

burden. Thus, the Commission, in drafting these proposals tried to balance the needs of all licensees and potential licensees. For example, to afford licensees increased flexibility to meet consumer demand and to increase their ability to compete with other CMRS licensees, the Commission has proposed that 220 MHz licensees be permitted to operate paging and fixed systems on a primary basis and to aggregate their 5 kHz channels to operate on channels of wider bandwidth.

V. Reporting, Recordkeeping and Other Compliance Requirements

The Commission is proposing to generally decrease the burden on licensees. For example, rather than being required to obtain separate authorization for each of their base stations, non-nationwide, Phase II licensees will be permitted to operate over Commission-defined geographic areas (EAs and 220 MHz Regions) and will be allowed to construct and operate base stations anywhere within their authorized area as long as signals from those stations do not exceed a prescribed level. On the other hand, Phase II licensees who desire to operate less than 120 kilometers from Phase I co-channel stations will be required to submit a technical analysis demonstrating at least 10 dB protection to the 38 dBuV/m contour of such licensees, and all Phase II licensees will be required to submit maps and other supporting documents to demonstrate compliance with interim and final construction benchmarks.

VI. Federal Rules which Overlap, Duplicate, or Conflict with these Proposals

None.

VII. Significant Alternatives

The Commission believes that the proposals contained in this decision represent the best balance of providing licensees with the most flexibility and the least regulatory burden possible, while ensuring that license are granted to those who value the spectrum most high and will maximize its use to provide the best quality and variety of service to consumers.

12. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this Further Notice, but they

must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Further Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

13. Authority for issuance of this *Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking* is contained in Sections 4(i), 303(r), 309(j), and 332 of the Communications Act of 1934, as amended; 47 U.S.C. 154(i), 303(r), 309(j), and 332.

Ordering Clause

14. Accordingly, IT IS ORDERED that the Petition for Rulemaking in RM-8506 filed by Fairfield Industries, Inc. IS GRANTED to the extent indicated herein.

List of Subjects in 47 CFR Part 90

Business and industry, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-22296 Filed 9-6-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 89-552, GN Docket No. 93-252; FCC 95-381]

Wireless Services; Private Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission adopts a *Fourth Notice of Proposed Rulemaking* in this proceeding, seeking comment on proposed rules that will allow existing, *i.e.*, Phase I licensees in the 220 MHz service to seek minor modifications of their licenses to construct and operate base stations at currently unauthorized locations. This action is taken to enable Phase I 220 MHz licensees to provide service within the geographic area they could serve pursuant to their initial applications, while accommodating those licensees that need to relocate their base stations for technical or other reasons.

DATES: Comments are due on or before September 13, 1995, and reply comments are due on or before September 18, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Martin Liebman, Wireless Telecommunications Bureau (202) 418-1310.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Fourth Notice of Proposed Rule Making* in PR Docket No. 89-552, and GN Docket No. 93-252, FCC 95-381, adopted August 28, 1995, and released August 29, 1995. The complete text of this *Fourth Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

Synopsis of Notice of Proposed Rule Making

1. In this *Fourth Notice of Proposed Rulemaking (220 MHz Fourth Notice)*, the Commission seeks comment on proposed rules that will allow existing, *i.e.*, Phase I licensees in the 220 MHz service to seek minor modifications of their licenses to construct and operate base stations at currently unauthorized locations. The Commission proposes to define a minor modification for the 220 MHz service as any change in an existing licensee's authorized base station location such that, at the new station location, transmissions do not exceed a predicted field strength of 38 dBuV/m at the edge of the licensee's existing service area, and the Commission proposes to define the edge of a licensee's existing service area as the predicted 38 dBuV/m field strength contour resulting from transmissions from the licensee's currently authorized base station. The Commission's goal in proposing this licensing procedure is to enable Phase I 220 MHz licensees to provide service within the geographic area they could serve pursuant to their initial applications, while accommodating those licensees that need to relocate their base stations for technical or other reasons.

2. The Commission believes that most licensees will be able to locate alternative sites relatively close to their authorized site so that they will not be required to reduce their power or antenna height significantly. However, to enable 220 MHz licensees who desire to move greater distances from their authorized site to serve as much of their original area as possible, the Commission proposes to allow all licensees modifying their authorizations

to construct an unlimited number of additional, or "fill-in" base stations within their existing service area contour so long as the transmissions from these sites to not exceed the predicted field strength of 38 dBuV/m at the edge of their existing service area contour.

