



Federal Communications Commission  
Washington, D.C. 20554

October 5, 2018

DA 18-1029

## Small Entity Compliance Guide

**Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service,  
Including Changes in Licensing of Unserved Area, et al.**

**FCC 18-92**

**WT Docket Nos. 12-40, 10-112 and 16-138**

**RM Nos. 11510 and 11660**

**Released July 13, 2018**

**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—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.**

**In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then 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 it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:**

**1-888-CALL-FCC (1-888-225-5322)**

**TTY: 1-888-TELL-FCC (1-888-835-5322)**

**Videophone: 1-844-4-FCC-ASL (1-844-432-2275)**

**Fax: 1-866-418-0232**

**TABLE OF CONTENTS**

I. OBJECTIVES OF THE PROCEEDING .....1

II. COMPLIANCE REQUIREMENTS .....1

    A. Deletion of 47 CFR §§ 22.301 and 22.303 .....1

    B. Deletion of 47 CFR § 22.325 .....2

    C. Deletion of 47 CFR § 22.321 as Duplicative; Obligations Continue Under 47 CFR § 90.168.....2

    D. Deletion of 47 CFR § 22.927 as Duplicative; Obligations Continue Under 47 CFR § 1.903(c) .....2

    E. Deletion of 47 CFR § 22.3 as Duplicative; Obligations Continue under 47 CFR § 1.903 .....3

    F. Continuing Obligations Under 47 CFR §§ 22.143(a), 22.921, and 22.925 .....3

III. RECORDKEEPING AND REPORTING REQUIREMENTS .....4

IV. IMPLEMENTATION DATE .....4

V. INTERNET LINKS .....4

## **I. OBJECTIVES OF THE PROCEEDING**

In the *Third Report and Order* in WT Docket No. 12-40, *et al.* (*Third R&O*), the Commission deleted six Part 22 rules that applied to licensees in the 800 MHz Cellular Radiotelephone (Cellular) Service and, in some cases, to licensees in other Public Mobile Services (PMS) as well. Specifically, the Commission eliminated certain Part 22 recordkeeping and reporting obligations that were adopted more than two decades ago—obligations for which there is no longer a benefit to outweigh the compliance costs and burdens imposed on licensees. It also deleted certain other Part 22 rules that are largely duplicative of later-adopted rules and thus are no longer necessary.

These steps to remove unnecessary regulatory burdens for Cellular Service and other Part 22 licensees will free up more resources for investment in new technologies and allow greater spectrum efficiency to meet increasing consumer demand for advanced wireless services. In addition, the reforms will provide Cellular Service and other Part 22 licensees with enhanced flexibility and advance the goal of ensuring more consistency in licensing across commercial wireless services, while taking into account unique features of each service.

With the *Third R&O*, the Commission has terminated the Cellular Reform proceeding in WT Docket No. 12-40, including RM Nos. 11510 and 11660.

## **II. COMPLIANCE REQUIREMENTS**

In the *Third R&O*, the Commission modified the Part 22 compliance requirements for licensees with the following key actions: (1) elimination of certain administrative and recordkeeping requirements by deleting Sections 22.301, 22.303, and 22.325; and (2) deletion of Sections 22.3, 22.321, and 22.927, which are largely duplicative of later-adopted provisions. The Commission also considered requests by commenters to delete three other Part 22 rules—Sections 22.143(a), 22.921, and 22.925—but as discussed below, the Commission retained these rules and the compliance requirements for licensees without change, finding either that deletion would not serve the public interest, or that the commenters' issues are being addressed in a separate proceeding.

### **A. Deletion of 47 CFR §§ 22.301 and 22.303**

- Sections 22.301 and 22.303, titled (respectively) “Station inspection” and “Retention of station authorizations,” have both been deleted. The deletion removed the collective requirement that hard copies of license authorizations and other records be maintained by all Part 22 licensees for each station and that such records and the station itself be made available for inspection upon request.
- Licensees will no longer need to print—or request that the FCC mail—hard copies of authorizations and other records, and will no longer need to maintain copies of such documents at their stations.
- In lieu of hard copies of license authorizations, licensees can access the Commission’s Universal Licensing System (ULS) for electronic access to their official authorizations at all times.
- Notwithstanding deletion of the provision concerning station inspections, the Commission retains its general station inspection authority under the Communications Act of 1934, as amended. *See* 47 U.S.C. 303(n).

**B. Deletion of 47 CFR § 22.325**

- Section 22.325, titled “Control points,” has been deleted, removing the requirement that “[e]ach station in the Public Mobile Services [ ] have at least one control point and a person on duty who is responsible for station operation.”
- Part 22 licensees will no longer need to expend resources to maintain and staff control points at their stations.

