Signed: November 5, 2007.

John J. Manfreda,

Administrator.

[FR Doc. E7–22697 Filed 11–20–07; 8:45 am]

BILLING CODE 4810–31–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2702

Freedom of Information Act Procedural Rules

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Federal Mine Safety and Health Review Commission (the ''Commission'') previously published, on October 17, 2007, proposed revisions to its rules implementing the Freedom of Information Act (''FOIA''). The period for comments to the proposed rules ended on November 16, 2007. A request was made that the comment period be reopened and the Commission has agreed to do so.

DATE: Comments must be submitted on or before November 30, 2007.

ADDRESSES: Comments and questions may be mailed to Michael A. McCord, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, or sent via facsimile to 202–434–9944.

FOR FURTHER INFORMATION CONTACT: Michael A. McCord, General Counsel, Office of the General Counsel, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; telephone 202–434–9935; fax 202–434–9944.

SUPPLEMENTARY INFORMATION: On October 17, 2007, the Commission published revisions to its rules implementing the FOIA. 72 FR 58790. The comment period ended on November 16, 2007. The Commission received a request that the comment period be reopened. Recognizing that the Commission's rules implementing the FOIA impact the public, the Commission has agreed to reopen the comment period in order to extend the opportunity of the interested public to express any comments on the proposed rules. Comments on the proposed rules must be submitted on or before November 30, 2007.

Dated: November 16, 2007.

Michael F. Duffy,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. E7–22792 Filed 11–20–07; 8:45 am]

BILLING CODE 6735–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2006–0704; A–1–FRL–8491–9]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Emission Statements Reporting and Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions update Maine's criteria pollutant emissions reporting program, and list of terms and associated definitions used in Maine's air pollution control regulations. The intended effect of this action is to propose approval of these items into the Maine SIP. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before December 21, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2006–0704 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: arnold.anne@epa.gov.*

3. *Fax:* (617) 918–0047.

4. *Mail:* EPA–R01–OAR–2006–0704, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114–2023.

5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, EPA New England Regional Office, One Congress Street, Suite 1100–CAQ, Boston, MA 02114–2023, telephone number 617–918–1046, fax number 617–918–0046, e-mail *mcconnell.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views them as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 25, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E7–22599 Filed 11–20–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 20, 68

[WT Docket No. 07–250; FCC 07–192]

Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets, Petition of American National Standards Institute Accredited Standards Committee C63 (EMC) ANSI ASC C63™

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Consistent with recommendations from Commission staff in a report (Staff Report), the Federal Communications Commission (Commission) seeks comment on various possible revisions to its hearing aid compatibility policies and requirements pertaining to wireless services, including several tentative conclusions to modify § 20.19 and other requirements along the framework proposed in a consensus plan (Joint Consensus Plan) recently developed jointly by industry and representatives for the deaf and hard of hearing community. In light of the current marketplace and in anticipation of future developments in wireless offerings, the Commission takes steps to ensure that hearing aid users will continue to benefit from the convenience and features offered by the newest wireless communications systems being provided to American consumers. To the extent people who use hearing aids have difficulty finding a wireless mobile telephone that functions effectively with those devices because of interference or compatibility problems, the Commission states that a continued expansion in the number and availability of hearing aid-compatible wireless telephones is warranted.

DATES: Comments due on or before December 21, 2007. Reply comments are due on or before January 7, 2008.

ADDRESSES: You may submit comments, identified by WT Docket No. 07–250, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail: ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Mail:* Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.
- *Hand Delivery/Courier:* 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.
- *Accessible Formats:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) for filing comments either by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Michael Rowan, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Portals I, Room 6603, Washington, DC 20554; or Thomas McCudden, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Portals I, Room 6118, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)* in WT Docket No. 07–250 released November 7, 2007. The complete text of the *NPRM* is available for public inspection and copying from 8 a.m. to 4:30 p.m. Monday through Thursday or from 8 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. [The *NPRM* may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI please provide the appropriate FCC document number, FCC 07–250. The *NPRM* is also available on the Internet at the Commission's Web site through its Electronic Document Management System (EDOCS): *http://hraunfoss.fcc.gov/edocs_public/Silver Stream/Pages/edocs.html.*

Initial Paperwork Reduction Act of 1995 Analysis: This document contains proposed 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 (PRA) of 1995, Pub. L. 104–13. Public and agency comments are due on or before January 22, 2008. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107–198 (see 44 U.S.C. 3506(c)(4)), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission notes, however, that § 213 of the Consolidated Appropriations Act 2000, Pub. L. 106–113, provides that rules governing frequencies in the 746–806 MHz Band become effective immediately upon publication in the **Federal Register** without regard to certain sections of the Paperwork Reduction Act. The Commission is therefore not inviting comment on any information collections that concern frequencies in the 746–806 MHz Band.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.''

For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

Please send your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov.*

The proposed information collection requirements that the Commission seeks public comment on are as follows:

OMB Control No.: 3060–0999.

Title: Section 20.19, Hearing Aid Compatible Mobile Handsets (Hearing Aid Compatibility Act).

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 925.

Estimated Time per Response: 3 hours—160 hours.

Frequency of Response: Annual reporting requirement; Third party requirement.

Estimated Total Annual Burden: 6,975 hours.

