



Federal Communications Commission
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Small Entity Compliance Guide

**Air-Ground Telecommunications Services—
Commercial and General Aviation Air-Ground Radiotelephone Service—**

DA 05-1364

WT Docket Nos. 03-103, 05-42

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—to comply with the new rule/s adopted in the above-referenced FCC rulemaking docket/s. This Guide is not intended to replace the rule/s and, therefore, final authority rests solely with the rule/s. Although we have attempted to cover all parts of the rule/s that might be especially important to small entities, the coverage may not be exhaustive. As a result, in any civil or administrative action against a small entity for a violation of a rule or rules, the content of the Small Entity Compliance Guide may be considered only as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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Table of Contents

I.	Objectives of the Proceeding.....	3
II.	Regulations and Policies That the Commission Modified.....	3
A.	800 MHz Air-Ground Radiotelephone Service	3
1.	Available Air-Ground Radiotelephone Service Band Plans.....	3
i.	Transition of Incumbent Station KNKG804.....	5
ii.	Technical Standards.....	6
B.	400 MHz Air-Ground Radiotelephone Service	8
C.	Revision of Part 22 Non-Cellular Rules.....	8
1.	Scope and Authority—Authorization Required, General Eligibility, and Definitions	8
2.	Licensing Requirements and Procedures.....	9
i.	Construction Prior to Grant of Application	9
ii.	Computation of Distance	9
iii.	Computation of Terrain Elevation	9
iv.	Amplitude Compandored Single Sideband Modulation (ASSB)	10
3.	Operational and Technical Requirements	10
i.	Channel Assignment Policy	10
ii.	Interference Protection.....	10
iii.	Emission Types and Emission Masks	10
iv.	Standby Facilities	10
v.	Directional Antennas	10
vi.	Wave Polarization	10
vii.	Access to Transmitters.....	10
viii.	Replacement of Equipment	10
ix.	Auxiliary Test Transmitters.....	10
x.	In-building Radiation Systems.....	11
4.	Developmental Authorizations.....	11
i.	Developmental Authorization of 43 MHz Paging Transmitters.....	11
ii.	Developmental Authorization of 928-960 MHz Fixed Transmitters.....	11
iii.	Developmental Authorization of Meteor Burst Systems.....	11
5.	Paging and Radiotelephone Service Rules	11
i.	Composite Interference Contour Over Water.....	11
ii.	Nationwide Network Paging Channels.....	11
iii.	Additional Channel Policies	11
iv.	Provision of Rural Radiotelephone Service on Paging Channels.....	12
v.	Transmission Power Limits.....	12
vi.	Dispatch Service	12
vii.	Channels for Point-to-Point Operation—Microwave Channels	12
viii.	ERP Limits.....	12
ix.	Channel Usage Reports.....	12
6.	Rural Radiotelephone Service Rules—Channels for Basic Exchange Telephone Radio Systems (BETRS).....	12
7.	Offshore Radiotelephone Service Rules	12
III.	Impact on Small Business	12
A.	Recordkeeping and Other Compliance Requirements.....	13
IV.	Weblink	13

COMPLIANCE REQUIREMENTS

I. OBJECTIVES OF THE PROCEEDING

The *Report and Order* revises the FCC's 800 MHz commercial Air-Ground Radiotelephone Service rules and makes available for auction new nationwide air-ground licenses in three band configurations. See Amendment of Part 22 of the Commission's Rules to Benefit the Consumers of Air-Ground Telecommunications Services, Biennial Regulatory Review—Amendment of Parts 1, 22, and 90 of the Commission's Rules, *Report and Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 4403 (2005) (*Report and Order*). (In the related *Notice of Proposed Rulemaking*, the Commission seeks comment on rules for auction of the new licenses, including small business bidding credits.)

The *Report and Order* also revises or eliminates many of the Commission's Part 22 non-cellular rules in light of technological change, increased competition in Commercial Mobile Radio Services, supervening changes to the Commission's rules, or a combination of these factors. These rule changes also include actions to harmonize the treatment of various wireless services.

