

a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its action concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

### C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: August 13, 1998.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 98-22531 Filed 8-20-98; 8:45 am]

BILLING CODE 6560-50-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 136-0082b; FRL-6140-7]

#### Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District, Yolo-Solano Air Quality Management District, and Ventura County Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from screen printing operations, and graphic arts.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

**DATES:** Comments must be received in writing by September 21, 1998.

**ADDRESSES:** Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR-4), Air

Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations: California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814 South Coast AQMD, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182 Yolo-Solano AQMD, 1947 Galileo Court, Suite 103, Davis, CA 95616 Ventura County APCD, 669 County Square Drive, Ventura, CA 93003

#### FOR FURTHER INFORMATION CONTACT:

Andrew Steckel, Rulemaking Section (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1185.

**SUPPLEMENTARY INFORMATION:** This document concerns South Coast Air Quality Management District Rule 1130.1, Screen Printing Operations, submitted to EPA on March 3, 1997, Yolo-Solano Air Quality Management District Rule 2.29, Graphic Arts Printing Operations, submitted to EPA on November 30, 1994, and Ventura County Air Pollution Control District Rule 74.19.1, Screen Printing Operations, submitted to EPA on October 18, 1996 by the California Air Resources Board. For further information, please see the information provided in the Direct Final action that is located in the Rules Section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 31, 1998.

**Felicia Marcus,**

*Regional Administrator, Region 9.*

[FR Doc. 98-22336 Filed 8-20-98; 8:45 am]

BILLING CODE 6560-50-P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 27

[WT Docket No. 98-136; FCC 98-142]

#### Services in the 2.3 GHz and 47 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** On June 30, 1998, the Federal Communications Commission

(Commission) adopted a *Notice of Proposed Rulemaking (NPRM)* that proposes licensing and operating rules for the 47.2–48.2 GHz (47 GHz) band, and proposes that licenses for this band be acquired through competitive bidding under the Commission's rules. The Commission also proposes to license the 47 GHz band under the Commission's rules, as modified to reflect the particular characteristics and circumstances of services offered through the use of spectrum in the 47 GHz band. The Commission seeks comment on how Government and non-Government licensees can effectively share the 47 GHz band. In addition, in a few instances, the Commission proposes that modifications to the rules be made applicable to the 2.3 GHz band. The Commission also proposes to modify the rules to clarify those rules that apply to both the 2.3 GHz band and the 47 GHz band.

**DATES:** Comments are due on or before September 21, 1998, and reply comments on or before October 13, 1998. Written comments by the public on the proposed information collections are due September 21, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before October 20, 1998.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, Room 222, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW, Washington, DC 20503, or via the internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

**FOR FURTHER INFORMATION CONTACT:**  
*Auction Information:* Julie Buchanan, 202–418–0660.

*Legal Information:* Eli Johnson, 202–418–1310.

*Technical Information:* Ed Jacobs, 202–418–1310.

For additional information concerning the information collections contained in this *NPRM*, contact Judy Boley at 202–418–0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *NPRM* in WT Docket No. 98–136, FCC 98–142, adopted June 30, 1998, and released July 29, 1998. The complete text of this *NPRM* 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 Services, Inc. (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036. The complete text is also available under the file name [fcc98142.wp](http://www.fcc.gov/Bureaus/Wireless/Orders/1998) or [fcc98142.txt](http://www.fcc.gov/Bureaus/Wireless/Orders/1998) on the Commission's internet site at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998>.

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 may also be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings* (63 FR 24121, May 1, 1998). 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. 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.

Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, at the Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

#### **Paperwork Reduction Act**

This *NPRM* contains proposed information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *NPRM*, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB notification of action is due 60 days

from date of publication of this *NPRM*. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060–XXXX.

*Title:* Amendment to part 27 of the Commission's Rules To Revise Rules for Services in the 2.3 GHz Band and To Include Licensing of Services In the 47 GHz Band.

*Form No.:* N/A.

*Type of Review:* New Collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 60 respondents. Approximately nine responses per respondent may be required for a total of 540 responses.