Estimated Total Annual Costs: None.

Nature of Response: Mandatory.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Usage: On November 7, 2007, the Commission released WT Docket No. 07–250; FCC 07–192. Commission rules require digital wireless phone manufacturers and service providers to make available a certain number of digital wireless phones that meet specific performance levels set forth in an established technical standard. The phones must be made available according to an implementation schedule specified in Commission rules. To monitor the progress of implementation, it is proposed that digital phone manufacturers and service providers submit reports annually from 2008 through 2012. These parties currently submit reports to the Commission; however, the Commission is proposing to revise the reporting criteria for these parties.

The Commission proposes to require that manufactures include in their reports to the Commission the following information: digital wireless phones tested; Compliant phone models using the FCC ID number and ratings according to C63.19; status of product labeling; outreach efforts; total numbers of compliant phone models offered as of the time of the report; and information pertaining to product refresh. The Commission is proposing that service providers include in their reports the following information: compliant phone models using the FCC ID number and ratings according to C63.19; status of product labeling; outreach efforts; information related to the retail availability of compliant phones; total numbers of compliant and non-compliant phone models offered as of the time of the report; and the ''tiers'' into which the compliant phones fall.

In addition to these criteria, the Commission proposes to require both manufacturers and 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. The Commission further proposes to require that these reports include the air interface(s) and frequency band(s) over which each compatible model operates.

The Commission is seeking OMB approval for the revised proposed reporting criteria, if adopted by the Commission, the reports will be submitted annually by digital phone manufacturers and services provider through 2012.

I. Introduction

1. In this *NPRM,* the Commission takes steps to ensure that hearing aid users will continue to benefit from the convenience and features offered by the newest wireless communications systems being provided to American consumers. The actions proposed by the Commission are designed to take account of an evolving marketplace of new technologies and services. The proposals set forth in this *NPRM* draw upon recommendations proposed in the Staff Report. Several of these proposals, in turn, are based on an interconnected set of rule changes set forth in the Joint Consensus Plan recently developed jointly by industry and representatives for the deaf and hard of hearing community. The specifics of the Joint Consensus Plan, along with a proposed model rule, are contained in the Supplemental Comments of the Alliance for Telecommunications Industry Solutions (ATIS). ATIS states that its working group developed this comprehensive plan reflecting the joint input of the wireless industry and consumers with hearing loss. In a separate petition, American National Standards Institute (ANSI) supports the adoption of an updated technical standard as proposed in the Joint Consensus Plan, and it states that the new standard includes further improvements that reflect changes in technology, and efficiencies and improvements in testing procedures.

II. Discussion

2. In the *NPRM,* the Commission seeks comment on recommendations in the Staff Report and on the various proposals set forth in the Joint Consensus Plan. The Commission makes a number of tentative conclusions based on the broad consensus established by those participating in the development of the Joint Consensus Plan. In the context of several of these tentative conclusions, the Commission requests comment regarding the appropriate deployment regime for Tier II/III carriers and other service providers that are not Tier I carriers, which generally were not included within the Joint Consensus Plan's framework. The Commission requests that manufacturers and service providers be as specific as possible regarding the impact of these proposals on their operations, and that any alternative proposals be supported by evidence as to their feasibility and effectiveness. Affected consumers, including those with hearing difficulties, should support any new proposals with explanations of not only the benefits but also the costs to service providers, manufacturers, or other consumers, and why such costs are outweighed by the benefits. The Joint Consensus Plan contains many interrelated provisions, and the Commission notes the emphasis that its proponents place on adopting the plan as a whole in order to maintain the balance achieved during negotiations by its various member participants.

3. *Requirements and Deadlines for Hearing Aid-Compatible Handset Deployment.*

4. The Commission seeks comment on a set of new requirements for manufacturers and certain carriers as they deploy hearing aid-compatible handsets in the years to come. The first proposal in the Joint Consensus Plan is to modify several deployment deadlines as set forth in § 20.19 of the Commission's rules, 47 CFR 20.19, including the requirement that manufacturers and wireless service providers ensure that, by February 18, 2008, at least 50 percent of their handset models over each air interface offered meet an M3 or better rating for RF interference reduction, as specified in ANSI Standard C63.19, as well as the requirements for deployment of handsets that meet a T3 rating for inductive coupling capability under the same standard. In this context, the plan also proposes new ''product refresh'' and ''multiple tier'' requirements in order to ensure people with hearing loss have access to new, advanced devices.

5. *Deployment Benchmarks and Deadlines.* The Commission seeks comment on tentative conclusions to adopt new hearing aid-compatible handset deployment benchmarks for manufacturers and service providers between 2008 and 2011, consistent with those recommended in the Staff Report and proposed as part of the Joint Consensus Plan. These include proposals (1) to modify requirements currently in effect for February 18, 2008, and establish future requirements to provide handsets that incorporate reduced RF interference in recognition of technology and market obstacles currently faced by manufacturers and

service providers, and (2) to provide more options to consumers with severe hearing loss by imposing additional requirements on both service providers and manufacturers to make handsets available that are compatible with hearing aids operating in the telecoil mode. In addition to seeking comment on the recommendations and proposals in the Joint Consensus Plan, the Commission asks commenters to address specifically questions raised in the Staff Report, including those concerning appropriate benchmarks and deadlines to apply to service providers other than Tier I carriers, and those concerning whether staggering of deadlines between manufacturers and service providers is appropriate.