II. REGULATIONS AND POLICIES THAT THE COMMISSION MODIFIED

A. 800 MHz Air-Ground Radiotelephone Service

1. Available Air-Ground Radiotelephone Service Band Plans

The *Report and Order* will enable interested parties to bid on nationwide air-ground licenses in three band configurations. Licenses will have a ten-year term. Licenses will be awarded to winning bidders for the two licenses comprising the band plan that receives the highest aggregate gross bid, subject to long-form license application review.

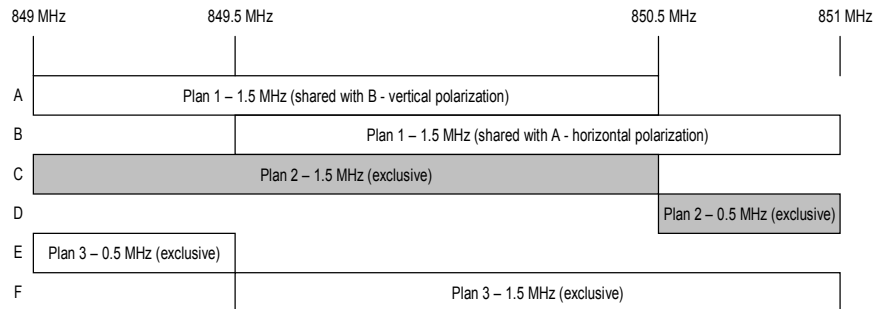
Band Plan 1, two overlapping, shared, cross-polarized 3 MHz licenses (**licenses A and B, respectively**). **Licenses A and B** would authorize transmission of radio waves that are vertically and horizontally polarized, respectively, and would initially share 1.5 MHz at 849.000-850.500 MHz paired with 1.5 MHz at 894.000-895.500 MHz. Once Verizon Airfone's incumbent system ceases operations in the upper 0.5 MHz of each band, licensee B would shift its operations to 1.5 MHz at 849.500-851.000 MHz paired with 1.5 MHz at 894.500-896.000 MHz. If **Band Plan 1** is implemented, the parties may agree to a different implementation scheme.

Band Plan 2, an exclusive 3 MHz license and an exclusive 1 MHz license (**licenses C and D, respectively**). **License C** would be located in the lower 1.5 MHz portion of each 2 MHz band (1.5 MHz at 849.000-850.500 MHz paired with 1.5 MHz at 894.000-895.500 MHz). **License D** would be located in the upper 0.5 MHz portion of each 2 MHz band (0.5 MHz at 850.500-851.000 MHz paired with 0.5 MHz at 895.500-896.000 MHz).

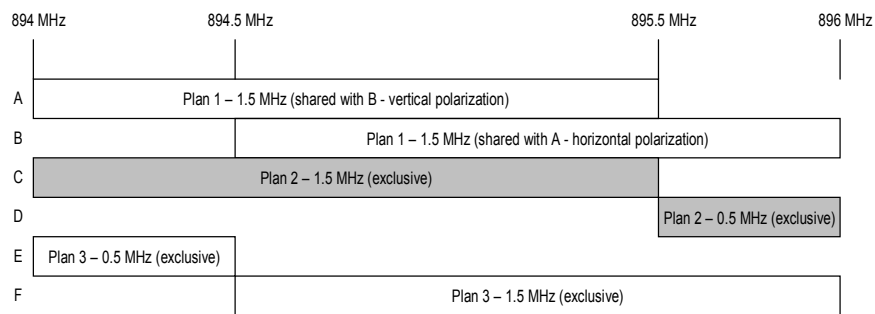
Band Plan 3, an exclusive 1 MHz license and an exclusive 3 MHz license (**licenses E and F, respectively**), with the blocks at opposite ends of the band from the second configuration. **License E** would be located in the lower 0.5 MHz portion of each 2 MHz band (0.5 MHz at 849.000-849.500 MHz paired with 0.5 MHz at 894.000-894.500 MHz). **License F** would be located in the upper 1.5 MHz portion of each 2 MHz band (1.5 MHz at 849.500-851.000 MHz paired with 1.5 MHz at 894.500-896.000 MHz).