*Estimated Time Per Response:* 1–20 hours per response. These responses include various coordination requirements between licensees, maintaining and filing information required under part 27, notifications of voluntary and involuntary discontinuance, reduction or impairment of service by common carriers, and non-common carriers providing fixed service under part 27 and a reporting requirement to demonstrate the safety of stratospheric platform operations.

*Total Annual Burden:* 5,100 hours.

*Estimated costs per respondent:* Zero. The Commission estimates respondents will utilize in-house staff to prepare the required information.

*Needs and Uses:* The information collections contained in this *NPRM* are needed to ensure that 47 GHz licensees who operate as common carriers providing fixed services comply with Title II requirements of the Communications Act, as amended, concerning the filing of tariffs, maintaining of records, liabilities and discontinuance of services. If these fixed common carriers involuntarily discontinue, reduce, or impair service for a period longer than 48 hours, they are required to notify the Commission as to the reason for the discontinuance, reduction or impairment of service. Similarly, if a non-common carrier 47 GHz licensee voluntarily discontinues, reduces or impairs service that operator must give the Commission written notice within seven days of the event.

In addition, the information collections contained in this *NPRM* concern proposed requirements that 47 GHz licensees coordinate among themselves to reduce interference and notify the Commission of their actions. Furthermore, the *NPRM* proposes to require 47 GHz licensees that operate stratospheric platforms to report on measures to protect public safety. All of these reporting requirements are meant to ensure efficient use of the 47 GHz spectrum and to promote the public interest.

### Synopsis of the Notice of Proposed Rulemaking

1. In an earlier proceeding,<sup>1</sup> the Commission decided to make the 47 GHz band available for commercial use and to license the spectrum under a flexible framework that is consistent with permitting the band to be used for all the services permitted under the United States Table of Allocations. Accordingly, the *NPRM* proposes to modify part 27 of the Commission's rules, which currently applies only to services at 2.3 GHz, to include the services to be provided at 47 GHz. The *NPRM* proposes to modify part 27 to the extent necessary to reflect the particular characteristics and circumstances of services to be offered through the use of spectrum in the 47 GHz band. The *NPRM* also proposes to modify part 27 to clarify that the rules contained in part 27 will apply to both the 2.3 GHz band and the 47 GHz band. Additionally, in a few instances, the *NPRM* proposes certain modifications to the part 27 rules that pertain to the 2.3 GHz band.

2. In the United States, the 47 GHz band is allocated to both Government and non-Government operations on a shared co-primary basis. The Commission recognized in proposing bands for satellite or wireless use in an earlier proceeding that sharing with co-primary Government users might create uncertainty regarding the amount of spectrum within a licensed block that would be available for future commercial use.<sup>2</sup> The *NPRM* seeks comment on the possibilities for sharing between Government and commercial wireless users on frequencies in the 47 GHz band. For example, the *NPRM* seeks comment on whether it is desirable to explore options that would permit exclusive non-Government use in portions of this spectrum and provide

Government users geographic exclusivity in other spectrum.

3. With regard to in-band interference control, the *NPRM* seeks comment on whether a coordination approach or a field strength approach should be utilized. The *NPRM* states that because development of services and technologies that will use the 47 GHz band is just beginning the Commission does not have reliable information at this time on the technical parameters for services that will be offered. The *NPRM* notes that in the past depending on the service the Commission has used one or the other approaches.

4. The *NPRM* also seeks comment concerning the safety of stratospheric platforms that could be used to provide services in the 47 GHz band. These platforms would be multi-ton platforms suspended by balloons floating in the stratosphere over major cities across the Nation. The possibility that these platforms, or parts of them, could fail may present a significant safety concern. Because stratospheric platforms are a novel technology, the Commission does not have a basis or the experience on which to assess this issue and therefore the *NPRM* requests comment on the public safety concerns that these platforms could raise.

5. The *NPRM* proposes to use competitive bidding as the assignment method for initial licenses in the 47 GHz band, if mutually exclusive applications are filed. The *NPRM* tentatively concludes that assignment of licenses through a system of competitive bidding will be consistent with the requirements of Section 309(j) of the Communications Act, as amended by the Balanced Budget Act of 1997. The *NPRM* bases this finding on the fact that the 47 GHz band is not intended to be licensed for public safety radio services; non-commercial educational broadcast stations or public broadcast stations; or digital television service licenses to be provided by terrestrial broadcast licensees to replace their analog television service licenses.