6. *M3- and T3-Rated Benchmarks/Deadlines.* Section 20.19(c) and (d) of the Commission's rules contains the current deadlines for deployment of public mobile radio service handset models that meet both the M3 (or higher) and T3 (or higher) ratings for compatibility with hearing aids. The Commission seeks comment on modifying these provisions consistent with the proposals in the Joint Consensus Plan, both by adopting reduced and alternative benchmarks for deploying handsets compatible with hearing aids operating in acoustic coupling (also known as microphone) mode and by increasing future benchmarks for compatibility with hearing aids operating in inductive coupling (also known as telecoil) mode.

7. With respect to acoustic coupling compatibility, in recognition of marketplace and technical realities, the Commission seeks comment on a tentative conclusion to adopt a lower threshold for equipment manufacturers to deploy M3-rated (or higher) handsets. In place of the current requirement that 50 percent of handset models per air interface meet hearing aid compatibility standards by February 18, 2008, the Commission proposes that manufacturers be obligated, for each air interface for which they offer handsets, to meet the requirement, as proposed in the Joint Consensus Plan, of 33% of manufacturers' non-*de minimis* portfolio models offered to service providers in the United States. Thus, for example, if a manufacturer produces a total of 12 models capable of operating over the GSM air interface (regardless of whether these are single-mode or multi-mode models), at least four of those models would have to meet an M3 or higher rating. Moreover, a multi-mode handset could not be counted as compatible over any air interface unless it is compatible in all air interfaces over which it operates.

8. The Commission notes that technological issues make it difficult to produce a wide variety of Global System for Mobile Communications (GSM) handsets that both meet the M3 standard for reduced RF interference for acoustic coupling and include certain popular features, and the Commission seeks to promulgate rules that are as technology-impartial as possible. The Commission tentatively concludes that, in context with the other proposals in the Joint Consensus Plan, these reduced thresholds strike an appropriate balance between maintaining technological neutrality and ensuring availability of hearing aid-compatible handsets to affected consumers. The Commission asks whether differences, in terms of the nature of the signals emitted and burdens of the formulae used to calculate compliance ratings under the ANSI technical standard, support its tentative conclusion and justify this lower benchmark. The Commission asks whether either the GSM or Code Division Multiple Access (CDMA) air interface have an advantage over the other in terms of rule compliance. The Commission asks whether any impacts to hard of hearing consumers due to the production of fewer numbers of compatible handset models would be offset by the requirement that manufacturers regularly include new compatible models in their product lines.

9. For Tier I (nationwide) carriers, the Commission seeks comment on a tentative conclusion to adopt an alternative schedule to the 50 percent M3-rated (or higher) February 18, 2008 deployment deadline. These carriers would have the choice of complying with either the current rule or a new schedule based on total numbers of compliant handset models. This schedule would create obligations for service providers to provide an increasing number of handset models per air interface over which they offer service by future dates as follows: *February 18, 2008:* eight M3-rated (or higher) handset models; *February 18, 2009:* nine M3-rated (or higher) handset models; *February 18, 2010:* ten M3-rated (or higher) handset models. The Commission seeks comment on its tentative conclusion to modify the rule as proposed.

10. Along with these proposals to modify the deployment requirements regarding reduced RF interference for acoustic coupling compatibility, the Commission also seeks comment on a tentative conclusion to increase the benchmarks for manufacturers' and Tier I carriers' deployment of handsets meeting a T3 (or higher) rating for inductive coupling capability. Because customers' options for handsets that enable inductive coupling with telecoils have been more limited than for acoustic coupling compatibility, additional requirements of this nature could benefit some of the most disadvantaged wireless users in the deaf and hard of hearing community, who are more likely to rely on telecoil-equipped hearing aids. Under its proposed rule changes, the Commission would now require manufacturers to meet the greater of two measures for each air interface for which they offer handsets in 2009 through 2011, as follows: a minimum of two T3-rated (or higher) models for each air interface for which the manufacturer offers four or more handset models to service providers; or at least 20%/25%/33% of models that the manufacturer offers over each air interface rated T3 (or higher) by February 18, 2009/2010/2011 respectively. As proposed, these percentage calculations would be rounded down to the nearest whole number in determining the minimum number of handsets to be produced. In addition, the Commission notes that each non-*de minimis* manufacturer would still be required to produce at least two or more T3-rated (or higher) handsets per air interface for which it offers handsets.

11. Service providers are currently not required to deploy additional T3-rated (or higher) handset models once they have met the September 18, 2006 deadline for offering two compliant handset models per air interface. Under its proposed rule changes, the Commission would now require Tier I carriers to meet the lesser of the following requirements for each air interface over which they offer service: (1) *February 18, 2008:* 33% of digital wireless handset models are T3-rated (or higher); or (2) a schedule as follows: *February 18, 2008:* three T3-rated (or higher) handsets; *February 18, 2009:* five T3-rated (or higher) handsets; *February 18, 2010:* seven T3-rated (or higher) handsets; and F*ebruary 18, 2011:* Ten T3-rated (or higher) handsets. The Commission tentatively concludes that these increased requirements for deployment of T3-rated (or higher) handsets are necessary and appropriate for both manufacturers and Tier I carriers. The Commission seeks comment on its tentative conclusion. The Commission also seeks comment on any additional deadlines or deployment milestones that may be appropriate to adopt at this time, such as any future M4 or T4 handset compliance requirements.

