

FCC FACT SHEET*
Wireless Hearing Aid Compatibility (HAC) NPRM
Notice of Proposed Rulemaking - WT Docket No. 17-228

Background: The Commission has several rules to ensure that consumers have access to wireless handsets that are compatible with hearing aid devices. Under current rules, all device manufacturers and wireless service providers, regardless of size, are required to file annual reports with the Commission on their hearing aid compatibility (HAC) deployment and compliance efforts. Numerous parties, particularly small and rural service providers, have sought relief from these reporting requirements on the basis that preparing the annual reports is burdensome and the costs of this information collection outweigh any benefits.

What the Notice of Proposed Rulemaking Would Do:

- Seek comment on amending the Commission’s reporting requirements to exempt non-nationwide service providers (Non-Tier I service providers) from annual reporting obligations.
- Ask whether the FCC could rely on informal complaints and other sources of information to identify instances of non-compliance by small providers instead of annual reporting requirements.
- Seek input on the costs and benefits of the proposed reporting exemption.
- Seek comment on other alternatives, including different scopes or triggers for the reporting exemption, and when any exemption should begin to apply.
- Ask whether the Commission could monitor the overall status of HAC handset availability by relying on the reports of manufacturers and Tier I carriers only and whether reporting obligations for those entities should also be streamlined or simplified.

* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in WT Docket No. 17-228, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.1200 *et seq.*

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

In the Matter of
Revisions to Reporting Requirements Governing
Hearing Aid-Compatible Mobile Handsets
WT Docket No. 17-228

NOTICE OF PROPOSED RULEMAKING*

Adopted: []

Released: []

Comment Date: [30 days after publication in FR]
Reply Comment Date: [45 days after publication]

By the Commission:

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I. INTRODUCTION

1. Currently, all wireless telecommunications service providers regardless of size must file annual reports providing information on handsets they offer that are compatible with hearing aids. For some time, numerous parties, especially rural and small service providers, have complained that preparing

* This document has been circulated for tentative consideration by the Commission at its September open meeting. The issues referenced in this document and the Commission’s ultimate resolutions of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The Commission’s ex parte rules apply and presentations are subject to “permit-but-disclose” ex parte rules. See, e.g., 47 CFR §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203. 3.

these annual reports is burdensome. While in many cases these reports have helped the Commission compile information for the public and monitor compliance with wireless hearing aid compatibility deployment benchmarks, we believe that, in light of various changes in the marketplace since these reporting requirements were adopted, the benefits of annual reporting by small, rural, and regional service providers may be outweighed by the burdens of this information collection on these entities.

2. Accordingly, in this Notice, we seek comment on revising the Commission's wireless hearing aid compatibility reporting requirements to provide relief to non-nationwide service providers. Specifically, we seek comment on whether the benefits of requiring an annual status report filing by small, rural, and regional service providers continue to outweigh the burdens this information collection places on these entities. The record in response to this Notice will help us evaluate public interest benefits associated with annual reporting and determine whether any unnecessary or outdated reporting requirement could be eliminated or streamlined to reduce burden, including administrative cost associated with such collection, while continuing to preserve benefits to consumers.

II. BACKGROUND

3. The Commission has several rules to ensure that consumers who need to use a wireless handset that is compatible with a hearing aid device are able to do so. For example, wireless device manufacturers and service providers are required to meet deployment benchmarks that require them to offer minimum numbers or percentages of hearing aid compatible handset models.¹ In addition, each service provider that operates a website is required to post a list of all hearing aid-compatible models that it currently offers, the ratings of those models, and an explanation of the rating system, as well as other information.² Service providers also must make hearing aid compatible handsets available for consumers to test in their stores.³

4. The rules also require all service providers, even those which are exempt from other hearing aid compatibility requirements, to file status reports with the Commission. In 2003, the Commission required covered device manufacturers and wireless service providers to submit hearing aid compatibility reports every six months from 2004 through 2006, and then annually in 2007 and 2008.⁴ In 2008, the Commission extended annual reporting requirements on an open-ended basis, and made further changes to the requirements.⁵ For service providers,⁶ status reports are now required to detail:

- (1) compliant digital wireless phone handset models offered to customers since the most recent report, identified by marketing model name/number(s) and FCC ID number;
- (2) for each such model, the air interface(s) and frequency band(s) over which it operates, the hearing aid compatibility ratings under ANSI C63.19 for each frequency band and air interface, and the months in which the model was available since the most recent report;
- (3) non-compliant phone models offered since the most recent report, identifying each model by marketing model name/number(s) and FCC ID number;
- (4) for each non-compliant model, the air interface(s) over which it operates and the months in

¹ See generally 47 CFR § 20.19(c) & (d) (M-rating and T-rating deployment benchmarks).

² See 47 CFR § 20.19(h).

