, that all of the applicant's existing channels authorized for centralized trunked operation at that location or at locations with overlapping service contours have been constructed and placed in operation. Certified frequency coordinators are authorized to require documentation in support of the applicant's certification that existing channels have been constructed and placed in operation. Applicants for Public Safety Pool channels may request more than 10 centralized trunked channels at a single location or at locations with overlapping service contours if accompanied by a showing of sufficient need. The requirement for such a showing may be satisfied by submission of loading studies demonstrating that requested channels in excess of 10 will be loaded with 50 mobiles per channel within a five year period commencing with the grant of the application.

(f) If a licensee authorized for centralized trunked operation discontinues trunked operation for a period of 30 consecutive days, the licensee, within 7 days thereafter, shall file a conforming application for modification of license with the Commission.

4. Section 90.238 is amended by revising paragraph (e) to read as follows:

§ 90.238 Telemetry operations.

* * * * *

(e) In the 450-470 MHz band, telemetry operations will be authorized on a secondary basis with a transmitter output power not to exceed 2 watts on frequencies subject to § 90.20(d)(27) or § 90.35(c)(30), except that telemetry operations used by Railroad licensees may be authorized on frequency pair 452/457.9375 MHz with a transmitter output power not to exceed 8 watts.

* * * * *

5. Section 90.303 is amended by adding paragraph (d) to read as follows:

§ 90.303 Availability of frequencies.

* * * * *

(d) Applications for stations in the 470-512 MHz band operating on assigned frequencies allotted for bandwidths of 12.5 kHz or less must demonstrate that the proposed operations will neither cause more than five percent degradation to adjacent-channel licensees (and filers of previously filed pending applications) nor incur more than five percent degradation from adjacent-channel licensees (and filers of previously filed pending applications), using the interference criteria of Telecommunications Industry Association/Electronics Industry Association Telecommunications Systems Bulletin 88 (TIA/EIA/TSB-88), *Wireline Communications System - Performance in Noise and Interference-Limited Situations - Recommended Methods for Technology-Independent Modeling, Simulation, and Verification* (January 1998). For purposes of this paragraph, adjacent-channel licensees (and filers of previously filed pending applications) are stations with an authorized bandwidth of 20 kHz and an assigned frequency separated by 12.5 kHz or less from the proposed station, and stations with an authorized bandwidth of 11.25 kHz and an assigned frequency separated by 6.25 kHz or less from the assigned frequency of the proposed station.

6. Section 90.425 is amended by removing paragraph (e)(2), renumbering paragraph (e)(3) as (e)(2), and adding paragraphs (f) and (g) to read as follows:

§ 90.425 Station identification.

* * * * *

(f) Stations subject to a station identification requirement will be permitted to use a single call sign for commonly owned facilities that are operated as part of a single system. The call sign must be transmitted each hour within five minutes of the hour, or upon completion of the first transmission after the hour.

(g) Stations licensed in the 150-170 MHz and 450-470 MHz bands that are licensed on an exclusive basis, and normally employ digital signals for the transmission of data, text, control codes, or digitized voice, may also be identified by digital transmission of the call sign. A licensee that identifies its call sign in this manner must provide the Commission, upon request, information sufficient to decode the digital transmission and ascertain the call sign transmitted.

APPENDIX EList of Commenters

Airspan Networks, Inc.
AM Directional Antenna Performance Verification Coalition
American Association of State Highway Transportation Officials (AASHTO)
American Society For Healthcare Engineering Of The American Hospital Association (ASHE)
Association of Public-Safety Officials-International, Inc. (APCO)
Association of American Railroads (AAR)
Bainbridge Township Fire Department
Balsam Fire Department
City of Brookfield, WI Fire Department
The State of California (California)
CARA Enterprises, Inc. (CARA)
Richard M. Carami
Chariton County Enhanced 911 Services
Chilton County Fire and EMS Association
Cisco Systems, Inc.
Coleraine, Minnesota Police Department
Communications Consulting Services (CCS)
Cook County Fire Chiefs Mutual Aid Association
Countryside Fire Protection District
Data Flow Systems
DeKalb County Hospital Association
DeKalb County Association of Fire Departments Inc.
DeKalb County Sheriffs Department
City of Delafield, WI Fire Department
Deer Creek Fire Protection District
DuPage Public Safety Communications
Elmore County E911
Enterprise Wireless Alliance (EWA)
Exalt Communications, Inc.
Oveta R. Ford
Forest Industries Telecommunications (FIT)
Gallia County 911 Center
GE Healthcare (GEHC)
Timothy George for Meds 1 Emergency Medical Services
Goldberg, Godles, Wiener & Wright
Grundy County Emergency Telephone Systems Board
Matthew F. Harker
Hatfield & Dawson Consulting Engineers, LLC
City of Hays Fire Department
Icom
Illinois Fire Chiefs Association
Illinois Mutual Aid Box Alarm System Division 11
International Association Of Fire Chiefs, Inc. (IAFC)
International Municipal Signal Association (IMSA)
University of Iowa Hospitals and Clinics
Itasca County Sheriff's Department
Itron, Inc. (Itron)

Johnson County Kansas
Donnie Knight
Lakehead Mutual Aid Association
Land Mobile Communications Council (LMCC)
Robert Lane
M/A-COM, Inc.
John Marcel
MRFAC, Inc. (MRFAC)
Metropolitan Water District of Southern California
Millbrook Fire Department
Motorola, Inc. (Motorola)
The Mundelein Fire Department
National Academy of Sciences' Committee on Radio Frequencies
National Association of Manufactures (NAM)
National Association of Regional Planning Committees
National Public Safety Telecommunications Council (NPSTC)
National Radio Astronomy Observatory
National Science and Technology Network Inc.
National Telecommunications and Information Administration
Village of Oak Park, Illinois Fire Department
City Of Ottawa, Illinois
PCIA
Peoria County, IL Emergency Telephone System Board
Phillips Medical Systems (Phillips)
Town of Pinc Hill, Alabama
Pine Hill Volunteer Fire Department
Quadcom 911 Police & Fire Communications System
Radiosoft
Randolph County E911
Lisa Reed
Village of River Forest Illinois Fire Department
City of Roanoke, Alabama, Police Chief
City of Roanoke, Alabama, Fire Chief
Shelby County Alabama E911
Paul Spielman
Sprint Nextel
Tallassee Alabama Fire Department
Telecommunications Industry Association
Tennessee Emergency Management Agency (TEMA)
Tropos Networks
U.S. Department of Transportation
Roger D. Wilson, Walker County 911
The State of Wisconsin Department of Transportation (Wisconsin DOT)
Zion Fire Rescue Department