12. *Service Providers Other than Tier I Carriers.* As explained in the Staff Report, the Joint Consensus Plan is silent with respect to service providers that are not Tier I carriers. Accordingly, the Commission seeks comment generally on the appropriate deployment regime for these wireless service providers. As a general matter, in order to make the benefits of compatible handsets available to all consumers who need them, all service providers should be expected to meet the same benchmarks unless they cannot reasonably do so. At the same time, the Commission notes that in the past numerous Tier II and Tier III carriers have requested, and many have been granted, extension of compatible handset deployment deadlines because they were unable timely to obtain compliant handsets in sufficient quantities from manufacturers. The Commission therefore asks commenters to address whether there is anything inherent in the characteristics of Tier II and Tier III carriers, resellers, and mobile virtual network operators (MVNOs), or other categories of smaller service providers, that would prevent them from meeting either the RF interference reduction or inductive coupling-capable handset numbers and percentages set out for Tier I carriers.

13. *Staggered Deadlines for Deployment.* The Commission also specifically seeks comment on whether, with respect to offering compliant handsets, the Commission should require different, staggered deployment deadlines for manufacturers and service providers, such as whether manufacturers should be required to offer compliant handsets at some time prior to all service providers, or to some subset of smaller providers. The Commission notes that many Tier II and Tier III carriers have requested waivers of hearing aid compatibility deadlines, complaining among other things that manufacturers have not made compliant handsets available sufficiently in advance of the deadline so that these service providers could, in turn, make them available to consumers. Instituting a short interval between the manufacturers' and some or all service providers' deadlines might be appropriate to address the circumstances that have engendered these waiver requests. Because of market realities, Tier II and Tier III carriers may have more difficulty than Tier I carriers in obtaining handsets. The Commission notes that the Joint Consensus Plan does not request any staggered deadlines for Tier I carriers. The Commission asks commenters to address specifically whether staggering of deadlines is appropriate in the context of its proposed future hearing aid compatibility requirements, and if so, for how long and for what subset of service providers.

14. *New Requirements for Handset Deployment.* The Commission proposes, in accord with the Staff Report and the Joint Consensus Plan, additional specific measures to ensure that such a range of compatible handset models will be available so that consumers will have access to hearing aid-compatible handsets with the newest features, as well as more economical models.

15. The Commission tentatively concludes that its rules should require equipment manufacturers to meet a ''product refresh'' requirement, as recommended in the Staff Report and described in the Joint Consensus Plan. This proposal would mandate that manufacturers meet RF interference reduction thresholds for acoustic coupling compatibility in some of their new models each year, enough so that, for manufacturers offering four or more handsets using a given air interface, half of the minimum required number of M3-rated or higher handset models would be new models introduced during the calendar year. To make this calculation, the number of new compliant models to be produced would be 50 percent of the total required number of compliant models, rounded up to the nearest whole number. For manufacturers that produce three total M3-rated models per air interface, at least one new M3-rated (or higher) model shall be introduced every other calendar year. If a manufacturer is not introducing a new model in a calendar year, then under the proposed rule it would not be required to refresh its list of compliant handsets.

16. Notwithstanding its tentative conclusion, the Commission seeks comment on whether this requirement should be modified in any way. For example, it asks whether there are any modifications that would better promote hard of hearing individuals' access to new handset models without causing undue costs to other parties. The Commission also asks whether the proposed ''product refresh'' requirement would sufficiently ensure that, over time, compatible phones become available across all frequency bands as standards are promulgated and equipment is rolled out. The Commission also solicits comment on whether there are any possible less burdensome or intrusive approaches or incentives that would enable the deaf and hard of hearing community to select fresh models on a regular basis. For any proposal, the Commission asks commenters to address the disadvantages of deviating from the standard proposed under the Joint Consensus Plan. Finally, the Commission seeks comment on any implementation issues, such as reporting requirements that may be necessary with regard to these obligations, and any enforcement issues.

17. In addition to a ''product refresh'' rule for manufacturers, the Commission tentatively concludes that its hearing aid compatibility rules should require Tier I carriers to offer to consumers hearing aid-compatible handsets with different levels of functionality. As described in the Staff Report, a proposed requirement set forth in the Joint Consensus Plan would obligate Tier I carriers to offer handset models from ''multiple tiers,'' and include a concomitant requirement that these providers' reports include information on the carriers' implementation of tiering. In the context of the language in the Joint Consensus Plan stating carriers will self-define their tiers, the Commission interprets the term ''tiers'' to refer to levels of functionality. The Commission further intends functionality to include the extent to which a handset model has the capability to operate over multiple frequency bands for which hearing aid compatibility standards have been established. The Commission seeks comment on a tentative conclusion to require Tier I carriers to provide access to handsets with different levels of functionality. If commenters support this tentative conclusion, the Commission asks them to specifically address how such an obligation might be effectively implemented and enforced in its rules.