³ See *id.* § 20.19(c)(4)(i) & (d)(4)(i).

⁴ See Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, Report and Order, 18 FCC Rcd 16753, 16787, para. 89 (2003).

⁵ See Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets, First Report and Order, 23 FCC Rcd 3406, 3410, para. 13 (2008) (*First Report and Order*).

⁶ The Commission also adopted similar revised report content requirements for manufacturers. See *id.* at 3444-45, 3446, paras. 97, 100; see also 47 CFR § 20.19(i)(2).

- which the model was available since the most recent report;
- (5) total numbers of compliant and non-compliant phone models offered to customers for each air interface over which the provider offers service as of the time of the report;
 - (6) information related to the retail availability of compliant phones;
 - (7) the levels of functionality into which the compliant phones fall and an explanation of the service provider's methodology for determining levels of functionality;
 - (8) status of product labeling;
 - (9) outreach efforts; and
 - (10) if a public website is maintained, the website address at which it provides information relating to the hearing aid-compatible handsets that it offers.⁷

5. The Commission required the same reporting content from all covered device manufacturers and service providers, regardless of size.⁸ It also clarified that the reporting requirements apply to all manufacturers and service providers, including those that come under the *de minimis* exception in the hearing aid compatibility rules.⁹ Instead of providing a once a year "snapshot," the Commission further clarified that manufacturers and service providers must provide the dates on which they began and ceased offering specific models during the past 12 months in order to verify compliance with all of the hearing aid compatibility rules at all relevant times.¹⁰ The Commission explained that these "requirements will help ensure that the reports enable the Commission to fulfill its responsibilities in monitoring the status of access to hearing aid-compatible handsets and verifying compliance with our rules, and will ensure that the public has additional useful information on compatible handsets."¹¹

6. In 2008, the Wireless Telecommunications Bureau (WTB), pursuant to delegated authority,¹² made electronic FCC Form 655 available for service providers and device manufacturers to use in submitting hearing aid compatibility status reports, and made its use mandatory beginning with the filing deadline for device manufacturers on July 15, 2009.¹³ These status reports in recent years have

⁷ *First Report and Order*, 23 FCC Rcd at 3444-45, 3446, paras. 97, 100; *see also* 47 CFR § 20.19(i)(3).

⁸ *First Report and Order*, 23 FCC Rcd at 3444, 3445-46, paras. 95, 98.

⁹ *Id.* at 3444, 3446, paras. 95, 99; *see* 47 CFR § 20.19(e)(1)(i) (stating that reporting requirements continue to apply even if a covered *de minimis* entity is exempt from all other hearing aid compatibility requirements). Entities that come under the *de minimis* exception include manufacturers or service providers that offer two or fewer handset models in an air interface. *See generally* 47 CFR § 20.19(e)(1)(i) (stating that "[m]anufacturers or service providers that offer two or fewer digital wireless handsets in an air interface in the United States are exempt from the requirements of this section in connection with that air interface, except with regard to the reporting requirements in paragraph (i) of this section" and that "[s]ervice providers that obtain handsets only from manufacturers that offer two or fewer digital wireless handset in an air interface in the United States are likewise exempt from the requirements of this section other than paragraph (i) of this section in connection with that interface.").

¹⁰ *See First Report and Order*, 23 FCC Rcd at 3444, para. 96. The wireless hearing aid compatibility rules require handset manufacturers and service providers to submit staggered reports annually to the Commission on the status of their compliance. *See* 47 CFR § 20.19(i)(1)-(3). Specifically, annual reports must be filed by July 15 of each year for device manufacturers and by January 15 of each year for service providers. *Id.* § 20.19(i)(1).

¹¹ *First Report and Order*, 23 FCC Rcd at 3444, para. 96.

¹² *See First Report and Order*, 23 FCC Rcd at 3447 para. 103; *see also* 47 CFR § 20.19(i)(4).

¹³ *See The Wireless Telecommunications Bureau Reminds Wireless Handset Manufacturers of Their Obligation To Report on the Status of Compliance with the Commission's Hearing Aid Compatibility Requirements by July 15, 2009*, Public Notice, 24 FCC Rcd 5821 (WTB 2009).

reflected near universal compliance with hearing aid compatibility requirements.¹⁴

7. Numerous parties, especially rural and small service providers, have asserted for some time that preparing annual status reports is burdensome.¹⁵ In 2016, the Rural Wireless Association (RWA), an association representing small and rural carriers, asserted that the annual reports “have proven to be extremely problematic for small carriers” and asked the Commission to exempt such service providers from the reporting requirements independent of any other actions with regard to the hearing aid compatibility rules that it may be considering in related rulemakings.¹⁶ RWA stated that “[m]any small companies are forced to have an employee devote several weeks annually to tracking HAC ratings,” and it sought immediate relief from Form 655 reporting requirements for these entities.¹⁷