6. The *NPRM* proposes to conduct the auction for initial licenses in conformity with the general competitive bidding rules set forth in part 1, subpart Q, of the Commission's rules. Specifically, the *NPRM* proposes to employ the part 1 rules governing designated entities, application issues, payment issues, competitive bidding design, procedure and timing issues, and anti-collusion requirements. These rules would be subject to any modifications that the Commission adopts in relation to its part 1 competitive bidding rules. The *NPRM* also proposes to adopt the small business definitions that the

Commission adopted for broadband PCS for small and very small businesses.

### Ex Parte Presentations

7. 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 Analysis

8. As required by Section 603 of the Regulatory Flexibility Act (RFA),<sup>3</sup> the Commission has prepared this 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 Rulemaking (*NPRM*), WT Docket No. 98-136. 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 *NPRM*. The Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the RFA.<sup>4</sup> In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.<sup>5</sup>

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

9. This rulemaking is being initiated to adopt certain service, licensing, and competitive bidding rules for the 47.2-48.2 GHz (47 GHz) band. In an earlier Report and Order, the Commission opened this band for commercial use and determined to license this spectrum under a flexible framework that permits this band to be used for all services permitted under the U.S. Table of Allocations. In particular, in this *NPRM*, the Commission proposes to license the 47 GHz band under part 27 of the Commission's rules, as modified to reflect the particular characteristics and circumstances of services offered through the use of spectrum in the 47 GHz band. The Commission believes that this approach will encourage new and innovative services and technologies in this band without significantly limiting the range of potential uses for this spectrum.

<sup>3</sup> 5 U.S.C. 603. The RFA, see 5 U.S.C. 601-612, has been amended by the Contract with America Advancement Act of 1996, Pub. L. 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>4</sup> 5 U.S.C. 603(a).

<sup>5</sup> See *id.*

<sup>1</sup> *Use of Radio Frequencies Above 40 GHz for New Radio Applications*, 62 FR 43116, Aug. 12, 1997.

<sup>2</sup> *Spectrum Allocation Proposals for Fixed-Satellite, Fixed, Mobile, and Government Operations*, 62 FR 16129, Apr. 4, 1997.

10. The Commission's objectives for the *NPRM* are: (1) to accommodate the introduction of new uses of spectrum and the enhancement of existing uses; (2) encourage commercial development of equipment that can operate in frequency bands above 40 GHz; and (3) to facilitate the awarding of licenses to entities who value them the most. The Commission also seeks to ensure a regulatory plan for the 47 GHz band that will allow for the efficient licensing and use of the band, eliminate unnecessary regulatory burdens, enhance the competitive potential of the band, and provide a wide variety of radio services to the public.

#### B. Legal Basis for Proposed Rules

11. The proposed action is authorized under sections 1, 4(i), 7, 10, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 301, 303, 308, 309(j), 310.

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

12. For the purposes of this *NPRM*, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act,<sup>6</sup> unless the Commission has developed one or more definitions that are appropriate to its activities.<sup>7</sup> Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).<sup>8</sup>

13. The proposals in the *NPRM* affect applicants who wish to provide services in the 47 GHz band. Pursuant to 47 CFR 24.720(b), the Commission has defined "small entity" for Blocks C and F broadband PCS licensees as firms that had average gross revenues of less than \$40 million in the three previous calendar years. This regulation defining "small entity" in the context of broadband PCS auctions has been approved by the SBA.<sup>9</sup> With respect to 47 GHz license applicants, the Commission proposes to use the small entity definition adopted in the broadband PCS proceeding.

14. The Commission, however, has not yet determined or proposed how many licenses will be awarded, nor will it know how many licensees will be small businesses until the auction, if required, is held. Even after that, the Commission will not know how many licensees will partition their license areas or disaggregate their spectrum blocks, if partitioning and disaggregation are allowed. In view of the Commission's lack of knowledge of the entities which will seek 47 GHz licenses, the *NPRM* therefore assumes that, for purposes of Commission evaluations and conclusions in the IRFA, all of the prospective licensees are small entities, as that term is defined by the SBA or the Commission's proposed definitions for the 47 GHz band.

