

are not required to obtain a TWIC must still undergo another vetting process.

We received many comments relating to our estimates of costs in the interim final rule. Three commenters stated that applicant visits to an REC for the purposes of showing identification and fingerprinting could not be accomplished in 1 hour, and that the 1-hour approximation was underestimated.

Two commenters stated that 1-day round-trip travel does not constitute close proximity to an REC, and that the 100-mile average was unreasonable for 1-day round-trip travel to an REC.

Three commenters disagreed with the Coast Guard's travel cost estimate that most mariners live within 1-day round trip travel of an REC.

One commenter stated that several mariners in the Great Lakes Basin did not live in close proximity to an REC.

Another commenter stated that the assumptions used by the Coast Guard in calculating travel costs for applicants did not adequately reflect real travel costs in the Great Lakes.

One commenter stated that the cost in the interim rule looked at the cost on a 5-year basis, but in the long term, there was an enormous cost impact for all mariners given the multiple renewals required during the course of a career.

One commenter stated that the Coast Guard's analysis was not correct to say, "not all mariners will incur costs from this rule." The commenter further stated that every mariner seeking a new or reissue MMD was going to incur costs.

One commenter stated that the hours spent traveling should be acknowledged as the opportunity cost of the individual's wages.

Five commenters said the costs to mariners and the total cost of this rulemaking were underestimated.

One commenter wanted clarification on the application of convictions for misdemeanors and was concerned about its effect on recruitment and retention.

One commenter suggested that anyone who was denied a credential because of a safety and security check should be advised in writing as to the reason without exception.

One commenter said that an administrative law judge should make final decisions on appeals.

One commenter argued that the definition of the term "safety and security check" should include a statement on the extent of the check that may be performed.

These comments have been overcome by events with the establishment of the TWIC rulemaking. Those mariners who are not required to obtain a TWIC must still undergo another vetting process.

However, we note that the regulatory evaluations which accompanied the TWIC rulemaking considered many of the comments regarding cost estimation we received here.

One commenter believed that regulations in effect prior to the interim rule create a presumption of adequacy, and that further safety and security checks were unnecessary.

The Coast Guard does not agree. As part of the Coast Guard's goal of increasing security in all aspects of the maritime domain, all mariners who then held an MMD were screened to determine if they presented a potential security risk to our nation. As a result, the Coast Guard found instances where an applicant had been issued a credential and was later found to pose a threat to security. The prior regulations did not require mariners to have their fingerprints taken at the RECs, and it allowed a candidate to submit a fingerprint card from an uncontrolled location. Similarly, the prior regulations allowed renewal of documents by mail and an applicant's identity could not be verified. The new regulations require a candidate's presence before the Coast Guard or its authorized agent to be certain that the person applying for the document can validate his or her identity and the fingerprints are indeed those of the applicant.

Three commenters believed that the regulation concerning a "safe and suitable person" and one's "character and habits of life" was vague, lacked criteria for making this determination, and did not provide adequate safeguards to the mariner. Additionally, one of these commenters added that the "character and habits of life" standard would infringe on the mariners' First Amendment rights and ignored the Supreme Court's limiting construction.

The Coast Guard agrees and changes to the terms were made with the Consolidation of Merchant Mariner Qualification Credentials final rule. 74 FR 11196.

One commenter believed that the requirement in 46 CFR 12.02-4(a) was too harsh.

One commenter wanted clarification regarding 46 CFR 12.02-4(c) as it related to applicants who have been arrested but not convicted.

One commenter suggested revising 46 CFR 12.02-9(a), which read, "The Coast Guard may refuse to process an incomplete MMC application." by replacing the word "process" with the words "issue a credential based upon".

One commenter asked for a definition for the word "incomplete" in 46 CFR 12.02-9(a).

These subjects are not directly related to this rulemaking but were addressed with the Consolidation of Merchant Mariner Qualification Credentials final rule, which removed and reserved 46 CFR 12.02-4 and 12.02-9. (74 FR 11196). Application regulations for all endorsements are now contained in 46 CFR 10.209.