III. DISCUSSION

8. We seek comment on whether to exempt a service provider that is not a Tier I carrier (Non-Tier I Service Provider) from the annual FCC Form 655 reporting requirement or otherwise to modify this requirement, while maintaining the reporting requirements for Tier I carriers and all handset manufacturers.¹⁸

9. We seek comment on whether the annual reporting requirement for Non-Tier I Service Providers is still necessary to achieve the Commission’s objectives for adopting the reporting requirement and whether the burden of complying with this reporting requirement for Non-Tier I Service Providers outweighs the associated benefits.¹⁹ The Commission, in adopting these reporting requirements, stated that its reporting requirements serve several purposes: providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment. We ask commenters to address the contribution of Non-Tier I Service Provider reports to these objectives and whether these reports are still necessary to achieve these objectives.

10. For example, we seek comment on the extent to which consumers rely on Non-Tier I Service Providers’ annual reports for information about handset models. We note that the Commission’s in-store testing and web site posting requirements will continue to apply if we adopt an exemption from the Form 655 reporting requirements. We seek comment on whether consumers will have sufficient

¹⁴ See generally 47 CFR § 20.19(c) & (d) (M-rating and T-rating deployment benchmarks). The majority of small and regional service providers have been meeting the enhanced 66 percent and 85 percent benchmarks that will not apply to them for several years.

¹⁵ See *Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets; Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Handsets*, Fourth Report and Order and Notice of Proposed Rulemaking, 30 FCC Rcd 13845, 13884, para. 92 n.248 (2015) (*Fourth Report and Order and Notice of Proposed Rulemaking*) (citing submissions filed in 2014 by Alaska Rural Coalition, Alaska Telephone Association, Competitive Carriers Association, and Rural Wireless Association, Inc.).

¹⁶ See Rural Wireless Association, Inc. Comments in WT Docket Nos. 07-250 and 15-285 (filed Jan. 28, 2016) (RWA Comments) at 4-5.

¹⁷ *Id.* at 5 n.17.

¹⁸ Section 20.19 defines a Tier I carrier as “a CMRS provider that offers such service nationwide.” *Id.* § 20.19(a)(3)(v). Tier II service providers are non-nationwide mid-sized CMRS providers with greater than 500,000 subscribers as of the end of 2001. Tier III service providers are non-nationwide small CMRS providers with no more than 500,000 subscribers as of the end of 2001. See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers*, CC Docket No. 94-102, Order to Stay, 17 FCC Rcd 14841, 14846-48 paras. 19-24 (2002).

¹⁹ In a separate docket, the Commission is considering broader changes to the hearing aid compatibility rules that may be appropriate in the event the Commission requires 100 percent of covered handsets to be hearing aid compatible. See *Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets*, Report and Order, 31 FCC Rcd 9336, 9353-54, para. 43 (2016) (*2016 HAC Report and Order*).

information from service providers' ongoing compliance with these requirements, as well as whether consumers can obtain information from other third-party resources.²⁰ We seek comment on whether these information sources render Form 655 reports unnecessary or redundant for purposes of information to the public, and whether they may be better or more accessible sources of information to the public about Non-Tier I Service Provider handset offerings than the status reports filed with the Commission. We also seek comment on whether the continued availability of Tier I carrier reports suggests that, in the aggregate, the informational benefit to consumers of Non-Tier I Service Provider reports will be minimal or otherwise support exempting them from reporting requirements.²¹ Similarly, are consumers informed to a greater degree about the availability of handset models in the marketplace from the reports of device manufacturers?

11. With regard to monitoring the compliance of Non-Tier I Service Providers with our rules, we seek comment on whether the Commission should rely on its informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other requirements. Given that these annual reports in recent years have reflected near universal compliance with the requirements, is detailed reporting from every small and regional service provider still justified to address any isolated instances of non-compliance by such providers?²² Would eliminating or modifying the reporting requirement help these service providers save costs without an appreciable negative impact on the Commission's enforcement objectives? For example, we note that the Commission already relies on the informal complaint process rather than reporting to monitor compliance with other hearing aid compatibility obligations, such as in-store testing requirements. We solicit comment on whether our enforcement objectives can be met by continuing to monitor the reports from device manufacturers and Tier I carriers.

12. We seek comment on whether Non-Tier I Service Provider reporting is necessary to meet the Commission's objective of gauging the overall state of access to wireless hearing aid-compatible handset models. Is it sufficient if the Commission only receives reports from manufacturers and Tier I carriers?²³ For instance, the Commission has previously recognized that Non-Tier I Service Providers have difficulty obtaining the newest hearing aid-compatible handsets in comparison to the Tier I carriers,²⁴ and we seek comment on whether the majority of newer compatible handset models on the market is reflected in Tier I carriers' status reports. Do Tier I carrier reports better reflect the feasibility of achieving hearing aid compatibility in handsets than the reports of Non-Tier I Service Providers?

