

provision of air-ground telecommunications services on commercial airplanes (*i.e.*, those rules affecting the availability of wireless services to passengers on commercial aircraft) in order to enhance the options available to the public. The Commission's goal is to promote service provision that better meets the needs of the public for wireless air-ground communications services. At present, only one of the six available licenses in this service is used to serve the public. In this NPRM, the Commission seeks comment on whether any changes to its rules could provide greater opportunities for the competitive provision of these services, leading to lower prices to consumers and increased choices in wireless services and enhancements while traveling by commercial airliner. To this end, the Commission is open to all possible suggestions for fundamental reform. In addition, in this context, the Commission seeks comment regarding whether the commercial air-ground spectrum is being efficiently used, since there is now only one operating licensee in a regulatory plan that originally contemplated six competing service providers. The Commission also seeks comment on possible amendment of rules for other wireless services to permit the provision of commercial air-ground service by licensees of such spectrum.

2. The Commission initiates this proceeding partly in furtherance of its biennial review of regulations pursuant to section 11 of the Communications Act of 1934, as amended. Section 11 requires the Commission to review its regulations applicable to providers of telecommunications service and to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service," and to repeal or modify any regulation that the Commission finds no longer necessary in the public interest. This NPRM, in part, is one of the steps in the Commission's implementation of staff recommendations under section 11 for deleting or modifying various part 22 rules. In addition, this NPRM considers other proposals submitted to the Commission by members of the public regarding changes to the part 22 regulations, including those that do not fall within the scope of section 11. The Commission accordingly seeks comment on changes to rules for each of the part 22 services—Paging and Radiotelephone, Rural Radiotelephone, Air-Ground Radiotelephone, and

Offshore Radiotelephone—other than cellular as well as its rules governing developmental authorizations. In addition to eliminating unnecessary regulatory hurdles, many of these proposals provide licensees with greater flexibility regarding the use of their spectrum, which in turn leads to greater technical, economic, and marketplace efficiency.

3. In this NPRM, the Commission also proposes to revise or eliminate certain part 22 Public Mobile Services (PMS) rules that may have become obsolete as the result of technological change, increased competition in the Commercial Mobile Radio Services (CMRS), supervening changes to related Commission rules, or a combination of these factors. This NPRM in addition proposes to recodify certain part 22 PMS rules to part 1 of the Commission's rules, amend several of the part 1 rules, and make several conforming amendments to the Commission's part 90 rules.

4. In this NPRM, the Commission also seeks comment on ways to increase flexibility to enable licensees to better serve the public. For example, the Commission seeks comment on providing licensees of nationwide paging channels flexibility to provide other services and on whether its rules limiting the provision of dispatch service by paging licensees are too restrictive.

5. Specifically, to illustrate the proposals outlined above, the NPRM seeks comment on elimination or modification of numerous part 22 technical, operational and service rules. For example, the NPRM tentatively concludes that the directional antenna requirements set forth in § 22.363 and Table C-2 to § 22.361 should be eliminated. In addition to these rule changes, the NPRM seeks comment on elimination of the requirement to file FCC Form 409 (Airborne Mobile RadioTelephone License Application) to apply for authority to operate an airborne station. The NPRM also seeks comment regarding whether § 1.929(c)(1) of the Commission's rules should be amended to specify that expansion of a composite interference contour (CIC) of a site-based licensee in the Paging and Radiotelephone Service—as well as the Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service—over water, on a secondary, non interference basis, should be classified as a minor (rather than major) modification of license. Such reclassification would substantially reduce the filing requirements associated with these license modifications. Finally, the

NPRM seeks comment on recodification of § 22.157 (computation of distance) and § 22.159 (computation of terrain elevation) to part 1 of the Commission's rules. Subject to several exceptions, recodification of these rules to part 1 would harmonize the methods for computing distance and terrain elevation applicable to Wireless Radio Services described in parts 1, 20, 21, 22, 24, 27, 80, 87, 90, 95, 97, and 101 so that they are subject to the same requirements.

## Procedural Matters

### *Initial Regulatory Flexibility Analysis*

6. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Below contains the IRFA. The Commission requests written public comments on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, the Commission asks a number of questions regarding the prevalence of small businesses in the affected industries.

7. Interested parties must file comments in accordance with the same filing deadlines as comments filed in this NPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

### *Ex Parte Rules—Permit-but-Disclose Proceedings*

8. This is a permit-but-disclose notice and comment rulemaking proceeding. The Commission's rules permit *ex parte* presentations, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, and 1.2306(a).

## Comment Dates

9. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before September 23, 2003, and reply comments October 23, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), <http://www.fcc.gov/e-file/ecfs.html>, or by filing paper copies.