

order to facilitate our internal review process.

#### E. Further Information

29. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (tty).

30. For further information, contact Shannon Lipp at (202) 418-7400 or Diane Law Hsu at (202) 418-7400 in the Telecommunications Access Policy Division, Wireline Competition Bureau.

### III. Ordering Clauses

31. Pursuant to the authority contained in sections 4(i), 4(j), 201-205, 214, 254, and 403 of the Communications Act of 1934, as amended, this Notice of Proposed Rulemaking is adopted.

32. 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.

#### List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03-18056 Filed 7-16-03; 8:45 am]

BILLING CODE 6712-01-P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 90

[WT Docket No. 99-87; RM-9332; FCC 03-34]

#### Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended and Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document the Federal Communications Commission (FCC) provides public notice that it is considering adopting new rules related to promoting spectrum efficiency for private land mobile radio services (PLMRS), and is seeking public comment. The FCC seeks comment on

whether existing equipment certification requirements are sufficient to promote migration to one voice path per 6.25 kHz bandwidth or equivalent technology, or whether migration to 6.25 kHz bandwidth or equivalent technology should be mandatory. The FCC seeks comment on its tentative conclusion that in order to facilitate migration to 6.25 kHz technology, it should take regulatory actions similar to the ones it has taken to facilitate the migration to 12.5 kHz technology. The FCC also seeks comment on the date(s) by which licensees would be required to migrate to 6.25 kHz technology and to have taken any other related compliance actions, in the event a new requirement were adopted mandating migration to 6.25 kHz. The FCC seeks public comment in an effort to fully understand the issues associated with a migration to 6.25 kHz technology and, within the same context, to fully understand what, if anything can be learned from its experience of establishing regulatory requirements to secure migration to 12.5 kHz technology. The FCC intends to develop a comprehensive record on issues and concerns surrounding migration to 6.25 kHz technology.

**DATES:** Comments on or before September 15, 2003, and reply comments on or before October 15, 2003.

**ADDRESSES:** Federal Communications Commission 445 12th Street, SW., Washington, DC 20554, *See*

**SUPPLEMENTARY INFORMATION** for filing instructions.

#### FOR FURTHER INFORMATION CONTACT:

Karen Franklin, Esq. Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554, at (202) 418-0680, TTY (202) 418-7233, or via e-mail at [kfrankli@fcc.gov](mailto:kfrankli@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC's FNPRM, FCC 03-34, adopted on February 25, 2003, and released on February 12, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Jenifer Simpson at (202) 418-0008, TTY (202) 418-2555.

1. Earlier in the same docket, the FCC, sought comments on, inter alia, certain proposals to promote new spectrum-efficient technology. This FNPRM seeks comment on additional issues related to promoting spectrum efficiency for the PLMRS. In addition, the FNPRM seeks comment on whether the equipment certification provision in the current rules is sufficient to promote migration to one voice path per 6.25 kHz bandwidth or equivalent technology, or whether migration to 6.25 kHz bandwidth or equivalent technology should be mandatory.

#### Procedural Matters

##### A. Regulatory Flexibility Act Analyses

2. As required by the Regulatory Flexibility Act (RFA), *see* 5 U.S.C. 604, the FCC has prepared an Initial Regulatory Flexibility Analysis concerning the impact of the policies and rules addressed by the FNPRM. The Initial Regulatory Flexibility Analysis is set forth further. The FCC's Consumer Information Bureau, Reference Information Center, will send a copy of the FNPRM, including the Initial Regulatory Flexibility Act Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

##### B. Paperwork Reduction Act of 1995 Analysis

3. This document does not contain any new or modified information collection. Therefore, it is not subject to the requirements for a paperwork reduction analysis, and we have not performed one.

##### C. Filing Procedures

4. Pursuant to sections 1.415 and 1.419 of the FCC's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 15, 2003, and reply comments on or before October 15, 2003. Comments may be filed using the FCC's Electronic Comment Filing System ("ECFS") or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322, 11326 (1998).

5. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full

name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

6. Parties choosing to file by paper must file an original and four copies of each filing. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. All filings must be sent to the FCC's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, The Portals, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition, courtesy copies should be delivered to Karen Franklin, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Room #4-C405, Washington, DC 20554.

7. All relevant and timely comments will be considered by the FCC before final action is taken in this proceeding. Comments and reply comments will be available for public inspection and duplication during regular business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. Copies also may be obtained from Qualex International, 445 12th Street, SW., Room CY-B400, Washington, DC 20554, (202) 863-2893.

#### Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act ("RFA"), the FCC 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 *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 provided above in paras. 30-33, *supra*. The FCC will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA"). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

9. The purpose of this *FNPRM* is to determine whether it would be in the

public interest, convenience, and necessity to amend our rules governing PLMR licensees in the 150-174 MHz and 421-512 MHz bands in order to expedite the transition to 6.25 kHz narrowband technology. While the FCC sought comment regarding issues associated with a migration to 12.5 kHz technology earlier in this same docket, the FCC did not at that time seek comment regarding issues associated with a migration to 6.25 kHz technology.