#### **Intent To Finalize; Request for Comments**

The Coast Guard invites further comments related to this Notice of Intent to finalize the one section of the January 6, 2004 interim rule that has remained unfinalized, 46 CFR 12.01-1(a)(1): *Purpose of rules in this part*. Written comments and responses related to finalizing 46 CFR 12.01-1(a)(1) will be added to the docket number for this rulemaking (USCG-2003-14500). Upon close of the comment period, the Coast Guard will consider all comments received. We anticipate that we will be able to finalize 46 CFR 12.01-1(a)(1) soon thereafter.

Dated: June 9, 2011.

**F.J. Sturm,**

*Acting Director of Commercial Regulations and Standards.*

[FR Doc. 2011-14921 Filed 6-15-11; 8:45 am]

**BILLING CODE 9110-04-P**

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 15**

[ET Docket Nos. 11-90 and 10-28; FCC 11-79]

### **Operation of Radar Systems in the 76-77 GHz Band**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

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**SUMMARY:** In this document the Commission proposes to amend rules to enable enhanced vehicular radar technologies in the 76-77 GHz band to improve collision avoidance and driver safety. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver's ability to perceive objects under bad visibility conditions or objects that are in blind spots. These modifications to the rules will provide more efficient use of spectrum, and enable the automotive and fixed radar application industries to develop enhanced safety measures for drivers and the general public. The Commission takes this action in

response to petitions for rulemaking filed by Toyota Motor Corporation (“TMC”) and Era Systems Corporation (“Era”)

**DATES:** Comments must be filed on or before July 18, 2011, and reply comments must be filed on or before August 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Aamer Zain, Office of Engineering and Technology, (202) 418–2437, e-mail: [Aamer.Zain@fcc.gov](mailto:Aamer.Zain@fcc.gov), TTY (202) 418–2989.

**ADDRESSES:** You may submit comments, identified by ET Docket Nos. 11–90 and 10–28, by any of the following methods:

- *Federal Communications Commission’s Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- *Mail:* Aamer Zain, Electronics Engineer, Office of Engineering and Technology, 445 12th Street, SW., Room 7–A110, Washington, 20554
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202–418–0530 or TTY: 202–418–0432.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Notice of Proposed Rule Making*, ET Docket No. 11–90, FCC 11–79, adopted May 24, 2011 and released May 25, 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>.

#### Comment Period and Procedures

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: (1) The Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

#### Summary of Notice of Proposed Rulemaking

1. In the *Notice of Proposed Rule Making* (NPRM), the Commission proposes to modify §§ 15.35 and 15.253 of its rules to enable enhanced vehicular radar technologies in the 76–77 GHz band to improve collision avoidance and driver safety. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver’s ability to perceive objects under bad visibility conditions or objects that are in blind spots. The Commission proposes to eliminate the existing requirement that vehicular radars decrease power when the vehicle on which the radar is mounted is stopped, or not in motion, and to expand the

authorization for unlicensed 76–77 GHz band radars to allow their use in fixed infrastructure systems. These modifications to the rules will provide more efficient use of spectrum, and enable the automotive and fixed radar application industries to develop enhanced safety measures for drivers and the general public. This action is taken in response to petitions for rulemaking filed by Toyota Motor Corporation (TMC) and Era Systems Corporation (Era).

2. The 76–77 GHz band offers advantages for vehicular and fixed radar systems, such as precise real-time monitoring of the position and speed of vehicles. The Commission’s proposals are intended to foster the development of improved radar systems that offer significant safety benefits to the general public. The Commission also foresees economic benefits such as economies of scale and broader marketplace demand that may be attained if both the U.S. and other markets use the 76–77 GHz band for fixed and vehicular radar systems. Furthermore, the Commission believes that the changes in power levels and use suggested by TMC and Era will not result in any increased potential of interference to licensed services.

3. TMC filed a petition for rulemaking requesting that the emission limits be modified for vehicular radar systems operating within the 76–77 GHz band. Specifically, TMC requested that the Commission eliminate the “in-motion” and “not-in-motion” distinctions in the emission limits for vehicular radar systems and establish a single emission limit that applies in all directions from a vehicle.