Air-Ground Band Plan Options

Ground



Airborne



Requirement To Provide Air-Ground Service. Licensees will be required to provide service to airborne locations. Service may be any type (e.g., voice, data, broadband internet) and may be provided to any or all aviation markets (e.g., commercial, government, and general). A licensee may not provide ancillary land mobile or fixed services in this spectrum. Licensees may use any existing or future technology that can fit within their assigned spectrum block.

Eligibility Restriction. No party may obtain a controlling interest, either at auction or by a post-auction transaction, in more than 3 MHz of spectrum (either shared or exclusive) in the 800 MHz air-ground band. Each of the three band configurations contains two licenses and each includes at least one 3 MHz license. Accordingly, no party may have a controlling interest in more than one license in the band plan implemented as a result of the Commission’s auction of new air-ground licenses. For purposes of this eligibility restriction, individuals and entities with either *de jure* or *de facto* control of a licensee in the band will be considered to have a controlling interest in the licensee. *De jure control* is evidenced by holdings of greater than 50 percent of the voting stock of a corporation, or in the case of a partnership, general partnership interests. *De facto control* is determined on a case-by-case basis.

The Commission will apply the definitions of “controlling interests” and “affiliate” currently set forth in Sections 1.2110(c)(2) and 1.2110(c)(5) of the Commission's rules. See 47 C.F.R. §§ 1.2110(c)(2), (5). These provisions define controlling interests and affiliates for the purpose of determining auction applicants’ eligibility for small business provisions. Together with the other provisions of Sections

1.2110(c)(2) and 1.2110(c)(5), these provisions will ensure that no entity will hold a controlling interest in more than 3 MHz of spectrum (shared or exclusive) in the 800 MHz air-ground band.

Requirement To File Spectrum Sharing Plan. If **Band Plan 1** (which is comprised of two overlapping 3 MHz licenses) is implemented, the new licensees must:

- Jointly file a spectrum sharing and site selection plan with the Wireless Telecommunications Bureau (Bureau) within six months of the initial grant of their spectrum licenses. (The Bureau will issue a public notice prior to the Commission’s auction of new 800 MHz air-ground spectrum licenses in which it will specify the filing requirements for the plan.)

Note: In the event that the parties determine that more than six months is required to prepare and file the plan, they may request an extension of the six-month period.

- Notify the Bureau of any changes to the plan.

Note: The parties may seek confidential treatment of the plan. *See, e.g.*, 47 C.F.R. § 0.459.

The Commission expects the parties to engage in good faith negotiations in developing and implementing their spectrum sharing plan. If the two licensees cannot agree on a spectrum sharing plan or if a dispute arises under their initial or amended agreement, the Commission would encourage them to use binding arbitration or other alternative dispute resolution procedures. Alternatively, either party may request that the Commission resolve major disputes by filing, for example, a petition for declaratory ruling; the Commission would endeavor to resolve such matters expeditiously.

Spectrum Leasing, Partitioning and/or Disaggregation. Future licensees in the 800 MHz air-ground band, as well as other interested parties, will have the opportunity to engage in spectrum leasing under the Commission’s rules. *See* 47 C.F.R. § 1.9005. Future licensees will also be permitted to engage in partitioning and/or disaggregation of their spectrum. *See* 47 C.F.R. §§ 1.948(e)-(f). New licensees also may reconfigure their spectrum to accommodate multiple overlapping or exclusive air-ground systems through spectrum leasing, partitioning, disaggregation, or a combination of these mechanisms.

Competitive Safeguards. 800 MHz Air-Ground Radiotelephone Service licensees are classified as commercial mobile radio service (CMRS) providers and thus are subject to common carrier regulation under Title II of the Communications Act. *See* 47 U.S.C. § 332(c)(1); 47 C.F.R. §§ 20.9(a)(8), 20.15(a). Air-ground licensees are required to provide service upon reasonable request, and their “charges, practices, classifications, and regulations for and in connection with” service must be just and reasonable. *See* 47 U.S.C. § 201(b). Air-ground licensees also may not “make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with a like communication service,” and may not afford any undue or unreasonable preference or advantage to any person or class of persons. Accordingly, if an air-ground licensee were to unreasonably discriminate in its service rates, terms, or conditions, it could be subject to enforcement action by the Commission as well as a complaint proceeding initiated pursuant to Section 208 of the Communications Act. Sections 201 and 202 are enforced through the formal complaint process established in section 208 of the Act, 47 U.S.C. § 208. Under Section 208, any aggrieved party may file a petition with the Commission complaining of an alleged violation of these provisions.

i. Transition of Incumbent Station KNKG804

The *Report and Order* grants Verizon Airfone, the sole incumbent currently operating in the 800 MHz air-ground band, a non-renewable license for a five-year term.