18. *2007 ANSI C63.19 Technical Standard.*

19. The Commission seeks comment on changing the current hearing aid compatibility technical standard codified in § 20.19(b) of the Commission's rules, 47 CFR 20.19(b). It seeks comment on a tentative conclusion to change the current practice permitting use of multiple versions of ANSI C63.19 and, instead, codify a single 2007 version of the testing standard. ANSI C63.19–2007, an updated version of the technical standard for determining hearing aid compatibility, has been recently approved by the Accredited Standards Committee on Electromagnetic Compatibility, C63™ and adopted by ANSI. Under the Commission's proposal, this new 2007 standard would replace the 2001, 2005 draft, and 2006 versions of the technical standard. The

Commission explains that it would retain the current practice of permitting the Chief of Wireless Telecommunications Bureau (WTB), in coordination with the Chief of Office of Engineering & Technology (OET), on delegated authority, to approve use of future versions of the standard, including multiple alternative versions, to the extent that the changes do not raise major compliance issues.

20. ANSI filed a petition this year requesting that the Commission adopt this 2007 revision of the ANSI C63.19 technical standard as the permanent standard. ANSI states in its petition that further improvements have been made to the technical standard to reflect changes in technology, and efficiencies and improvements in testing procedures. Because the standard that has been adopted by ANSI is stricter in some respects than prior versions, and is the result of broad participation from diverse groups, the Commission proposes that the standard be codified in its rules in order to better promote the development of hearing aid-compatible handsets that hearing-impaired consumers can readily use. Commenters should address whether they support such a rule change, and if not, identify an acceptable alternative to its tentative conclusion.

21. The Commission also seeks comment on a tentative conclusion to phase in the 2007 standard. Under this proposal, the Commission would permit both the 2006 and 2007 versions of the standard to be used for new RF interference and inductive coupling hearing aid compatibility certifications through 2009. A newly-certified handset would therefore have to meet, at minimum, an M3 or T3 rating as set forth in either the 2006 or 2007 revision of the ANSI C63.19 standard to be considered compatible, while grants of equipment authorization previously issued under other versions of the standard would remain valid for hearing aid compatibility purposes. Then, beginning on January 1, 2010, the Commission would only permit use of the 2007 version of the standard for obtaining new grants of equipment authorization, while continuing to recognize the validity of existing grants under previous versions of the standard. The Commission seeks comment on whether this two step phase-in period appropriately balances the interests in bringing state-of-the-art compatible handsets to hard of hearing consumers and in avoiding unreasonable burdens on manufacturers and service providers. It also asks commenters to consider whether there are alternative implementations of the 2007 standard that would better serve these goals.

22. *Reporting Obligations, Public Information, and Outreach.*

23. The Commission seeks comment on proposed requirements relating to manufacturers' and service providers' filing of hearing aid compatibility reports with the Commission, as well as other public information and outreach measures.

24. *Reporting.* The Commission tentatively concludes not only to continue requiring service providers and manufacturers to report regularly on the availability of hearing aid-compatible products, but to enhance and improve the content of the reports that are filed. As reported in the Staff Report, there is evidence in the record that some of the information in the existing compliance reports may not be as complete or as helpful as possible for consumers, wireless service providers, or the Commission. Furthermore, staff encountered difficulties when verifying the ratings for certain handset models identified in compliance reports, because many of the compliance reports referenced the handset manufacturer and model number but did not include the associated FCC ID. In order to address these shortcomings, the Joint Consensus Plan includes proposed requirements that will render the reports more helpful to consumers and others by providing them with better information concerning the commercial availability of compliant handsets. Specifically, the Joint Consensus Plan recommends that reports include:

25. Manufacturers: digital wireless phones tested; compliant phone models using the FCC ID number and ratings according to C63.19; status of product labeling; outreach efforts; total numbers of compliant phone models offered as of the time of the report; and information pertaining to product refresh.

26. Service providers: compliant phone models using the FCC ID number and ratings according to C63.19; status of product labeling; outreach efforts; information related to the retail availability of compliant phones; total numbers of compliant and non-compliant phone models offered as of the time of the report; and the ''tiers'' into which the compliant phones fall.

27. The Commission proposes to adopt these reporting criteria and asks commenters to address whether they capture the appropriate information and level of detail. In particular, to clarify the information collection recommended in the Joint Consensus Plan, the Commission proposes to require both manufacturers and 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. The Commission would accept the manufacturer's determination of whether a device is a distinct model consistent with the manufacturer's marketing practices, so long as models that have no distinguishing variations of form, features, or user capabilities, or that only differentiate units sold to a particular carrier, are not separately counted as distinct models to customers. The Commission further proposes to require that reports include the air interface(s) and frequency band(s) over which each compatible model operates. The Commission seeks comment on these proposed additional requirements. In addition, the Commission asks whether it should vary the information sought depending on the type of service provider (e.g., Tier I carrier vs. other service provider).

28. The Commission also seeks comment on additional ways to improve the quality and usefulness of the reports, including whether the Commission should require additional information beyond that proposed in the Joint Consensus Plan. Unless commenters support another process, the Commission proposes to authorize Commission staff to develop a standardized reporting format for collecting information.