²⁰ See, e.g., <https://www.gari.info/> (Global Accessibility Reporting Initiative).

²¹ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, Nineteenth Report, 31 FCC Rcd 10534, 10548, Table II.C.2 (2016).

²² See generally http://wireless.fcc.gov/hac/index.htm?job=reports_sp; see also 2016 HAC Report and Order, 31 FCC Rcd at 9343-49, paras. 20-33. In 2016, the Commission increased the percentage of hearing aid-compatible handsets that service providers and manufacturers are required to offer with two new percentage benchmarks: (1) 66 percent of offered handset models must be compliant following a two-year transition period for manufacturers, with additional compliance time for service providers, and (2) 85 percent of offered handset models must be compliant following a five-year transition period for manufacturers, with additional compliance time for service providers. *Id.* at 9336, para. 1. These new benchmarks apply at different periods beginning between 2019 and 2023 depending on the type of service provider and the benchmark at issue. See 47 CFR § 20.19(c)(2)(iii) & (c)(3)(iii)-(iv), (d)(2)(iii) & (d)(3)(iii)-(iv). For example, for non-nationwide providers, the 66 percent and 85 percent benchmarks apply starting in 2020 and 2023, respectively.

²³ We note that Non-Tier I Service Providers served less than two percent of all mobile wireless connections by the end of 2015. See *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Nineteenth Report, 31 FCC Rcd 10534, 10543, Chart II.B.2, 10544, Table II.B.1 (WTB 2016).

²⁴ See, e.g., *Fourth Report and Order and Notice of Proposed Rulemaking*, 30 FCC Rcd at 13871, para. 51.

Additionally, the Commission in 2010 noted the “growing distribution of wireless handsets through channels other than service providers.”²⁵ To what extent has this development reduced the importance of service provider reports in assessing access to compatible models? To monitor the state of hearing aid-compatible handset availability and technologies, we also seek comment on whether the Commission can rely on supplemental submissions for this type of information from stakeholders in open docket WT Docket No. 15-285.

13. We also seek comment on the burdens on Non-Tier I Service Providers of complying with the Form 655 reporting requirements. Do special circumstances make annual status reporting particularly burdensome for small, rural, and regional carriers? If so, what are these circumstances and what is the burden or cost that results from them?²⁶

14. We seek comment on all potential cost savings and other potential benefits of our proposed reporting exemption. The FCC Form 655 Instructions state “each response to this collection of information will take, on average, two and a half (2.5) hours.”²⁷ Is this estimate accurate? Are there resources or measures not accounted for in this estimate that are needed for small providers specifically to meet the reporting requirement?²⁸ Please explain all such burdens in detail. Because all non-reporting requirements under section 20.19 will continue to apply to Non-Tier I Service Providers in the event we adopt an exemption from the reporting requirement, including the obligation to offer a sufficient number of hearing aid-compatible handset models to meet the applicable benchmarks, parties should be careful to distinguish burdens that will continue to be incurred in complying with our section 20.19 rules, even in the absence of reporting requirements, such as burdens related to ascertaining the hearing aid compatibility status of various handset models offered to meet deployment benchmarks.²⁹

15. *Alternative Size Standard.* We seek comment on whether the scope of any exemption should be based on an alternative definition of carrier or size standard. Section 20.19 defines a Tier I carrier as “a CMRS provider that offers such service nationwide.”³⁰ Accordingly, a Non-Tier I Service Provider exemption would cover all non-nationwide providers, including small and regional providers. Instead of exempting all non-nationwide service providers, the scope of the exemption could be based on the number of subscribers and apply if a service provider offers service to no more than, for example, 500,000 subscribers, the number of subscribers used to define small (*i.e.*, “Tier III”) status in other proceedings.³¹ We seek comment on the feasibility of such an alternative approach, and whether it offers any advantages over using the Tier I standard that is already incorporated generally throughout the section

²⁵ See *Amendment of the Comm’n’s Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 11167, 11190, para. 61 (2010).

²⁶ To the extent parties support an alternative definition or size standard for a reporting exemption, we seek comment on the burdens applicable to providers meeting that definition or standard. See *infra* para. 144.

²⁷ See FCC Form 655 Instructions, at 12 (Dec. 2015), <http://wireless.fcc.gov/hac/FCCForm655Instructions.pdf>. The estimate “includes the time to read the instructions, look through existing records, gather and maintain the required data, enter the data in the Form 655 on-line template, and submit it electronically.” *Id.*

²⁸ See, e.g., RWA Comments at 5 n.17. We note that, although the reports are filed annually, they do not merely provide a once-a-year “snapshot” of the filer’s handset offerings as of the reporting date but rather include information on the filer’s offerings over the entire calendar year covered by the report, sufficient to demonstrate month-by-month compliance with all the hearing aid compatibility rules over that calendar year.