If **Band Plan 1 or 2** is the winning configuration at auction, Verizon Airfone's incumbent system must cease operations in the lower 1.5 MHz portion of each 2 MHz air-ground band within twenty-four months of the initial date of grant of a new license. Verizon Airfone may relocate its incumbent operations to the upper 0.5 MHz portion of each 2 MHz band (0.5 MHz at 850.500-851.000 MHz paired with 0.5 MHz at 895.500-896.000 MHz) and may continue to operate under the renewal authorization until the end of the five-year license term.

If **Band Plan 3** is the winning configuration at auction, Verizon Airfone's incumbent system must cease operations in the upper 1.5 MHz portion of each 2 MHz air-ground band within twenty-four months of the initial date of grant of a new license. Verizon Airfone may relocate to the lower 0.5 MHz portion of each 2 MHz band (0.5 MHz at 849.000-849.500 MHz paired with 0.5 MHz at 894.000-894.500 MHz) and may continue to operate under the renewal authorization until the end of the five-year license term.

Verizon Airfone may reconfigure the narrowband channelization of its existing system in the upper 0.5 MHz portion of each 2 MHz band (or lower 0.5 MHz portion of each band if **Band Plan 3** is implemented) any way it wants, including using control channel(s) of any authorized bandwidth less than 6 kHz (not limited to 3.2 kHz as they were under the former rules). If Verizon Airfone acquires a new spectrum authorization as a result of competitive bidding, it could elect to continue its incumbent operations under such new authorization.

Reimbursement of Relocation Costs. Verizon Airfone must bear any costs for relocating its narrowband operations in the air-ground band at the end of the twenty-four month transition period. A new air-ground licensee could seek to negotiate and compensate Verizon Airfone to relocate earlier than required by the terms of Verizon Airfone's new license; Verizon Airfone, however, will not be obligated to engage in such negotiations.

Construction Requirements. The Commission adopted a five-year substantial service construction requirement for the new spectrum licenses other than the 1 MHz spectrum licenses D and E. At the end of the five-year construction period, a holder of spectrum licenses A, B, C, or F must provide substantial service to aircraft. Substantial service is defined as service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal. There are two safe harbors that would satisfy this substantial service obligation. First, construction and operation of twenty base stations, with at least one base station in each of the ten FAA regions at the five-year benchmark would constitute substantial service. Alternatively, the construction and operation of base stations capable of serving the airspace of at least twenty-five of the fifty busiest airports (as measured by annual passenger boardings) at the five-year benchmark would constitute substantial service. The Commission did not establish a construction requirement for spectrum licenses D and E.

ii. Technical Standards

The Commission adopted the minimal set of technical rules necessary to implement the three alternative band plan configurations that will be subject to auction. Generally, these rules provide licensees flexibility to deploy any type of transmission technology, provided that the radio emissions produced fit within a licensee's assigned spectrum. The new technical rules limit only transmitting power and the power level of unwanted emissions. Under the new rules, an air-ground licensee will be allowed greater flexibility than under the current rules to deploy the technologies, both now and in the future. For example, licensees could utilize directional or smart antennas to increase capacity. As a general matter, the new technical rules are crafted to allow sufficient power to provide robust air-ground services, while limiting the potential for harmful interference to services operating in adjacent spectrum.

Transmitting power limits. The Commission concluded that a ground station maximum power limit of 500 Watts effective radiated power (ERP) and an airborne mobile station maximum power limit of

12 Watts ERP will allow a licensee of a 3 MHz spectrum block to deploy CDMA2000 1xEV-DO and/or FLASH-OFDM with an ample margin. Installations will also be subject to the radiofrequency radiation exposure limits rules set forth in Section 1.1310 of the Commission's rules (47 C.F.R § 1.1310).