29. In addition, the Commission seeks comment regarding the schedule under which the Commission should require future reports. Under the proposal contained in the Joint Consensus Plan, the Commission would adopt a staggered schedule whereby manufacturers would be required to provide an annual status report to the Commission beginning November 30, 2007, Tier I carriers would be required to provide an annual status report to the Commission six months later beginning May 30, 2008, and Tier II and III carriers would be required to provide an annual status report beginning May 30, 2009. These reporting requirements would continue annually thereafter through the November report in 2012. The Commission seeks comment on a tentative conclusion to adopt substantially this schedule, but with certain refinements. First, given the timing of this proceeding, the Commission expects that manufacturers and service providers will be required to comply with current rules for November 2007 reporting. To the extent the Commission maintains the current November 17, 2007 reporting deadline

during the rulemaking, commenters should consider how the remaining schedule may need to be modified.

30. In addition, the Commission questions the Joint Consensus Plan proposal to adopt a delayed reporting requirement for Tier II and III carriers whereby their next reports would not be required until a year after the Tier I carriers' reports. In light of the recommendations in the Staff Report and its objectives, especially for consumers who receive service from such providers, the Commission seeks comment on whether it serves the public interest to delay their next reports for a period of 18 months to two years from their reports that will be submitted in November 2007, or whether they should instead be held to the same schedule as Tier I carriers in order to provide a steady source of information to consumers and to the Commission. Moreover, given that Tier II and III carriers have already been filing reports regularly, the Commission seeks comment on the extent of the burdens that would be avoided by postponing their first reports as proposed under the Joint Consensus Plan, balanced against the extent of information that would be lost by introducing a gap of 18 months or more in their reporting. Commenters should also address whether the reporting deadlines for Tier II and III carriers should depend on its adoption of staggered deployment deadlines. Finally, if the Commission adopts different reporting deadlines for Tier I versus Tier II and III carriers, the Commission seeks comment on the rules that should apply to resellers and to MVNOs.

31. *Public Information and Outreach.* In addition to the content and frequency of manufacturer and service provider reports, the Commission seeks comment on other ways to increase the availability of hearing aid compatibility information to consumers, service providers, and other interested parties. As explained in the Staff Report, the Commission's existing databases and websites are of limited value for these purposes. For example, although OET's equipment authorization database has information about hearing aid compatibility ratings associated with manufacturers' equipment, the database maintains such information based on FCC IDs, not handset model numbers, and it does not maintain a single clear, current record associated with each ID. Thus, it is difficult—particularly for an inexperienced user—to search for hearing aid-compatible models based either on the manufacturer's name or on the model's FCC ID. Similarly, the Disability Rights Office (DRO) of the Consumer and Government Affairs Bureau maintains a website that explains the disability access rules and provides contact information for manufacturers and service providers, but this website does not include information regarding the compatibility of particular handset models. As noted in the Staff Report, although a consumer wishing to file a complaint under § 255 of the Communications Act, 47 U.S.C. 255, can locate the designated agent's name and contact information from the Commission's website, no similar information is available under the process governing complaints for violations of hearing aid compatibility requirements. Under the hearing aid compatibility complaint process, consumers are responsible for identifying the agent designated by manufacturers or service providers for service of complaints under 47 CFR 68.418(b). The Commission notes that it extended its part 68, subpart E rules to allow consumers to file informal complaints under those rules if they find that wireless service providers or manufacturers of wireless equipment are not complying with its hearing aid compatibility rules.

32. In recognition of these shortcomings, the Commission seeks comment on potential measures to improve the value of these databases and websites for parties seeking hearing aid compatibility information, including, for example, adding a relevant search function to the equipment authorization database or adding links to manufacturers' and service providers' websites from the DRO's web page. In addition to the ongoing efforts of Commission staff to continue to improve information available to consumers, service providers, and other interested parties, the Commission seeks comment as to any specific measures the Commission should require or take, such as requiring manufacturers to include in their equipment authorization filings the handset models associated with each FCC ID number, and to update this information when they introduce new models. Also, the Commission asks whether it should adopt new part 2 rules to require a filing for permissive changes that includes trade names and model numbers. The Commission also requests comment on whether to require manufacturers and service providers subject to the Commission's hearing aid compatibility rules to follow the same procedures as those applicable to § 255 complaints, and to have the Commission publish hearing aid compatibility designated agents' contact information on the DRO website.

33. The Commission also seeks comment on how it can encourage digital wireless handset manufacturers and service providers to engage in additional outreach efforts to assist consumers with hearing disabilities as they shop for wireless phones. As recommended in the Staff Report, the Commission seeks comment on how best to promote the availability of useful hearing aid compatibility information on manufacturers' and service providers' websites, including whether the Commission should not only encourage but require the posting of such information. The Commission further seeks comment as to what requirements or guidelines, if any, it should provide regarding the content of such postings.

34. Consistent with the recommendations in the Staff Report, the Commission also seeks comment generally on any other ways that wireless manufacturers, service providers, and independent retailers can improve the effectiveness of their in-store testing, consumer education, and other consumer outreach efforts. These efforts would, ideally, include new ways of publicly identifying compliant phones for consumers and audiologists, as well as efforts that independent retailers could take to facilitate such identification. In addition, in order to assist consumers as they shop for wireless phones, the Commission also asks whether there are additional steps it can take to facilitate the flow of information between consumers, manufacturers, and service providers to meet its hearing aid compatibility outreach objectives.