4. The Commission believes there is merit to TMC’s request to modify the emissions limits for vehicular radar systems, and to eliminate the “in-motion” and “not-in-motion” distinction in limits for millimeter wave vehicular radar systems. Therefore, the Commission proposes to modify its rules for vehicular radar systems operating in the 76–77 GHz band as TMC requests. The Commission proposes to modify § 15.253 of its rules to increase the average power density limit to 50 dBm (88  $\mu\text{W}/\text{cm}^2$  at 3 m) and decrease the peak power density limit to 55 dBm (279  $\mu\text{W}/\text{cm}^2$  at 3m) for vehicular radar systems regardless of the illumination direction of the vehicular radar system as reflected in the proposed rules set forth in Appendix A. The Commission seeks comments on this proposal. The proposed emission limits would extend to vehicular radar systems illuminating in any of the mentioned directions (forward, rear or side). This action would make the rules

governing the vehicular radar emission limit in United States to be more comparable to those set forth outside the United States and therefore benefit the automotive industry in terms of new product development and cost reduction.

5. The existing separate in-motion and not-in-motion emission limits were adopted to prevent unnecessary and prolonged harmful human exposure to RF radiation. The motion status of the vehicle was given special consideration due the fact that vehicles that are not in motion could result in human exposure to radiation for longer time durations than a moving vehicle. However, because the proposed emission limit of  $88 \mu\text{W}/\text{cm}^2$  is below the current average threshold limit of  $1 \text{ mW}/\text{cm}^2$  adopted for human exposure to RF radiation, the in-motion and not-in-motion criteria become unnecessary for safety purposes. The Commission therefore proposes emission limits independent of the motion status of the vehicle. The Commission seeks comments on these proposals.

6. In proposing the new emission limit, the Commission recognizes NRAO's concerns about possible interference, but note that the peak limit recommended by Toyota is lower than the current peak limit. This reduced limit will increase the level of interference protection afforded to RAS systems and other authorized users of the 76–77 GHz band. The Commission agrees with TMC's assessment that there is very little likelihood that vehicular radar systems operating at either the current or proposed limits would cause harmful interference to radio astronomy equipment. Accordingly, the Commission believes that there is no need to restrict vehicular radar systems based on coordination zones or to impose requirements for a GPS-aware automatic cut-off switch as proposed by NRAO. The Commission invites comment on this analysis.

7. The Commission also seeks comment on TMC's request to modify § 15.253 of its rules to specify a limit on peak EIRP instead of average power density as an alternative to, or in addition to, the limits currently specified in the rules. Furthermore, it proposes to modify § 15.35(b) of the Commission's rules to reflect the fact that the proposed peak emission limit is not 20 dB above the average emission limit.

8. In its petition, Era requests that the Commission amend § 15.253 of its rules to permit the use of 76–77 GHz unlicensed fixed radars at airports for monitoring terrestrial vehicle movements. Era contends that when the

rules limiting operation to vehicle-mounted radars were adopted, there was no practical experience with vehicular radars in the 76–77 GHz band, and the rules were made very conservative to assure that such radars would not receive interference from other users of the band. Era contends that subsequent experience in other countries has shown that the requirement that radars operate only on moving vehicles is overly restrictive. It requests that the Commission relax this requirement and suggests several alternative approaches for modifying the rules to allow fixed radar use, primarily at airports. The suggested approaches are: (1) Limit fixed radars to airports and other applications that do not illuminate public roads; (2) require either compliance with the ETSI standard or strict compatibility testing for any system that illuminates public roads; or (3) mandate compliance with the ETSI standard for all 76 GHz radar systems. Era does not express a preference for which of these approaches it believes the Commission should adopt.

9. The Commission agrees with Era that the current rules should be relaxed to allow the operation of fixed radars in the 76–77 GHz band on an unlicensed basis. It therefore proposes to permit fixed radars to operate in the 76–77 GHz band in addition to vehicular radar systems, and to require that such fixed radar systems meet the proposed limits for vehicular radar systems as well as the maximum permissible RF exposure levels set forth in the rules. The Commission believes that, based on Era's representations, use of the fixed radar devices in this band will enhance public safety by enabling applications such as monitoring vehicles on the ground at airports. However, the Commission is not proposing to limit operation to monitoring vehicles or to specific locations such as airports or other places where fixed radars would not illuminate public roads. The Commission believes that Era's suggested alternative approaches and proposals may be overly restrictive and could cause unnecessary burdens for the public if implemented. Implementation of certain elements of these approaches could require licensing and/or coordination that would be burdensome for both users of the devices and the Commission with no corresponding benefits in terms of reduction of interference potential to licensed services or improved co-existence between unlicensed devices. The Commission's proposal to permit fixed radar applications is less restrictive and could be more beneficial to public than