15. The Commission invites comment on this analysis.

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

16. Entities interested in acquiring spectrum in the 47 GHz band will be required to submit license applications and high bidders will be required to apply for their individual licenses. The proposals under consideration in this item also include requiring commercial licensees to make showings that they are in compliance with construction requirements, file applications for license renewals and make certain other filings as required by the Communications Act. The Commission requests comment on how these requirements can be modified to reduce the burden on small entities and still meet the objectives of the proceeding.

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

17. The Commission has reduced burdens wherever possible. To minimize any negative impact, however, the *NPRM* proposes certain incentives for small entities which will redound to their benefit. These special provisions include partitioning and spectrum disaggregation. The regulatory burdens the *NPRM* has retained, such as filing applications on appropriate forms, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner. The Commission will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing any significant economic impact on small entities. The Commission seeks comment on

significant alternatives commenters believe the Commission should adopt.

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

18. None.

#### Ordering Clauses

19. Accordingly, *It is ordered* that these actions *Are taken* pursuant to sections 1, 4(i), 7, 10, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 160, 201, 202, 208, 214, 301, 303, 308, 309(j), 310.

20. *It is further ordered* that *Notice is hereby given* of the proposed regulatory changes described in the *Notice of Proposed Rulemaking*, and that comment is sought on these proposals.

21. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, *Shall send* a copy of the *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act of 1980, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612 (1980).

#### List of Subjects in 47 CFR Part 27

Communications common carriers,  
Radio.  
Federal Communications Commission.  
**Magalie Roman Salas,**  
Secretary.

#### Rule Changes

For the reasons discussed in the preamble, part 27 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 27—WIRELESS COMMUNICATIONS SERVICE

1. The authority citation for part 27 continues to read as follows:

**Authority:** 47 U.S.C. 154, 301, 302, 303, 307, 309, and 332.

2. Section 27.1 is amended by revising paragraph (b) to read as follows:

#### § 27.1 Basis and purpose.

\* \* \* \* \*

(b) *Purpose.* This part states the conditions under which various frequency bands are made available and licensed for the provision of WCS.

\* \* \* \* \*

3. Section 27.2 is revised to read as follows:

<sup>6</sup> 15 U.S.C. 632.

<sup>7</sup> See 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. 632).

<sup>8</sup> 15 U.S.C. 632.

<sup>9</sup> See Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-82 (para. 115) (1994).

§ 27.2 Permissible communications.

(a) Subject to the rules contained in this part, any services allocated in § 2.106 of this chapter for non-Government use (column 5) in the frequency bands specified in § 27.5 may be provided by WCS licensees in those bands.

(b) In addition, satellite digital audio radio service (DARS) may be provided using the 2310–2320 and 2345–2360 MHz bands. Satellite DARS service shall be provided in manner consistent with part 25 of this chapter.

4. Section 27.3 is amended by redesignating paragraphs (f), (g), and (h) as paragraphs (g), (h), and (i) and adding a new paragraph (f) to read as follows:

§ 27.3 Other applicable rule parts.

\* \* \* \* \*

(f) Part 20. This part sets forth the requirements and conditions applicable to commercial mobile radio service providers.

\* \* \* \* \*

5. Section 27.4 is amended by revising the definition of “wireless communications service” and by adding new definitions in alphabetical order to read as follows:

§ 27.4 Terms and definitions.

\* \* \* \* \*

Disaggregation. The assignment of discrete portions or “blocks” of spectrum licensed to a geographic licensee or qualifying entity.

\* \* \* \* \*

High Altitude Platform Station. A station located on an object at an altitude of 20 to 50 km and at a specified, nominal, fixed point relative to the Earth.

\* \* \* \* \*

Partitioning. The assignment of geographic portions of a licensee’s authorized service area along geopolitical or other boundaries.

\* \* \* \* \*

Wireless Communications Service. A radiocommunication service that encompasses the allocated radio services in § 2.106 of this chapter designated for non-Government use (column 5) for the frequency band in which the station is licensed.

6. Section 27.5 is amended by adding paragraph (c) to read as follows:

§ 27.5 Frequencies.