35. *Other Components of Joint Consensus Plan, and Related Proposals.*

36. As recommended in the Staff Report, the Commission seeks comment on several additional proposals in the Joint Consensus Plan, as well as on matters related to those proposals.

37. Other Spectrum Bands. The Joint Consensus Plan contains a request that the Commission apply the Commission's hearing aid compatibility rules to all spectrum bands that are used for the provision of Commercial Mobile Radio Services (CMRS) in the United States, subject to standards development. The Commission determined earlier this year that all digital CMRS providers, regardless of the particular band in which they were operating, as well as manufacturers of handsets capable of providing such services, should be subject to the hearing aid compatibility requirements set forth in § 20.19 to the extent that a

service satisfies the scope provision for hearing aid compatibility set forth in its part 20 rules. The Commission seeks comment generally on whether any further action is necessary or appropriate in this regard, and in particular on several specific questions that relate to the extension of hearing aid compatibility requirements to new frequency bands. First, the Commission seeks comment on how its current hearing aid compatibility requirements apply to mobile satellite service (MSS) providers that offer CMRS and whether any revisions to the hearing aid compatibility rules are appropriate respecting such providers, in order to promote consistent treatment for all CMRS providers that offer functionally equivalent services. In this regard, the Commission asks commenters to address whether it should make a difference if an MSS provider offers service purely through a satellite-based network or through a combined network that relies on both satellite and ancillary terrestrial component (ATC) facilities.

38. Second, the Commission agrees with the recommendation in the Staff Report that standard-setting bodies should strive to develop hearing aid compatibility standards together with technical operating specifications for new frequency bands. The Commission seeks comment on any measures that the Commission should take to promote this practice.

39. Third, the Commission has held that if a handset manufacturer or service provider offers a multi-band handset in order to comply with the hearing aid compatibility requirements, the handset must be hearing aid-compatible in each frequency band over which it operates. The Commission tentatively concludes to codify this requirement in § 20.19 of the rules. The Commission further tentatively concludes, consistent with this principle, that multi-band phones should not be counted as compatible in any band if they operate over frequency bands for which technical standards have not been established. The Commission believes this limitation would conform with consumers' expectation that a phone labeled ''hearing aid compatible'' is compatible in all its operations. Treating such handsets as not compatible would also create incentives for industry bodies to develop compatibility standards for new frequency bands more quickly. The Commission seeks comment on this tentative conclusion.

40. Fourth, the Commission notes that the ANSI C63.19 standard includes target values for hearing aid compatibility validation procedures for operation over specific air interfaces at frequencies in the ranges of 800–950 MHz and 1.6–2.5 GHz. Accordingly, the Commission tentatively concludes to revise § 20.19(b), 47 CFR 20.19(b), to include services operating over any frequencies within these two bands, to the extent they employ air interfaces for which hearing aid compatibility technical standards have been established and approved by the Commission.

41. In addition, the Commission seeks comment on whether it can, and should, establish a mechanism under which hearing aid compatibility regulations would become applicable to future frequency bands as soon as, or within a defined period after, technical standards are established for relevant air interfaces. Under its current rules, the Commission must modify § 20.19 pursuant to rulemaking to add new services or new frequency bands. Amending § 20.19 so that a rule change is not necessary every time technical standards are established for new services, new air interfaces, or new frequency bands potentially would bring the benefits of compatible handsets more quickly to consumers and would provide greater certainty to all affected parties. In addition, to the extent that manufacturers and service providers are already meeting their obligations to offer defined numbers or percentages of hearing aid-compatible handsets over previously covered services, the automatic extension of its rules to additional frequency bands may not impose significant additional burdens, and may even assist manufacturers and service providers in achieving compliance by permitting them to count multi-band models as compliant. The Commission asks commenters to address both the benefits and the drawbacks of an automatic effectiveness regime, as well as what the specific rules should entail. Under existing rules, the Commission generally must approve revised versions of ANSI C63.19 for such revised standards to take effect for purposes of its hearing aid compatibility requirements. The Commission asks whether a standard should be considered ''established'' for a new frequency band upon its promulgation by C63, or whether there should be a process for the Commission or its staff to review or approve the standard, and if so what should that process be.

42. Multi-Mode Handsets. The Commission tentatively concludes to adopt the proposal in the Joint Consensus Plan stating that multi-mode handsets do not satisfy § 20.19 for any air interface unless they are compatible in all air interfaces over which they operate. The Commission further tentatively concludes, consistent with its tentative conclusion regarding multi-band handsets, that multi-mode phones should not be counted as compatible in any mode if they operate over air interfaces for which technical standards have not been established. The Commission believes this rule would conform to consumers' expectations and would help promote the rapid development of compatibility standards for new air interfaces. The Commission seeks comment on these tentative conclusions and on any other potential measures to promote the development of compatibility standards for new air interfaces together with technical operating specifications.

43. *De Minimis* Exception. The Commission adopted a *de minimis* exception, which relieves wireless service providers and handset manufacturers that offer two or fewer digital wireless handset models in the United States from the hearing aid compatibility compliance obligations. The Joint Consensus Plan proposes that the Commission retain the *de minimis* exception and clarify that it applies on a per-air interface basis. The Commission notes that it has already clarified that the *de minimis* exception applies on a per-air interface basis, rather than across a manufacturer's or carrier's entire product line. The Commission tentatively concludes that this clarification should be codified in its rules. The Commission also invite further comment on the question of whether to narrow the *de minimis* exception.

