

Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Parts 2 and 87 of the Commission's) WT Docket No. 00-77
Rules to Accommodate Advanced Digital)
Communications in the 117.975-137 MHz Band) RM Nos. 9376, 9462
and to Implement Flight Information Services in the)
136-137 MHz Band)

ERRATA

Released: June 5, 2000

By the Deputy Chief, Wireless Telecommunications Bureau:

This Errata makes minor corrections to the Initial Regulatory Flexibility Analysis that appeared as Appendix A of the *Notice of Proposed Rulemaking* in the above-captioned proceeding, FCC No. 00-160, which was released on May 15, 2000. The *Notice of Proposed Rulemaking* is corrected as follows:

1. Paragraph 28, page 13, shall read:

“28. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rulemaking*, WT Docket No. 00-77, 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.¹⁰⁰”

2. Appendix A, the Initial Regulatory Flexibility Analysis, is corrected as set forth in the attached Appendix A. This attachment replaces, in its entirety, the version originally appended to the *Notice of Proposed Rulemaking*.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen O'Brien Ham
Deputy Chief, Wireless Telecommunications Bureau

Attachment: Appendix A

¹⁰⁰5 U.S.C. § 603(a).

APPENDIX A
Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act ("RFA"),¹⁰¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice*. 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 this *Notice* provided above in paragraph 24. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration ("SBA"). *See* 5 U.S.C. § 603(a). In addition, the *Notice* and IRFA will be published in the Federal Register. *See id.*

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

1. Increased spectrum congestion within the 117.975-136 MHz band, due to increasing air traffic control communications requirements, which cause frequency assignments in this band to grow about four percent annually, compels the transition to digital communications technology. Further pressuring our aviation communications spectrum capacity is the explosive growth in data communications within the civil aviation communications spectrum band. This, combined with the FAA's role in administering the civil aviation communications spectrum, along with the public safety issues inherent with aviation communications, provides justification for our proposals in this *Notice*. The objective is to develop aviation communications spectrum policies for the civil aviation community while providing the FAA with the latitude it needs to meet its statutory requirements. Our proposals are aimed at being as least intrusive on the private sector as feasible, while achieving our public interest objectives.

B. Legal Basis.

2. The proposed action is authorized by Sections 4(i), 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r) and 332(a)(2).

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

3. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions, or entities. 5 U.S.C. § 601(6). The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.¹⁰² The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. § 601. In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.¹⁰³ A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the

¹⁰¹*See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

¹⁰²5 U.S.C. § 603(b)(3).

¹⁰³5 U.S.C. § 601(3).

SBA.¹⁰⁴ Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the [SBA], and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

4. The Commission has not adopted a definition of small business specific to the Air-Ground Radiotelephone Service, which is defined in section 22.99 of the Commission's Rules. 47 C.F.R. § 22.99. Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as “small businesses” or “small entities” under the SBA definition.

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

5. Current licensees are subject to minimal reporting, recordkeeping, and compliance requirements, *e.g.*, retaining a copy of their license, filing for renewal of their license after a period of years. Equipment manufacturers are required to certify that their products comply with the performance standards established by the Commission. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the actions proposed in this rulemaking proceeding.

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

6. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The first two and the fourth alternatives are not relevant at this stage of the proceeding, whereby the Commission would permit additional use of existing Aviation Radio Service frequencies and the establishment of a new service. The third alternative is reflected in the *Notice* in that the Commission has not specified the design standards for any potential radio apparatus but has limited its proposal to technical, performance standards for the use of the frequencies at issue. We seek comment on the impact on small entities of the proposals in the *Notice*.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.

7. None.

¹⁰⁴5 U.S.C. § 632.