**C. Deletion of 47 CFR § 22.321 as Duplicative—Obligations Continue Under 47 CFR § 90.168**

- Section 22.321, titled “Equal employment opportunities,” which established licensee obligations for all Part 22 licensees for equal employment opportunity (EEO) programs and policies to assure nondiscriminatory practices in recruitment, placement, promotion, and other areas of employment practices, has been deleted in its entirety as duplicative of the later-adopted Section 90.168.
- Section 90.168 states that it applies to all commercial mobile radio services (CMRS), which includes the Part 22 PMS, and thus it entirely subsumes Section 22.321.
- The obligation in paragraph 22.321(c) that required all Part 22 licensees (i.e., PMS licensees), regardless of their size, to submit an annual report to the Commission indicating whether any EEO complaints had been filed at the federal, state, or local level against the licensee, is similarly found in Section 90.168(c), which requires that an EEO complaints report be filed annually regardless of the licensee’s size.
- All CMRS licensees, including PMS licensees, will continue to be subject to all the requirements set forth in Section 90.168, including the annual EEO complaints report filing requirement under Section 90.168(c).<sup>1</sup>

**D. Deletion of 47 CFR § 22.927 as Duplicative—Obligations Continue Under 47 CFR § 1.903(c)**

- Section 22.927, titled “Responsibility for mobile stations,” which was adopted when the Cellular Service was in its nascency and made Cellular licensees “responsible for exercising effective operational control over mobile stations receiving service through their Cellular systems,” including mobile stations operated by subscribers to a different Cellular licensee, has been deleted as largely duplicative of Section 1.903(c).
- Under Section 1.903(c), adopted much later than Section 22.927, the “[a]uthority for subscribers to operate mobile or fixed stations in the Wireless Radio Services [WRS],” which includes the Cellular Service, “is included in the authorization held by the licensee providing service to them.” Consequently, when a WRS licensee, as

---

<sup>1</sup> The Commission did not propose to remove the Part 90 rule’s requirement in paragraph 90.168(c), nor did any commenters suggest doing so. Part 90 rules were therefore beyond the scope of this proceeding and the Commission declined to eliminate the annual EEO complaints reporting requirement in 47 CFR 90.168(c).

the host carrier, provides service to a subscriber of another carrier (i.e., a subscriber that is outside its own provider's service area), the subscriber's use of his or her mobile phone to access the spectrum falls under that host carrier's authorization.

- Licensees will continue to be subject to Section 1.903(c), which captures the purpose underlying Section 22.927.

**E. Deletion of 47 CFR § 22.3 as Duplicative—Obligations Continue Under 47 CFR § 1.903**

- Section 22.3, titled "Authorization required," is another legacy rule related to Section 22.927 that was applicable to all Part 22 licensees (i.e., not only the Cellular Service), and has been deleted as duplicative of Section 1.903. Section 22.3 required that PMS stations be used and operated only in accordance with applicable Commission rules, only with a valid authorization granted by the Commission, and further specified that authority for subscribers to operate mobile or fixed PMS stations is included in the authorization of the licensee providing service to them.
- Licensees will continue to be subject to Section 1.903, which includes the provisions of Section 22.3, but which applies more broadly to numerous wireless services in addition to the PMS.

**F. Continuing Obligations Under 47 CFR §§ 22.143(a), 22.921, and 22.925**

In the *Third R&O*, after consideration of requests to delete the Part 22 rules described below, the Commission retained them and the associated compliance obligations without change:

- *47 CFR 22.143(a)—Commencement of Construction Prior to Grant of Application*
  - Section 22.143 permits applicants to begin construction of PMS facilities prior to grant of their applications, and 22.143(a) specifies that such construction may begin "35 days after the date of the Public Notice listing the application for that facility as acceptable for filing."
  - All Part 22 licensees remain subject to the requirements of 22.143(a).
- *47 CFR 22.921—911 Call Processing Procedures*
  - Section 22.921 requires that certain Cellular Service mobile telephones capable of operating in the analog mode must incorporate a special procedure, as set forth in the rule, for processing 911 calls.
  - Cellular licensees using analog technology remain subject to the requirements of Section 22.921, ensuring that 911 calls get through in those circumstances.

- *47 CFR 22.925—Prohibition on Airborne Operation of Cellular Telephones*
  - Section 22.925 prohibits the operation of Cellular Service telephones aboard “airplanes, balloons or any other type of aircraft . . . while such aircraft are airborne . . . .”
  - Cellular licensees remain subject to the requirements of Section 22.925 while the Commission addresses the use of mobile services aboard aircraft in WT Docket No. 13-301, a separate open Commission proceeding.

### **III. RECORDKEEPING AND REPORTING REQUIREMENTS**

The Commission’s actions in the *Third R&O* did not impose any additional recordkeeping or reporting obligations, but the Commission did modify certain existing recordkeeping and reporting obligations, as described above in Section II.

### **IV. IMPLEMENTATION DATE**

Deletion of the following rules, as adopted in the *Third R&O*, became effective September 4, 2018, thirty (30) days after publication of the text or summary thereof in the Federal Register: Sections 22.3, 22.301, 22.321, 22.325, and 22.927.

The effective date of the Commission’s deletion of one rule in the *Third R&O*, Section 22.303, is pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule deletion shall become effective after the Commission publishes a notice in the Federal Register announcing OMB approval and the relevant effective date.

### **V. INTERNET LINKS**

A copy of the *Third R&O* is available at:  
<https://docs.fcc.gov/public/attachments/FCC-18-92A1.pdf>  
<https://docs.fcc.gov/public/attachments/FCC-18-92A1.docx>  
<https://docs.fcc.gov/public/attachments/FCC-18-92A1.txt>

A copy of the Federal Register Summary of the *Third R&O* is available at:  
<https://www.gpo.gov/fdsys/pkg/FR-2018-08-02/pdf/2018-16512.pdf>