the proposals requested by Era. The Commission believes that fixed radars operating at the same maximum power levels as vehicle-mounted radars will be less likely to interfere with the RAS and Radiolocation services than vehicle-mounted radars because the location where they are used would not change. The Commission also believes that fixed radars should be able to co-exist with vehicular radars because they would both operate with the same power level and because both would use antennas with narrow beamwidths, thus reducing the chances that the signal from one radar would be within the main lobe of the receive antenna of the other. In a worst case scenario where two radars are aimed directly at each other, fixed radar should have no more impact on a vehicular radar system than another vehicular system would.

10. The Commission seeks comment on whether it should allow unlicensed fixed radar applications to operate within the 76–77 GHz band, and on the appropriateness of the proposed power levels. The Commission also seeks comment on whether there is a need to limit fixed radar applications to specific locations such as airports and/or locations where they are not aimed at publicly accessible roads as suggested by Era, or if some alternative criteria would be more appropriate. Commenters recommended operational restrictions such as these should also address how they could be practically enforced for unlicensed devices. In addition, the Commission seeks comment on whether specific technical requirements are necessary to allow co-existence of fixed and vehicular radars in the 76–77 GHz band (e.g., antenna height, operational frequency or power limits), and whether it should require fixed or vehicular radars to comply with a standard such as the ETSI EN 301 91 standard referenced by Era.

#### Initial Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> 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 Notice of Proposed Rule Making (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 in the NPRM

<sup>1</sup> 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).

for comments. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>2</sup> In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.<sup>3</sup>

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

12. This NPRM responds to petitions for rulemaking filed by Toyota Motor Corporation (“TMC”) and Era Systems Corporation (“Era”) requesting modifications to § 15.253 of the Commission’s rules for vehicular radar systems operating in the 76–77 GHz band. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver’s ability to perceive objects under bad visibility conditions or objects that are in blind spots. Some examples of vehicular radar systems include collision warning and mitigation systems, blind spot detection systems, lane change assist and parking aid systems. The NPRM proposes to eliminate the requirement that vehicular radars decrease power when the vehicle on which the radar is mounted is stopped, or not in motion, and to expand the use of unlicensed 76–77 GHz band radars to fixed infrastructure systems. These modifications to the rules will provide more efficient use of spectrum, and enable the automotive and fixed radar application industries to develop enhanced safety measures for drivers and the general public.

#### B. Legal Basis

13. 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), 302, 303(f) and (r), 332, 337.

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

14. 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 herein.<sup>4</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>5</sup> In addition, the term “small business” has the same meaning as the term “small business concern”

under the Small Business Act.<sup>6</sup> 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).<sup>7</sup>

15. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing*. 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.”<sup>8</sup> 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.<sup>9</sup> According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year.<sup>10</sup> Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999.<sup>11</sup> Thus,

<sup>6</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), 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.”

<sup>7</sup> 15 U.S.C. 632.

<sup>8</sup> 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>.

<sup>9</sup> 13 CFR 121.201, NAICS code 334220.

<sup>10</sup> 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.

<sup>11</sup> *Id.* An additional 18 establishments had employment of 1,000 or more.

under this size standard, the majority of firms can be considered small.

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

16. Radars operating in the 76–77 GHz band are required to be authorized under the Commission’s certification procedure as a prerequisite to marketing and importation, and the NPRM proposes no change to that requirement. However, it proposes to eliminate the requirement that a radar must reduce power when a vehicle is not in motion and to establish a single emission limit that applies in all directions from a vehicle. The NPRM also proposes to permit fixed radars to operate in the 76–77 GHz band under the same limits proposed for vehicular radar systems.

#### 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.<sup>12</sup>

18. The proposals contained in this NPRM are deregulatory in nature, which we expect will simplify compliance requirements for all parties, particularly small entities, and permit the development of improved radar systems. Elimination of requirement for radars to reduce power when a vehicle is not in motion will simplify equipment design, and establishment of a single emission limit that applies in all directions from a vehicle would allow the development of omnidirectional monitoring systems. Permitting fixed radar devices in the 76–77 GHz band would enable the development of applications such as monitoring the movement of vehicles on the ground at airports.

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

19. None.

<sup>12</sup> See 5 U.S.C. 603(c).