²⁹ See 47 CFR § 20.19(c) & (d) (M-rating and T-rating deployment benchmarks).

³⁰ 47 CFR § 20.19(a)(3)(v).

³¹ See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers*, Order to Stay, 17 FCC Rcd 14841, 14847, para. 24 (2002).

20.19 hearing aid compatibility rules.³² Would a subscriber-based reporting threshold rely on 2001 subscriber counts, which are used in the Tier III definition used elsewhere in the Commission's rules, or instead be based on a provider's subscriber count in a given reporting year? Are there any other alternatives that the Commission should consider, such as expanding the exemption to all providers or limiting the exemption to providers meeting the small size standard that is incorporated in the *de minimis* rule, *i.e.*, providers with 1,500 or fewer employees?

16. *Alternative Reporting Period or Certification.* If we determine that it would not serve the public interest to eliminate reporting requirements completely for Non-Tier I Service Providers, we seek comment on whether there are other ways to reduce the burdens associated with these requirements. Would it serve the public interest to require reporting less frequently? For instance, would requiring Non-Tier I Service Providers to file only once every three years instead of annually better balance the benefits of having such a reporting requirement against the burdens that it imposes? If so, what are the costs and benefits of revising the reporting requirement along these lines? Alternatively, rather than eliminating the reporting requirement or lengthening the interval between reports, would a better balance between the costs and benefits of the reporting requirement be achieved by requiring these service providers to submit a certification to the Commission, annually or otherwise, that they have met Section 20.19 deployment benchmarks and other requirements, such as in-store testing and website postings?³³ If so, should the certification form simply contain a box to check that the requirements have been met, or should the certification form request additional information, such as the web address of the hearing aid compatibility information published on the service provider's website, if applicable, and whether the service provider has received inquiries or complaints about the availability of hearing aid compatible handsets? What are the costs and benefits of using a certification approach instead of the existing reporting approach? Which approach better serves the public interest?

17. *Timing.* Assuming that we adopt a reporting exemption or modified reporting requirement, we seek comment on when such a change should become effective (*e.g.*, as soon as is possible, after some period of time, or after some triggering event). Would it be in the public interest to have the change become effective as soon as possible, such that the Commission affords relief to Non-Tier I Service Providers at the soonest applicable filing deadline? Alternatively, would a better approach be to have the change become effective at some alternative point in time or after a certain trigger is met, (*e.g.*, only after a Non-Tier I Service Provider meets either the 66 or 85 percent enhanced deployment benchmarks that the Commission adopted last year)? We ask commenters to explain how their proposed approach would best serve the public interest. We also seek comment on the costs and benefits of the various approaches.

18. *Related Changes.* We seek comment on whether any changes to other aspects of the Section 20.19 hearing aid compatibility requirements would be necessary or appropriate to accommodate or reflect a reporting exemption or modified reporting requirement for Non-Tier I Service Providers. For example, the *de minimis* exception, while otherwise exempting certain service providers from the requirements of the rule, requires them to continue to submit annual FCC Form 655 reports.³⁴ We seek comment on whether it makes sense to retain this requirement for service providers if only, *e.g.*, Tier I carriers are required to submit annual FCC Form 655 reports. We also seek comment on any other

³² See generally 47 CFR § 20.19 (using Tier I carrier terminology throughout hearing aid compatibility rule).

³³ In the absence of a Form 655 reporting requirement for Non-Tier I Service Providers, we would continue applying the Commission's numerical and percentage-based handset deployment requirements on a month-to-month basis for any enforcement related purposes.

³⁴ See *id.* § 20.19(e)(1)(i)(stating that “[m]anufacturers or service providers that offer two or fewer digital wireless handsets in an air interface in the United States are exempt from the requirements of this section in connection with that air interface, except with regard to the reporting requirements in paragraph (i) of this section” and that “[s]ervice providers that obtain handsets only from manufacturers that offer two or fewer digital wireless handset in an air interface in the United States are likewise exempt from the requirements of this section other than paragraph (i) of this section in connection with that interface.”).

changes to Section 20.19 of the rules if the scope of the reporting requirement exemption depends on factors such as the number of subscribers. If we adopt a reporting exemption or modified reporting requirement in this proceeding, what changes to the online FCC Form 655 or related instructions, if any, would be necessary or appropriate to implement the exemption?