#### B. Legal Basis

10. Authority for issuance of this *FNPRM* is contained in sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended.

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

11. 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. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. The RFA generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act. 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. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations.

12. The proposed rule amendments may affect users of public safety radio services and private radio licensees that are regulated under part 90 of the FCC's rules, and may also affect manufacturers of radio equipment. An analysis of the number of small entities affected follows.

13. *Public Safety radio services and Governmental entities.* Public safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for small radiotelephone (wireless) companies, which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. There are a total of approximately 127,540 licensees within these services.

Governmental entities as well as private businesses comprise the licensees for these services. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis.

"Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the FCC estimates that 81,600 (96 percent) are small entities.

#### 14. Estimates for PLMR Licensees.

Private land mobile radio 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 FCC has not developed a definition of small entities specifically applicable to PLMR users, nor has the SBA developed any such definition. The SBA rules do, however, contain a definition for small radiotelephone (wireless) companies. Included in this definition are business entities engaged in radiotelephone communications employing no more than 1,500 persons. Entities engaged in telegraph and other message communications with no more than \$5 million in annual receipts also qualify as small business concerns. According to the Bureau of the Census, only twelve radiotelephone firms of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The FCC'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.

15. *Equipment Manufacturers.* The FCC anticipates that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and

television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities.

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

16. Possible requirements under consideration in this FNPRM would impose use of new narrowband technology at least one voice path per 6.25 kHz of spectrum by a date certain. Assuming the rules adopted earlier in the same docket in another context are a good model for the transition to 6.25 kHz narrowband technology (which assumption has yet to be established), the FCC might require licensees to convert to 6.25 kHz operation by a date certain; and/or establish dates after which equipment capable of operating at a higher bandwidth could no longer be certified, manufactured or imported; or freeze the filing of new applications for 12.5 kHz operation. These steps may be necessary to facilitate efficient management and use of spectrum.

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

17. 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.

18. The objective in the *Refarming* proceeding was to provide a means to transition licensees to 6.25 kHz technology, *see* para. 27, *supra*. Migration to 12.5 kHz technology was viewed as a stepping stone to operation at 6.25 kHz technology, *see id.* However, requiring the use of 6.25 kHz technology by a date certain could have an impact some small entities by requiring them to upgrade their communications systems before they would otherwise do so. An alternative would be to maintain the current rules, which are intended to foster migration to narrowband technology by way of progressively more stringent type certification requirements. The FCC issues this FNPRM in order to consider whether a

change in its rules would benefit small entities and other PLMR licensees.

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

19. None.

**Ordering Clauses**

20. Accordingly, pursuant to sections 1, 2, 4(i), 5(c), 7(a), 11(b), 301, 302, 303, 307, 308, 309(j), 310, 312a, 316, 319, 323, 324, 332, 333, 336, 337, and 351 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157(a), 161(b), 301, 302, 303, 307, 308, 309(j), 310, 312a, 316, 319, 323, 324, 332, 333, 336, 337, and 351, the Balanced Budget Act of 1997, Public Law Number 105-33, Title III, 111 Stat. 251 (1997), and §§ 1.421 and 1.425 of the FCC's rules, 47 CFR 1.421 and 1.425, it is ordered that the *Second Further Notice of Proposed Rule Making* is hereby adopted.

21. It is further ordered that notice is hereby given of the proposed regulatory changes contained in the *Second Further Notice of Proposed Rule Making*, and that comment is sought on these proposals.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 03-18055 Filed 7-16-03; 8:45 am]

**BILLING CODE 6712-01-U**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Parts 390 and 391**

**[Docket No. FMCSA-97-2277]**

**RIN 2126-AA17**

**Safety Performance History of New Drivers**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (SNPRM); request for comments.

**SUMMARY:** In March 1996, the Federal Motor Carrier Safety Administration's predecessor, the Federal Highway Administration (FHWA), published a notice of proposed rulemaking (NPRM) specifying what minimum safety performance history information new or prospective employers would be required to seek concerning commercial motor vehicle (CMV) drivers and from where that information should be obtained. This SNPRM: Addresses

issues raised in response to the NPRM, including small business burden, and incorporates new requirements of limitation on liability and driver privacy protections imposed by the Transportation Equity Act for the 21st Century (TEA-21).

**DATES:** FMCSA must receive your comments by September 2, 2003.

**ADDRESSES:** You may submit comments to DOT DMS Docket Number FMCSA-97-2277 by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the *Public Participation* subheading at the beginning of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Goettee, (202) 366-4097, FMCSA, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**Public Participation:** The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the "help" section of