<sup>2</sup> See 5 U.S.C. 603(a).

<sup>3</sup> See 5 U.S.C. 603(a).

<sup>4</sup> 5 U.S.C. 604(a)(3).

<sup>5</sup> 5 U.S.C. 601(6).

### Ordering Clauses

20. Pursuant to §§ 1, 4, 301, 302(a), and 303(b), (c) and (f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 302a(a), and 303(b), (c) and (f), the *notice of proposed rulemaking* is hereby adopted.

21. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *notice of proposed rulemaking*, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

22. Pursuant to sections 1, 2, 4(i), 301, 302, and 303(f) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 301, 301, and 303(f), that this Notice of Proposed Rulemaking is hereby adopted.

23. 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 15

Communications equipment, Radio.

Federal Communications Commission.

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

For the reasons set forth in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 15 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 15.35 is amended by revising paragraph (b) to read as follows:

#### § 15.35 Measurement detector functions and bandwidths.

\* \* \* \* \*

(b) Unless otherwise specified, on any frequency or frequencies above 1000 MHz, the radiated emission limits are based on the use of measurement instrumentation employing an average detector function. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. When average radiated emission measurements are specified in this part, including average emission measurements below 1000 MHz, there also is a limit on the peak level of the

radio frequency emissions. Unless otherwise specified, *e.g.*, see §§ 15.250, 15.252, 15.253(b), 15.255, and 15.509 through 15.519, the limit on peak radio frequency emissions is 20 dB above the maximum permitted average emission limit applicable to the equipment under test. This peak limit applies to the total peak emission level radiated by the device, *e.g.*, the total peak power level. Note that the use of a pulse desensitization correction factor may be needed to determine the total peak emission level. The instruction manual or application note for the measurement instrument should be consulted for determining pulse desensitization factors, as necessary.

\* \* \* \* \*

3. Section 15.253 is revised to read as follows:

#### § 15.253 Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz.

(a) Operation within the band 46.7–46.9 GHz is restricted to vehicle-mounted field disturbance sensors used as vehicle radar systems. The transmission of additional information, such as data, is permitted provided the primary mode of operation is as a vehicle-mounted field disturbance sensor. Operation under the provisions of this section is not permitted on aircraft or satellites.

(1) The radiated emission limits within the bands 46.7–46.9 GHz are as follows:

(i) If the vehicle is not in motion, the power density of any emission within the bands specified in this section shall not exceed 200 nW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) For forward-looking vehicle mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands specified in this section shall not exceed 60 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(iii) For side-looking or rear-looking vehicle-mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands specified in this section shall not exceed 30 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(iv) The provisions in § 15.35 limiting peak emissions apply.

(2) [Reserved]

(b) Operation within the band 76.0–77.0 GHz is restricted to vehicle-mounted field disturbance sensors used as vehicle radar systems and to fixed radar systems. The transmission of additional information, such as data, is

permitted provided the primary mode of operation is as a vehicle-mounted field disturbance sensor or as a fixed field disturbance sensor. Operation under the provisions of this section is not permitted on aircraft or satellites.

(1) The radiated emission limits within the bands 76.0–77.0 GHz are as follows:

(i) The average power density of any emission within the bands specified in this section shall not exceed 88 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) The peak power density of any emission within the bands specified in this section shall not exceed 279 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(2) [Reserved]

(c) The power density of any emissions outside the operating band shall consist solely of spurious emissions and shall not exceed the following:

(1) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(2) Radiated emissions outside the operating band and between 40 GHz and 200 GHz shall not exceed the following:

(i) For field disturbance sensors operating in the band 46.7–46.9 GHz:

2 pW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) For field disturbance sensors operating in the band 76–77 GHz:

600 pW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For radiated emissions above 200 GHz from field disturbance sensors operating in the 76–77 GHz band: The power density of any emission shall not exceed 1000 pW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(4) For field disturbance sensors operating in the 76–77 GHz band, the spectrum shall be investigated up to 231 GHz.

(d) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range –20 to +50 degrees Celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(e) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section are subject to the radiofrequency radiation exposure

requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 74, 78, and 101

[WT Docket No. 10-153; DA 11-1011]

#### Wireless Backhaul; Further Inquiry Into Fixed Service Sharing of the 6875-7125 and 12700-13200 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Request for comments.