Interference to air-ground from adjacent services. Under current FCC rules, new air-ground systems should be able, through careful ground station site selection, and through technical coordination with the licensees in adjacent services, to build out their systems. Potential licensees should plan on obtaining qualified engineering advice regarding system design and ground station site selection, taking fully into account the existing radio frequency environment at candidate sites.

Interference to Cellular Block B. The Commission determined that applying standard Out-of-Band Emission (OOBE) rules will be adequate to limit unwanted emissions between ground stations in the air-ground service and base stations in the cellular service. Standard OOBE rules also provide that the Commission may require greater attenuation of unwanted emissions in the event it is necessary to prevent interference to other services. The Commission also concluded that OOBE limits and the distance separation make it likely that the mobile units in these two services will continue to operate in adjacent spectrum without harmful interference problems. Nevertheless, if an air-ground licensee elects to operate aircraft mobile transmitters on the ground or during approach and take-off, it may find it necessary in some cases to provide additional attenuation of OOBE falling into the spectrum below 894 MHz, in order to avoid interference to cellular phones in use in the immediate vicinity of airports.

Interference to Public Safety. The Commission adopted essentially the same interference abatement obligation rule as that adopted for the cellular service in the 800 MHz Order, 19 FCC Rcd 19651 (2004). Under this rule, an air-ground licensee may receive an electronic initial notification of interference from non-cellular licensees in the 800 MHz band. After receiving such a notification, the air-ground licensee must respond, analyze the interference to identify the source, and take mitigation steps to resolve it. The air-ground licensee must also notify public safety and critical infrastructure licensees, who have asked to be notified, prior to construction of a new ground station. The FCC encourages air-ground, public safety, and critical infrastructure licensees to work collaboratively to resolve interference using mediation and other appropriate forms of alternative dispute resolution procedures.

Interference to 900 MHz Specialized Mobile Radio (SMR) base receivers. Air-ground licensees and 900 MHz SMR licensees should cooperate to resolve any interference problems, particularly where 900 MHz SMR base stations are located near airport runways.

Miscellaneous Interference Issues. The Commission applied its harmonized flexible OOBE limits rule, which currently applies to cellular and broadband PCS, *see* 47 C.F.R. §§ 22.917, 24.238, to the 800 MHz Air-Ground Radiotelephone Service. In the event that band plan 2 or 3 is implemented, the exclusive licensees would be subject to the OOBE standards between their spectrum blocks, as well as outside the air-ground band.

Miscellaneous Technical Rules. The frequency stability of equipment must be sufficient to ensure that, after accounting for Doppler frequency shifts, the occupied bandwidth of the fundamental emissions remains within the authorized frequency bands of operation. In the event that **Band Plan 1** is implemented and licenses for spectrum sharing are issued, the licensees may choose to agree upon any number of miscellaneous technical standards that may be needed to facilitate shared spectrum operation and include them in the spectrum sharing plan that they would file with the Wireless Telecommunications Bureau.

B. 400 MHz Air-Ground Radiotelephone Service

The Commission revised and eliminated certain rules governing this service and also updated and reorganized the general aviation air-ground rules.

1. Form 409, Airborne Mobile Radio Telephone License Application

The Commission took the following actions:

- **Redesignated current Section 22.803** of the general Air-Ground Radiotelephone Service rules **as new Section 22.807** in the General Aviation Air-Ground Station rules and deleted certain superfluous language that relates to the Rural Radiotelephone Service.
- **Eliminated**, by revising **Sections 1.903(c) and 22.3(b)**, the requirement that an authorization be obtained to operate general aviation airborne mobile stations in the Air-Ground Radiotelephone Service.
- **Eliminated FCC Form 409** and **deleted** references to that form in Sections 1.1102 and 1.2003 of rules.

2. Idle Tone

The FCC eliminated the requirement that the Air-ground Radiotelephone Automated Service (AGRAS) systems transmit an idle tone. The **deletion of Section 22.811** from the rules, however, in no way prohibits carriers from employing an idle tone if they choose to do so. Thus, to the extent that idle tone transmissions are deemed valuable by system operators, they are free to continue to use them, but they are no longer mandated.