19. *Other Updates.* Finally, in light of various changes in the marketplace since these reporting requirements were adopted, we seek comment on additional ways to streamline or update hearing aid compatibility reporting for all service providers, including Tier I carriers. Commenters should provide quantitative and qualitative cost and benefit analyses to support their proposals and to evaluate whether any aspects of the reporting requirements are unnecessary and outdated or could be streamlined or simplified to reduce burdens. Commenters should address, for example, whether reporting of handset offerings on a month-to-month basis and the level of details reported under our rules and the current FCC Form 655 continue to remain appropriate to protect consumers, or whether they can be modified to reduce burdens while preserving benefits to consumers. For example, should we continue to require service providers to provide the model number and FCC ID directly associated with each model that they are reporting as compatible, together with the M and T rating that each such model has been certified as achieving under the ANSI C63.19 standard? Should the reports continue to include the air interface(s) and frequency band(s) over which each reported handset model operates? Do such reports need to track compliance on a month-to-month basis in order to protect consumers? Commenters should consider all additional ways to streamline and improve the quality and usefulness of the Form 655 and whether there are alternative, less costly ways to ensure that current and future deployment benchmarks are being met. Any proposed changes should include an analysis of costs and benefits of current and proposed collections, and how the proposed changes will continue to preserve the benefits to consumers from our policy objectives.

IV. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Analysis

20. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the Notice of Proposed Rulemaking. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to the Notice of Proposed Rulemaking and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Initial Paperwork Reduction Act Analysis

21. The Notice of Proposed Rulemaking contains proposed modified information collection requirements. 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 collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Other Procedural Matters

1. Ex Parte Rules – Permit-But-Disclose

22. The proceeding that the Notice of Proposed Rulemaking initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.³⁵ Persons making

³⁵ 47 CFR §§ 1.1200 *et seq.*

ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

2. Comment Filing Procedures

23. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to the Notice of Proposed Rulemaking should refer to WT Docket No. 17-228. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

24. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

25. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY), or 844-432-2275 (videophone).

26. For further information regarding the Notice of Proposed Rulemaking contact Michael Rowan, Wireless Telecommunications Bureau, (202) 418-1883, e-mail Michael.Rowan@fcc.gov.

V. ORDERING CLAUSES

27. Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i), 303(r), and 710 of the

Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 610, this Notice of Proposed Rulemaking **IS HEREBY ADOPTED**.

28. **IT IS FURTHER ORDERED** that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before [thirty days after the date of publication in the *Federal Register*], and reply comments on or before [forty-five days after the date of publication in the *Federal Register*].

29. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **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.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**Proposed Rules**

The Federal Communications Commission proposes to amend Part 20 of Title 47 of the Code of Federal Regulations as follows:

1. The authority citation for Part 20 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152(a) 154(i), 157, 160, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), 332, 610, 615, 615a, 615b, 615c, unless otherwise noted.

2. Amend Section 20.19 by revising paragraph (i) to read as follows:

§ 20.19 Hearing aid-compatible mobile handsets.

* * * * *

(i) *Reporting requirements* – (1) *Reporting dates*. Manufacturers shall submit reports on efforts toward compliance with the requirements of this section on an annual basis on July 15. Tier I carriers shall submit reports on an annual basis on January 15. Service providers that are not Tier I carriers are not required to submit reports. Information in the reports must be up-to-date as of the last day of the calendar month preceding the due date of the report.

APPENDIX B**Initial Regulatory Flexibility Analysis**

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in this Notice of Proposed Rulemaking (*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 the *Notice* provided on the first page of the *Notice*. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *Notice* and IRFA (or summaries thereof) will be published in the *Federal Register*.³

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

2. For some time now, the Commission has required all covered device manufacturers and wireless service providers regardless of size to file annual reports on their offering of handsets that are compatible with hearing aids. Beginning in 2003, the Commission established a schedule requiring covered device manufacturers and wireless service providers to submit hearing aid compatibility reports every six months from 2004 through 2006, and then annually in 2007 and 2008. In 2008, the Commission extended annual reporting requirements on an open-ended basis for covered device manufacturers and wireless service providers in order to verify compliance with the hearing aid compatibility rules. The Commission required the same reporting content from all covered entities, regardless of size, including those that come under the *de minimis* exception in the hearing aid compatibility rules. These reporting requirements have helped the Commission fulfill its responsibilities in monitoring the status of access to hearing aid-compatible handsets, verifying compliance with the rules, and ensuring that the public has useful information on compatible handsets.

3. In 2008, the Wireless Telecommunications Bureau (WTB), pursuant to delegated authority, made electronic FCC Form 655 available for service providers and device manufacturers to use in submitting hearing aid compatibility status reports, and made its use mandatory beginning with the filing deadline for device manufacturers on July 15, 2009.