**SUMMARY:** In this document, the Commission seeks additional, focused comment on certain issues raised in its Wireless Backhaul proceeding to remove regulatory barriers to the use of spectrum for backhaul and other point-to-point and point-to-multipoint communications and to increase efficient use of spectrum for backhaul, by updating regulatory classifications that may not have kept pace with the evolution of converged digital technologies. Specifically, we seek to supplement the record in this proceeding on the feasibility of sharing in the 7 and 13 GHz bands, limiting the frequency ranges available for Fixed Service (FS) in order to ensure the continuation of electronic newsgathering operations, and the appropriate channelization scheme, coordination procedures, and capacity and loading requirements for the bands.

**DATES:** Submit comments on or before June 27, 2011.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit comments, identified by DA 11-1011, WT Docket No. 10-153, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

*People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by *e-mail:* [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or *phone:* (202) 418-0530 or *TTY:* (202) 418-0432.

**FOR FURTHER INFORMATION CONTACT:** Charles Oliver, Broadband Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, at (202) 418-1325 or via the Internet to [Charles.Oliver@fcc.gov](mailto:Charles.Oliver@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of a the Commission's document adopted and released by the FCC on June 7, 2011, in WT Docket No. 10-153. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 488-5300, facsimile (202) 488-5563, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). The complete text is also available on the Commission's Web site at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-11-1011A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-11-1011A1.doc). Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418-7426, TTY (202) 418-7365, or via e-mail to [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

#### Summary

1. On August 5, 2010, the Commission commenced a proceeding to remove regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications. The proceeding sought to increase efficient use of spectrum for backhaul, by updating regulatory classifications that may not have kept pace with the evolution of converged digital technologies.

2. *Feasibility of FS Sharing in BAS and CARS Bands:* The *Wireless Backhaul NPRM/NOI* proposed to allow FS operations to share the 6875-7125 MHz (7 GHz Band) and 12700-13200 MHz (13 GHz band) bands currently used by the Broadcast Auxiliary Service (BAS) and the Cable TV Relay Service (CARS). The Commission stated its intention to protect existing licensees, through use of existing frequency coordination procedures. There are currently both fixed and mobile BAS and CARS operations in the 7 and 13

GHz bands. Fixed BAS in those bands include television studio-to-transmitter links, television relay stations, and television translator relay stations. CARS stations are authorized to relay various types of signals intended for use by cable television systems or other eligible systems. Mobile BAS includes television pickup stations and CARS pickup stations ("TV pickup stations"), which are authorized to transmit program material, orders concerning such program material, and related communications from the scenes of events occurring in places other than a television studio to associated television stations. TV pickup stations in these bands are licensed either for a radius around a set of coordinates or in the vicinity of a given television market. In addition, there are a limited number of Local Television Transmission Service (LTTS) stations in the 7 and 13 GHz bands authorized pursuant to § 101.803(b) of the Commission's rules.

3. In the *Wireless Backhaul NPRM/NOI*, the Commission proposed to require frequency coordination for new FS, BAS, and CARS applications in the 7 and 13 GHz bands. Under the current rules, all FS and fixed BAS and CARS stations above 2110 MHz must use the prior coordination notice procedure described in § 101.103(d) of the Commission's rules. LTTS licenses in the 7 and 13 GHz bands contain special conditions that require use of the prior coordination notice procedure before they operate in any given area. TV pickup stations and temporary fixed facilities may coordinate using less formal procedures, including using local frequency coordination committees. The Society of Broadcast Engineers (SBE) conducts a local frequency coordination program for BAS and CARS spectra.

4. A majority of commenters express qualified support for the proposal to open the 7 and 13 GHz bands to part 101 FS operators, while several broadcasting-affiliated entities oppose the proposal. Both supporters and opponents of the proposal express concerns about how to protect existing electronic news-gathering operations using TV pickup stations from interference due to FS operations, and whether meaningful FS operation in the bands will be possible given the potential for such interference. In contrast, there appears to be little concern about the ability of FS to coexist with fixed BAS and CARS.

5. WTB staff has conducted additional analysis of the 7 and 13 GHz bands. The results are depicted in several maps, which are available on the Commission's Web site at [http://hraunfoss.fcc.gov/edocs\\_public/](http://hraunfoss.fcc.gov/edocs_public/)