3. Construction Period for General Aviation Ground Stations

The Commission **corrected** the reference to former Section 22.142 in Section 22.815 to specify the actual rule section regarding construction and coverage requirements, which is Section 1.946.

4. AGRAS

The Commission **deleted Section 22.819**, which required AGRAS stations to use a specified operating technology. Deletion of the rule does not mean that the previously required AGRAS protocols are prohibited. To the contrary, the continued use of these AGRAS protocols is permitted if licensees believe it would be appropriate. Use of these protocols simply is no longer mandated.

C. Revision of Part 22 Non-Cellular Rules

1. Scope and Authority—Authorization Required, General Eligibility, and Definitions

- The Commission **revised Sections 22.3(b), 22.7, and 22.99** by replacing the term “common carrier” with the term “licensee,” and thus deleted the requirement that licensees in Part 22 services be common carriers.
- **Revised Section 22.1(b)** by deleting the reference to “domestic common carrier.”
- In **Section 22.401**, deleted the words “Communications common carriers” and replaced with the words “Eligible entities.” *See* 47 C.F.R. § 22.7. These revisions implement the decision

to remove the common carrier restriction from the Part 22 eligibility rules.

- **Section 22.351**, regarding channel assignments, was similarly amended.
- **Deleted** the definitions for Radio Common Carrier and Wireline Common Carrier, as these terms are no longer used in Part 22, and **corrected** references to the term “Air-ground Radiotelephone Service” contained in several definitions in Section 22.99 to read “Air-Ground Radiotelephone Service.”

The actions taken by the Commission here do not impact the ability of Part 22 licensees to elect common carrier status. Thus, these rule changes do not mean that common carriers lose any legal or regulatory protections. The FCC’s objective was to remove the requirement that Part 22 licensees be common carriers (*i.e.*, remove the eligibility restriction), without impacting the ability of licensees to choose such status if so desired.

2. Licensing Requirements and Procedures

i. Construction Prior to Grant of Application

Section 22.143(d)(4) of the rules provides that, for any pre-grant construction or alteration that would exceed the requirements of Section 17.7 (47 C.F.R. § 17.7 - antenna structures requiring notification to the FAA) the licensee must notify the FAA and file “a request for antenna height clearance and obstruction and marking specifications (FCC Form 854).” The Commission revised this form by **amending Section 22.143(d)(4)** of the rules to include the correct filing location for FCC Form 854 as “WTB, Spectrum Management Resources and Technologies Division, 1270 Fairfield Road, Gettysburg, PA 17325.”

ii. Computation of Distance

The Commission **recodified Section 22.157 as new Section 1.958 in Part 1, Subpart F**. This will make the Section 22.157 distance calculation method applicable to all Wireless Radio Services described in Parts 1 (except Parts 21 and 101 as explained below), 20, 22, 24, 27, 80, 87, 90, 95, and 97 (*see* 47 C.F.R. § 1.901) and supersede any conflicting regulations in these Parts (*see* 47 C.F.R. § 1.902). The software used by the Commission to process applications under Parts 21 (Domestic Public Fixed Radio Services) and 101 (Fixed Microwave Services) is programmed to round the result of distance calculations to the nearest tenth of a kilometer. Accordingly, the FCC included language in new Section 1.958 to indicate that distance calculations for applications under these parts must be rounded to the nearest tenth of a kilometer. Recodification of Section 22.157 in Part 1 is a more workable, practical approach for applicants. If an applicant deems the distance calculation methodology set forth in new Section 1.958 to not be accurate, it can always seek a waiver to use an alternative methodology under the Commission’s waiver standards.

iii. Computation of Terrain Elevation

The Commission **recodified Section 22.159 as new Section 1.959 in Part 1, Subpart F**. Part 90 services in the 470-512 MHz band, due to their proximity to TV operations, will continue to be governed by Section 90.309(a)(4). 47 C.F.R. § 90.309(a)(4). Thus, all wireless services under Parts 1, 20, 22, 24, 27, 80, 87, 90 (except the 470-512 MHz band), 95, 97 and 101 will be subject to the same computation methodology.

iv. Amplitude Compandored Single Sideband Modulation (ASSB)

Section 22.161 of the rule is obsolete in light of Section 22.357, which permits Part 22 licensees to use any emission type that complies with applicable emission limits. Therefore, the Commission **deleted Section 22.161**. Also, the reference to this section in the definition of “Channel” in Section 22.99 was eliminated.