3. The Commission also proposes to allow those 220 MHz licensees that are situated in areas of the nation where signal levels could be affected by unusual terrain to move to alternate locations and operate at transmitter powers and antenna heights greater than would be allowed using Figure 10 of Section 73.699 of the Commission's Rules if they provide a technical showing, using established terrain models, to justify the use of higher powers and antenna heights.

4. The Commission modification proposal, if adopted, will permit 220 MHz licensees to obtain permanent authorization to operate at alternative locations. A number of 220 MHz licensees, however, have obtained Special Temporary Authority (STA) to allow them to operate stations temporarily at such locations. The Commission believes that those licensees who have obtained STAs and have constructed and are operating stations will be accommodated by its modification proposal. The Commission therefore proposes that licensees with STAs who seek permanent authorization at their STA site be required to comply with the Commission's modification proposal.

5. The Commission intends to adopt a Report and Order in this proceeding as soon as possible to set forth procedures for minor modification of 220 MHz licenses. Shortly thereafter, the Commission will open a filing window to allow applicants to file modification applications. Licensees will then obtain an authorization to construct a base station at their desired location and under their new operating parameters. The Commission proposes that this authorization, which replaces the licensees's existing authorization, will be the licensee's "service area authorization" and that thereafter the base station constructed under the service area authorization will be the licensee's "primary base station."

6. Although the Commission intends to grant applications for service area authorizations within a short time of their receipt, it is concerned that licensees obtaining such authorizations may not have sufficient time to construct their primary base stations by the December 31, 1995, construction and operation deadline. Therefore, for all licensees obtaining service area

authorizations, the Commission will extend the deadline for the construction and operation of their primary base stations to a date 4 months after the grant of their service area authorization. Licensees not granted service area authorizations must still construct their currently authorized base stations and begin operation by December 31, 1995. Licensees obtaining service area authorizations may construct fill-in stations, but will be required to notify the Commission of their construction. The authority to operate fill-in stations will then be granted through minor modification of the licensee's service area authorization.

7. Finally, with the requirement, under our modification proposal, that the predicted field strength of transmissions from a licensee's primary base station not exceed 38 dBuV/m at the licensee's existing service area contour, the Commission is concerned that licensees obtaining service area authorizations could place into operation a primary base station of minimal power simply to meet their construction requirement. To prevent this from occurring, the Commission proposes to require licensees seeking service area authorizations to operate their primary base station at a power and antenna height that will result in the transmission of a predicted signal of 38 dBuV/m or more over at least 50 percent of the licensee's existing service area.

8. The Commission will require parties commenting on this proposal to file comments within 15 days of the release of this item and to file reply comments 5 days thereafter.

Administrative Matters

9. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before September 13, 1995, and reply comments on or before September 18, 1995. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC 20554.

10. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

Initial Regulatory Flexibility Act Statement

I. Reason for Action

The action is taken to complete the implementation of the statutory and regulatory revisions applicable to the 220 MHz service by Congress in the Omnibus Budget Reconciliation Act of 1993 and by the Commission in several orders adopted in GN Docket No. 93-252 pertaining to a framework for the acceptance of initial or modification applications for the 220 MHz service.

II. Objectives of this Action

The Commission's primary goal is to establish a flexible regulatory scheme that will allow for more efficient licensing, eliminate unnecessary regulatory burdens on existing Phase I, non-nationwide licensees, and enhance the competitive potential of 220 MHz services in the mobile marketplace.

III. Legal Basis

The proposed action is authorized under Sections 4(i), 303(r), and 332 of the Communications Act of 1934, as amended.