\* \* \* \* \*

(c) Five paired channel blocks are available on a Regional Economic Area Grouping basis as follows:

- Block V: 47.2–47.3 and 47.7–47.8 GHz
Block W: 47.3–47.4 and 47.8–47.9 GHz
Block X: 47.4–47.5 and 47.9–48.0 GHz

- Block Y: 47.5–47.6 and 48.0–48.1 GHz
Block Z: 47.6–47.7 and 48.1–48.2 GHz

7. Section 27.7 is added to subpart A to read as follows:

§ 27.7 Permissible communications services.

(a) Authorization for stations will be granted to provide services on a common carrier basis or a non-common carrier basis or on both a common carrier and non-carrier basis in a single authorization.

(b) Stations may render any kind of communications service consistent with the Commission’s rules and the regulatory status of the station to provide services on a common carrier or non-common carrier basis.

(c) An applicant or licensee may submit a petition at any time requesting clarification of the regulatory status required to provide a specific communications service.

8. Section 27.8 is added to subpart A to read as follows:

§ 27.8 Requesting regulatory status.

(a) Initial applications. An applicant will specify if it is requesting authorization to provide services on a common carrier basis, a non-common carrier basis, or on both a common carrier and non-common carrier basis.

(b) Amendment of pending applications. (1) Any pending application may be amended to:

(i) Change the carrier status requested; or

(ii) Add to the pending request in order to obtain both common carrier and non-common carrier status in a single license.

(2) Amendments to change, or add to, the carrier status in a pending application are minor amendments filed under § 27.313.

(c) Modification of license. (1) A licensee may modify a license to:

(i) Change the carrier status authorized; or

(ii) Add to the status authorized in order to obtain both common carrier and non-common carrier status in a single license.

(2) Applications to change, or add to, the carrier status in a license are modifications not requiring prior Commission authorization. The licensee must notify the Commission within 30 days of the change. If the change results in the discontinuance, reduction, or impairment of an existing service, the licensee is also governed by § 27.71.

9. Section 27.11 is amended by revising paragraph (b) to read as follows:

§ 27.11 Initial authorization.

\* \* \* \* \*

(b) The initial WCS authorizations shall be granted in accordance with § 27.5.

(1) Authorizations for Blocks A and B will be based on Major Economic Areas (MEAs), as shown in § 27.6.

Authorizations for Blocks C and D will be based on Regional Economic Area Groupings (REAGs), as shown in § 27.6.

(2) Authorizations for Blocks V, W, X, Y, and Z will be based on Regional Economic Area Groupings (REAGs), as shown in § 27.6.

(3) Applications for individual sites are not required and will not be accepted, except where required for environmental assessments, in accordance with § 27.59.

10. Section 27.14 is amended by adding paragraphs (a)(1) and (a)(2) to read as follows:

§ 27.14 Construction requirements; Criteria for comparative renewal proceedings.

(a) \* \* \*

(1) As examples of “safe-harbors,” for a WCS licensee that chooses to offer fixed services or point-to-point services, the construction of four permanent links per one million people in its licensed service area at the 10-year renewal mark would constitute substantial service. For a WCS licensee that chooses to offer mobile services or point-to-multipoint services, a demonstration of coverage to 20 percent of the population of its licensed service area at the 10-year renewal mark would constitute substantial service. For a licensee that chooses to offer a fixed-satellite service, one launched satellite in conjunction with construction of one earth station per licensed service area at the 10-year renewal mark would constitute substantial service.

(2) In addition, the Commission may consider such factors as whether the licensee is offering a specialized or technologically sophisticated service that does not require wide coverage to be of benefit to customers, and whether the licensee’s operations serve niche markets or focus on serving populations outside of areas served by other licensees. These safe-harbor examples are intended to provide WCS licensees a degree of certainty as to compliance with the substantial service requirement by the end of the initial license term. Licensees can meet this requirement in other ways, and licensees’ showings will be reviewed on a case-by-case basis.