3. Operational and Technical Requirements

i. Channel Assignment Policy

Section 22.351 sets forth the general policy for the assignment of Public Mobile Service (PMS) channels. The Commission **amended Section 22.351** by replacing the term “common carrier” with the term “licensee.”

ii. Interference Protection

The Commission **modified** the relevant **portion of Section 22.352** to read “Public Mobile Service stations operating in accordance with applicable FCC rules and the terms and conditions of their authorizations are normally considered to be non-interfering.” The adopted streamlined wording more accurately reflects how the Commission currently addresses interference issues: that operation consistent with Commission rules and the applicable authorization—whether on a site-by-site basis or on a geographic area basis—creates a presumption of non-interfering operation.

iii. Emission Types and Emission Masks

Consistent with the recent increased use of OOBE limits, the Commission **replaced** the emission mask requirements found in Sections 22.357, 22.359, and 22.861 with an OOBE limitation. The FCC **clarified** for purposes of this proceeding that OOBE limitations include what would be termed “spurious” emissions under the ITU standards.

iv. Standby Facilities

The Commission **eliminated Section 22.361** from the rules.

v. Directional Antennas

The Commission **eliminated** Section 22.363 and Table C-2 to Section 22.361 from the rules.

vi. Wave Polarization

The Commission **deleted** Section 22.367 from the rules.

vii. Access to Transmitters

The Commission **removed** Section 22.373 from the rules.

viii. Replacement of Equipment

The Commission **eliminated** Section 22.379 from the rules.

ix. Auxiliary Test Transmitters

The Commission **eliminated** Section 22.381 from the rules.

x. In-building Radiation Systems

Commission staff currently is examining a set of issues related to the appropriate regulatory treatment of wireless boosters used to improve or facilitate service in a number of areas, including buildings. Accordingly, the FCC addressed Section 22.383 in the context of that examination. **The Commission clarified** that under current policies, such devices may only be operated by a licensee or pursuant to the licensee’s permission and control, unless they fall under the power limits for unlicensed devices under the Part 15 rules.

4. Developmental Authorizations

i. Developmental Authorization of 43 MHz Paging Transmitters

The Commission **deleted** Sections 22.411 and 22.531(a) from the rules.

ii. Developmental Authorization of 928-960 MHz Fixed Transmitters

The Commission **eliminated** Section 22.415 and **revised** Section 22.625(a) by eliminating all text following the first sentence that pertains to short-spaced developmental authorizations under Section 22.415.

iii. Developmental Authorization of Meteor Burst Systems

The Commission **deleted** Sections 22.417, 22.725(c), and 22.729 from the rules. It also **deleted** the definition of “meteor burst propagation mode” in Section 22.99, the Section 22.313(a)(3) station identification requirements for Rural Radiotelephone Service subscriber stations using meteor burst propagation, and the Section 22.727(f) limits on transmitter output power for meteor burst stations.

5. Paging and Radiotelephone Service Rules

i. Composite Interference Contour Over Water

The Commission **amended** Section 1.929(c)(1) regarding expansions of the composite interference contour (CIC) of a site-based licensee in the Paging and Radiotelephone Service, Rural Radiotelephone Service, or 800 MHz Specialized Mobile Radio Service. The amended rule treats expansions of the CIC over water, on a secondary, non-interference basis to any geographic area licensee in the same area, as minor, not major, modifications of license. As a result, such expansions of the CIC are permissive and no notification to the Commission is required. Moreover, the Commission will no longer require that site-based licensees automatically notify incumbent geographic area licensees of the technical parameters of a CIC expansion over water. Also, the FCC adopted the definition of “over water” as “over bodies of water that extend beyond county boundaries including, but not limited to, oceans, the Gulf of Mexico, and the Great Lakes.”