4. In this *Notice*, the Commission seeks comment on whether and to what extent to exempt wireless service providers that are not Tier I carriers (Non-Tier I Service Providers) from annual FCC Form 655 reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. The Commission states that numerous parties, especially rural and small wireless service providers, have asserted for some time that preparing these annual reports is burdensome. The Commission seeks comment on the burdens of compliance with the Form 655 reporting requirements for Non-Tier I Service Providers, and whether the benefits of the reporting requirement as applied to these providers continues to outweigh the costs or burdens the reporting requirement places on them. Specifically, the Commission seeks comment on whether Non-Tier I Service Provider reporting is necessary to meet the Commission's objectives of providing information to the public, assisting efforts to verify compliance, and monitoring the general state of hearing aid-compatible handset deployment. With regard to monitoring the compliance of Non-Tier I Service Providers with the hearing aid compatibility rules, the Commission seeks comment on whether it should rely on the informal complaint process to help ensure Non-Tier I Service Providers continue to meet deployment benchmarks and other hearing aid compatibility requirements. The Commission also seeks comment on whether eliminating or modifying the reporting requirement would permit Non-Tier I Service Providers to save costs without an appreciable

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601 – 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. § 603(a).

³ See 5 U.S.C. § 603(a).

negative impact on the Commission's enforcement objectives.

5. In the *Notice*, the Commission asks detailed questions to help it evaluate these issues, and asks parties to submit specific data in response to the Notice. In addition, the Commission seeks comment on the scope of the exemption, when the exemption should begin to apply, and whether other changes to the hearing aid compatibility rules or the FCC Form 655 may be necessary or appropriate to implement or reflect the new exemption.

B. Legal Basis

6. The proposed actions for which comments have been sought in this *Notice* is authorized under Sections 4(i), 303(r), and 710 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 610.

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

7. 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.⁴ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁵ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁶ A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁷

8. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.⁸ First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.⁹ These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.¹⁰ Next, the type of small entity described as a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."¹¹ Nationwide, as of 2007, there were approximately 1,621,215 small organizations.¹² Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages,

⁴ 5 U.S.C. § 603(b)(3).

⁵ 5 U.S.C. § 601(6).

⁶ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). 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 Small Business Administration 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."

⁷ Small Business Act, 15 U.S.C. § 632 (1996).

⁸ See 5 U.S.C. §§ 601(3)–(6).

⁹ See SBA, Office of Advocacy, "Frequently Asked Questions, Question 1 – What is a small business?" https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf (June 2016)

¹⁰ See SBA, Office of Advocacy, "Frequently Asked Questions, Question 2- How many small business are there in the U.S.?" https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf (June 2016).

¹¹ 5 U.S.C. § 601(4).

¹² Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2010).

school districts, or special districts, with a population of less than fifty thousand.”¹³ U.S. Census Bureau data published in 2012 indicates that there were 89,476 local governmental jurisdictions in the United States.¹⁴ We estimate that, of this total, as many as 88,761 entities may qualify as “small governmental jurisdictions.”¹⁵ Thus, we estimate that most governmental jurisdictions are small.

9. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment, including unlicensed devices. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, radio and television studio and broadcasting equipment.¹⁶ The Small Business Administration has established a size standard for this industry of 750 employees or less.¹⁷ U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees.¹⁸ Based on this data, we conclude that a majority of manufacturers in this industry is small.

10. *Part 15 Handset Manufacturers.* The Commission has not developed a definition of small entities applicable to unlicensed communications handset manufacturers. The SBA category of Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is the closest NAICS code category for Part 15 Handset Manufacturers. The Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing industry is comprised of establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.”¹⁹ The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, as firms having 750 or fewer employees.²⁰ U.S. Census data for 2012, shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6

¹³ 5 U.S.C. § 601(5).

¹⁴ U.S. Census Bureau, Statistical Abstract of the United States: 2012 at 267, Table 428 (2011), <http://www2.census.gov/library/publications/2011/compendia/statab/131ed/2012-statab.pdf> (citing data from 2007).

¹⁵ The 2012 U.S. Census Bureau data for small governmental organizations are not presented based on the size of the population in each organization. There were 89,476 local governmental organizations in the Census Bureau data for 2012, which is based on 2007 data. As a basis of estimating how many of these 89,476 local government organizations were small, we note that there were a total of 715 cities and towns (incorporated places and minor civil divisions) with populations over 50,000 in 2011. See U.S. Census Bureau, City and Town Totals Vintage: 2011, <http://www.census.gov/popest/data/cities/totals/2011/index.html>. If we subtract the 715 cities and towns that meet or exceed the 50,000 population threshold, we conclude that approximately 88,761 are small.

¹⁶ See <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

¹⁷ 13 CFR § 121.201, NAICS Code 334220.

¹⁸

http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_31SG2&prodType=table

¹⁹ U.S. Census Bureau, 2002 NAICS Definitions, 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, <http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342>.

²⁰ 13 CFR § 121.201, NAICS code 334220.

establishments operated with 2,500 or more employees.²¹ Thus, under this size standard, the majority of firms can be considered small.

11. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.²² The appropriate size standard under SBA rules is for the category Wireless Telecommunications Carriers (except Satellite) is that a business is small if it has 1,500 or fewer employees.²³ For this industry, U.S. Census data for 2012 shows that there were 967 firms that operated for the entire year.²⁴ Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more.²⁵ Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

12. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today.²⁶ The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.²⁷ Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.²⁸ Thus, using available data, we estimate that the majority of wireless firms can be considered small.

13. Also included in this classification is Personal Radio Services, which provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under Part 95 of the Commission's rules. These services include Citizen Band Radio Service (“CB”), General Mobile Radio Service (“GMRS”), Radio Control Radio Service (“R/C”), Family Radio Service (“FRS”), Wireless Medical Telemetry Service (“WMTS”), Medical Implant Communications Service (“MICS”), Low Power Radio Service (“LPRS”), and Multi-Use Radio Service (“MURS”). We note that many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks

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http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_31SG2&prodType=table

²² U.S. Census Bureau, *2012 NAICS Definitions: 517210 Wireless Telecommunications Carriers (except Satellite)*, <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517210&search=2012>.

²³ 13 CFR § 121.201, NAICS code 517210.

²⁴ http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.

²⁵ *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

²⁶ See <http://wireless.fcc.gov/uls>. For the purposes of this IRFA, consistent with Commission practice for wireless services, the Commission estimates the number of licensees based on the number of unique FCC Registration Numbers.

²⁷ See Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*), https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf.

²⁸ See *id.*

direct information upon which to base a more specific estimation of the number of small entities under an SBA definition that might be directly affected by our action.

14. *Wireless Resellers.* The SBA has not developed a small business size standard specifically for Wireless Resellers. The SBA category of Telecommunications Resellers is the closest NAICS code category for wireless resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry.²⁹ Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees.³⁰ U.S. Census data for 2012 shows that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees.³¹ Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities.

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

15. The Commission is not proposing to impose any additional reporting or record keeping requirements. Rather, as discussed in the next section, the Commission is seeking comment on whether and to what extent it can reduce burdens on small wireless service providers by exempting them from hearing aid compatibility reporting requirements. Presently, these requirements include filing electronic FCC Form 655 on an annual basis. However, the Commission also asks whether it should require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements.

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

16. The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(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) exemption from coverage of the rule, or any part thereof, for small entities.”³²

17. To assist the Commission's evaluation of the economic impact on small entities, as a result of actions that have been proposed in this *Notice*, and to better explore options and alternatives, the Commission has sought comment from the parties. In this *Notice*, the Commission has requested that commenters estimate the number of small entities that may be affected by any rule changes that might result from this *Notice*, to assist the Commission in analyzing the total number of potentially affected small entities. The *Notice* also seeks comment on whether and to what extent it should exempt wireless service providers that are not Tier I carriers from annual reporting requirements, while maintaining these requirements for Tier I carriers and all handset manufacturers. Under the Commission's current hearing aid compatibility rules, all covered wireless service providers regardless of size must electronically file FCC Form 655 with the Commission in January of each year. While these reports have helped the

²⁹ <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517911&search=2012+NAICS+Search&search=2012>.

³⁰ 13 CFR § 121.201, NAICS code 517911.

³¹ U.S. Census Bureau, 2012 Economic Census, Subject Series: Information, “Establishment and Firm Size,” NAICS code 517911.

³² 5 U.S.C. §§ 603(c)(1)-(4).

Commission meet several of its objectives, the Commission is seeking comment on whether the burden of filing this form for small wireless service providers out-weighs the benefits that the form provides the Commission and the public. The Commission is seeking comment, in part, on whether and how this change would benefit small entities.

18. The Commission expects to more fully consider the economic impact on small entities, following the review of comments filed in response to the *Notice*. In seeking comment on whether to exempt non-nationwide wireless service providers from annual reporting requirements, the Commission considers several alternatives and steps it could take to implement its proposal. For example, the Commission invites comment on whether the hearing aid compatibility rules should incorporate an alternative definition or size standard on which a reporting exemption for small, rural, or regional service providers could be based. Specifically, the Commission asks whether the exemption could be based on a threshold number of subscribers. The Commission also seeks comment on whether to limit the new exemption to wireless service providers who meet the small size standard that is incorporated in the *de minimis* rule, *i.e.*, wireless service providers with 1500 or fewer employees. The Commission further seeks comment on the timing of when such an exemption should go into effect. Finally, the Commission asks whether to require those wireless service providers who qualify for the new exemption to file a certification, either annually or otherwise, that states that they meet the hearing aid compatibility deployment benchmarks and other requirements. We invite comment on ways in which the Commission can achieve its goals, but at the same time further reduce the burdens on small entities.

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

19. None.