\* \* \* \* \*

11. Section 27.15 is amended by revising paragraph (b)(4) and adding paragraph (e) to read as follows:

**§ 27.15 Geographic partitioning and spectrum disaggregation.**

\* \* \* \* \*

(b) \* \* \*

(4) *Signal levels.* For purposes of partitioning and disaggregation, WCS systems must be designed so as not to exceed the signal level specified in § 27.55 at or beyond the licensee's service area boundary, unless any affected adjacent service area licensee has agreed to a different signal level.

\* \* \* \* \*

(e) *Construction requirements—(1) Partitioning.* Partial assignors and assignees for license partitioning have two options to meet construction requirements. Under the first option, the partitioner and partitionee would each certify that they will independently satisfy the substantial service requirement for their respective partitioned areas. If either licensee failed to meet its substantial service showing requirement, only the nonperforming licensee's renewal application would be subject to dismissal. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire market. If the partitioner fails to meet the substantial service standard, however, only its renewal application would be subject to forfeiture at renewal.

(2) *Disaggregation.* Partial assignors and assignees for license disaggregation have two options to meet construction requirements. Under the first option, the disaggregator and disaggregatee would certify that they each will share responsibility for meeting the substantial service requirement for the geographic service area. If parties choose this option and either party fails to do so, both licenses would be subject to forfeiture at renewal. The second option would allow the parties to agree that either the disaggregator or the disaggregatee would be responsible for meeting the substantial service requirement for the geographic service area. If parties choose this option, and

the party responsible for meeting the construction requirement fails to do so, only the license of the nonperforming party would be subject to forfeiture at renewal.

12. Section 27.53 is amended by adding a heading to paragraph (a), revising the introductory text of paragraph (a), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c), to read as follows:

**§ 27.53 Emission limits.**

(a) *For the band 2305–2360 MHz:* The power of any emission outside the licensee's bands of operation shall be attenuated below the transmitter power (p) within the licensed bands of operation by the following amounts:

\* \* \* \* \*

(c) *For the 47.2–48.2 GHz band:* The peak power of any emission outside the licensee's authorized bands shall be attenuated below the maximum peak spectral density by at least  $43+10 \log$  (p) dB or 80 dB, whichever is less.

\* \* \* \* \*

13. Section 27.55 is revised to read as follows:

**§ 27.55 Field strength limits.**

The predicted or measured median field strength at any location at or beyond the border of a WCS service area shall not exceed the following value unless the parties agree to a different field strength. The following value applies to both the initially offered MEA and REAG service areas and to partitioned service areas:

*For the 2305–2320 MHz and 2345–2360 MHz bands: 47 dBuV/m.*

14. Section 27.57 is revised to read as follows:

**§ 27.57 International coordination.**

Terrestrial WCS operations in the border areas shall be subject to coordination with bordering countries and provide protection to non-U.S. operations in the appropriate frequency bands. In addition, satellite operations in WCS spectrum shall be subject to

international satellite coordination procedures.

15. Section 27.58 is amended by revising the introductory text of paragraph (a) to read as follows:

**§ 27.58 Interference to MDS/ITFS receivers.**

(a) WCS licensees operating in the 2.3 GHz band shall bear full financial obligation to remedy interference to MDS/ITFS block down converters if all of the following conditions are met:

\* \* \* \* \*

16. Section 27.71 is added to subpart C to read as follows:

**§ 27.71 Discontinuance, reduction, or impairment of service.**

(a) If the service provided by a fixed common carrier licensee is involuntarily discontinued, reduced, or impaired for a period exceeding 48 hours, the licensee must promptly notify the Commission, in writing, as to the reasons for discontinuance, reduction, or impairment of service, including a statement when normal service is to be resumed. When normal service is resumed, the licensee must promptly notify the Commission.

(b) If a fixed common carrier licensee voluntarily discontinues, reduces, or impairs service to a community or part of a community, it must obtain prior authorization as provided under § 63.71 of this chapter. An application will be granted within 30 days after filing if no objections were received.

(c) If a non-common carrier licensee voluntarily discontinues, reduces, or impairs service to a community or part of a community, it must give written notice to the Commission within seven days.

(d) Notifications and requests identified in paragraphs (a) through (c) of this section should be sent to: Federal Communications Commission, Common Carrier Radio Services, 1270 Fairfield Road, Gettysburg, Pennsylvania 17325.

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