ii. Nationwide Network Paging Channels

The Commission **deleted** Sections 22.313(a)(5), 22.531(b) and 22.551 from the rules.

iii. Additional Channel Policies

The Commission **deleted** Sections 22.539 and 22.569 from the rules.

iv. Provision of Rural Radiotelephone Service on Paging Channels

The Commission **deleted** Section 22.563 from the rules.

v. Transmission Power Limits

The Commission **deleted** Section 22.565(g) so that test transmitters may operate, pursuant to Section 22.565(a), at a limit of 150 watts. The FCC noted that because it has decided to permit auxiliary test transmitters to operate on both base and mobile frequencies, licensees can now choose to operate on either the base or the mobile side of the frequency, subject to the 150-watt limit under Section 22.565(a).

vi. Dispatch Service

The Commission **deleted** Section 22.577 from the rules.

vii. Channels for Point-to-Point Operation—Microwave Channels

The Commission **deleted the microwave channels** from the Section 22.591 table and **deleted** Section 22.591(b) regarding the assignment of such channels. The FCC will allow the licenses for these microwave channels to expire at the end of their current authorizations, and the Commission will not renew them for another license term. These microwave incumbents will, in the meantime, continue to be subject to Sections 22.601 and 22.602 (although once their license terms end, these sections will become superfluous). The Commission **deleted** the cross-reference to Section 22.591 in Sections 22.601 and 22.602, referencing the 2110-2130 and 2160-2180 MHz channels instead.

viii. ERP Limits

Although the Commission **deleted the microwave channels** listed in Section 22.591, these microwave licensees are still subject to Section 22.593, which specifies the EIRP of the microwave channels listed in Section 22.591. Consequently, the FCC will not amend this rule until after the subject licenses have expired.

ix. Channel Usage Reports

The Commission **eliminated** Section 22.655 from the rules.

6. Rural Radiotelephone Service Rules—Channels for Basic Exchange Telephone Radio Systems (BETRS)

The Commission **eliminated** Section 22.757 from the rules and the first sentence of Section 22.725 was **amended** to provide that the channels listed therein are available for paired assignment to BETRS.

7. Offshore Radiotelephone Service Rules

The Commission **removed** the reference to “common carriers” in Section 22.1003 in order to maintain consistency among the Part 22 Public Mobile Services.

III. IMPACT ON SMALL BUSINESS

The Commission does not anticipate any adverse impact on small entities resulting from either reconfiguration of the 800 MHz Air-Ground Radiotelephone Service band plan or revision of the related service rules. Regarding the modification or elimination of rules stemming from its Biennial Regulatory Review responsibilities, the FCC does not anticipate any adverse impact on small entities. To the

contrary, to the extent that there is any impact at all, streamlining and harmonizing technical and operational rules should result in decreasing regulatory burdens that benefit both small and large entities.

A. Recordkeeping and Other Compliance Requirements

In this *Report and Order*, the Commission did not adopt any new rules that would add reporting, recordkeeping, or other compliance requirements. The Commission only modified or eliminated certain rules that should result in a reduction in economic burdens for small and other sized entities.

If **Band Plan 1** is implemented as a result of the Commission's auction of new 800 MHz commercial Air-Ground Radiotelephone Service licenses, the new licensees will be required to:

- Jointly file a spectrum sharing and site selection plan with the Bureau within six months of the initial grant of their spectrum licenses. (The Bureau will issue a public notice prior to the Commission's auction of new 800 MHz air-ground spectrum licenses in which it will specify the filing requirements for the plan.)

Note: In the event that the parties determine that more than six months is required to prepare and file the plan, they may request an extension of the six-month period.

- Notify the Bureau of any changes to the plan.

Note: The parties may seek confidential treatment of the plan. *See, e.g.*, 47 C.F.R. § 0.459.

The changes to the Commission's rules in this *Report and Order* will become effective May 13, 2005.

IV. WEBLINK

Report and Order and Notice of Proposed Rule Making – FCC 04-287, released on February 22, 2005.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-287A1.doc
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-287A2.doc
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