IV. Description, Potential Impact and Number of Small Entities Affected

There are approximately 3,800 non-nationwide licensees authorized under Phase I licensing of the 220 MHz band. The potential impact of the proposals contained in this decision on small businesses is hard to predict without the benefit of comment, and the actual impact will depend on the final action taken. The intention of this action is to provide these Phase I non-nationwide licensees, which are authorized under site-specific licenses, with more flexibility with a minimum increased burden. The Commission, in drafting these proposals, has tried to balance the needs of all licensees and potential licensees. For example, to afford Phase I non-nationwide licensees increased flexibility to meet consumer demand and the ability to compete with future 220 MHz licensees and other CMRS licensees, licensees would be permitted to relocate a base station or construct fill-in stations anywhere within a service area to be defined by their existing 38 dBuV/m service contour, as long as the transmissions from the new sites do not extend beyond that contour.

As an example of proposed rules decreasing restrictions on these Phase I licensees, a licensee seeking to relocate within the newly defined service area would file a modification application to replace its existing site-specific authorization with a service area authorization that permits relocation on a permissive basis through minor modification of the service area authorization. Moreover, the existing deadline of December 31, 1995, imposed on Phase I licenses for the construction and operation of primary base stations will be extended to a date four months after the grant of the proposed service area authorization.

V. Reporting, Recordkeeping and Other Compliance Requirements

The Commission is proposing to generally decrease the burden on non-nationwide, Phase I licensees. A licensee would be able to replace its existing site-specific authority with an authorization that permits it to relocate authorized base stations or add fill-in base stations within an area to be defined by its existing 38 dBuV/m service contour through minor modification procedures. However, the licensee would be required to file a modification application during a filing window to be established upon the adoption of final rules in order to obtain the authorization to operate within the proposed service area. Also, the licensee would be required to notify the Commission of the construction of any fill-in stations.

VI. Federal Rules which Overlap, Duplicate, or Conflict with these Proposals

None.

VII. Significant Alternatives

The Commission believes that the modification licensing procedure proposed for non-nationwide Phase I licensees represents the best balance of providing them with the most flexibility and the least regulatory burden possible. It enables licensees to exchange their site-specific license for a broad, service-area license that permits them to move sites freely within the transmission area of the existing license through modification applications, while ensuring that transmissions do not extend to new geographic areas so as to require competing applications under initial application procedures.

11. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this

document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this *Fourth Notice of Proposed Rulemaking*, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Fourth Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

12. Authority for issuance of this *Fourth Notice of Proposed Rulemaking* is contained in Sections 4(i), 303r, and 332 of the Communications Act of 1934 as amended; 47 U.S.C. 154(i), 303(r), and 332.

List of Subjects in 47 CFR Part 90

Business and industry, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-22294 Filed 9-6-95; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Petition Finding to list *Silene verecunda* ssp. *verecunda* (Mission Dolores Campion)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding on a petition to list *Silene verecunda* ssp. *verecunda* (Mission Dolores Campion) pursuant to the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial data, the Service finds that listing this species is not warranted at this time. The known populations of *S. verecunda* ssp. *verecunda* are unlikely to be affected by toxic waste site studies and clean-up related to military base closure actions. The population status and vulnerability of *S. verecunda* ssp. *verecunda* to threats is unknown for the central part of its range including

Montara Mountain in San Mateo County to Rancho del Oso in Santa Cruz County, California. The recent discovery of *S. verecunda* ssp. *verecunda* in chaparral and mixed evergreen plant communities indicates that this species may be more widely distributed and have broader habitat affinities than previously believed.

DATES: The finding announced in this document was made on July 24, 1995. Comments and materials regarding this petition finding may be submitted to the Field Supervisor at the address listed below until further notice.

ADDRESSES: Data, information, comments, or questions concerning this finding may be sent to the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1803, Sacramento, California 95825-1846. The petition finding, supporting data, comments, and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, staff biologist, at the above address or telephone 916/979-2120.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that after receiving a petition that is found to present substantial information indicating that the petitioned action may be warranted, the Service make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the **Federal Register**.

On May 29, 1991, the Service received a petition dated May 28, 1991, from Mr. Brian O'Neill, General Superintendent of the Golden Gate National Recreation Area (GGNRA), National Park Service, San Francisco, California, to emergency list five candidate plants including *Silene verecunda* ssp. *verecunda* (Mission Dolores Campion). The petition cited threats to this species that would result from military base closure activities on the Presidio in San Francisco, California. These activities included hazardous or toxic waste site studies and clean-up, and increased traffic and recreational activities. A 90-day finding was made by the Service that the petition presented substantial information indicating that the