44. 2010 Further Review. The Joint Consensus Plan proposes that the Commission establish a further review of the hearing aid compatibility rules in 2010. The Commission tentatively concludes to adopt this proposal, and the Commission seeks comment. In particular, given the timing of the obligations the Commission proposes, the Commission seeks comment on whether such a review would be more appropriate at a later date, such as in 2012. The Commission states that once the proposed deployment deadlines have passed and the Commission can assess the effectiveness of any action it takes arising out of its proposals, it may decide to add new or additional obligations, or on the other hand, reduce its oversight role if the state of competition or technology supports such action.

45. Volume Controls. Consistent with the Joint Consensus Plan's recommendation, the Commission urges all interested parties to specifically look into adding volume controls to wireless

handsets. The Commission seeks comment on whether any volume control requirements should be incorporated into its rules, and if so what they should be. The Commission also invites comment on interference from handset screen displays, including whether any measures are appropriate to promote the deployment of phones that enable users to turn off their screens.

46. *Emerging Technologies.*

47. The Commission seeks comment on whether its hearing aid compatibility rules should be modified to address new technologies being used and offered by manufacturers and providers in their wireless handsets and networks. Under current Commission rules, manufacturers and service providers are required to meet the Commission's hearing aid compatibility standards only to the extent that handsets are associated with digital CMRS networks that ''offer real-time, two-way switched voice or data service that is interconnected with the public switched network and utilize an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls.'' 47 CFR 20.19(a). The Commission seeks comment on whether it should extend some or a portion of the hearing aid compatibility requirements under § 20.19 to wireless handsets that may fall outside the definition of CMRS and the criteria in § 20.19(a), such as handsets that operate on unlicensed Wireless Fidelity (WiFi) networks that do not employ an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs. The Staff Report provides several examples of service providers offering access to Voice over Internet Protocol (VoIP) applications over WiFi and other wireless technologies. The Commission agrees with the recommendation in the Staff Report that the Commission should consider whether to change its rules to address these developments.

48. First, the Commission seeks comment generally on the application of its hearing aid compatibility rules to VoIP applications provided over wireless technologies such as WiFi and other emerging technologies. The Commission asks commenters to address how current and anticipated future use of VoIP applications over wireless networks, both interconnected and non-interconnected, would be treated under the interaction of the Hearing Aid Compatibility Act and its rules. 47 U.S.C. 610(b)(2). The Commission asks several questions about the scope and applicability of § 20.19(a) in these situations. Commenters suggesting changes are asked to address not only the policy reasons for their proposed revisions, but also the Commission's legal authority to adopt them.

49. In addition, the Commission solicits comment as to whether any new hearing aid compatibility rules are appropriate to address handsets that combine covered mobile voice operation with data services provided over WiFi networks or other emerging technologies. The Commission notes that such service combinations may be particularly attractive to deaf and hard of hearing consumers, but that its current rules do not necessarily require that any such handsets be hearing aid-compatible if the manufacturer and service provider satisfy their hearing aid compatibility benchmarks using other models. Elsewhere in the *NPRM*, the Commission tentatively concludes to adopt ''product refresh'' and ''tiering'' rules that are intended to ensure consumers who use hearing aids will have access to mobile handsets with a range of functionalities. The Commission seeks comment as to whether these proposed rules appropriately promote the availability of hearing aid-compatible handsets that include data services provided over WiFi networks or other emerging technologies, or whether additional measures are needed. In this regard, the Commission notes that the requirements of § 20.19 apply to handsets used with either voice or data services that fall within its terms. The Commission seeks comment as to the implications of imposing hearing aid compatibility requirements based on the provision of wireless data services, and whether this provision should be changed.

50. Finally, the Commission invites broad comment on what additional regulatory obligations may be appropriate to address the issues raised by emerging wireless technologies, taking into account the statutory goal to promote equal access to communications equipment and services for consumers with hearing loss as well as economic, technological, and legal constraints. Regulation may be appropriate when new technology causes people with hearing disabilities to lose access, but the Commission is unsure what the extent of any access problem may be and what measures may best address any such problem, and the Commission therefore invites commenters to address this question. As emerging technologies progress, the deaf and hard of hearing community should be able to benefit to a similar degree as the mainstream population, as has been its goal under § 20.19.

51. *Networks Using Open Platforms for Devices and Applications.*

52. The Commission required that licensees of the Upper 700 MHz Band C Block of spectrum provide ''open platforms'' for devices and applications to allow customers, device manufacturers, third-party application developers, and others to use the devices and applications of their choosing in C Block networks, subject to certain reasonable network management conditions that allow the licensee to protect the network from harm. An open platform network mandate, such as that for the Upper 700 MHz Band C Block of spectrum, may fundamentally alter the paradigm within which the hearing aid compatibility rules apply. As currently constituted, § 20.19 of the Commission's rules imposes hearing aid compatibility obligations only on manufacturers and providers of services within its scope, including resellers and MVNOs. With the growth of open platform networks, however, entities other than the traditional equipment manufacturers and service providers may become increasingly significant. While the existing requirements on manufacturers, together with the open platform requirements themselves, may be adequate to ensure sufficient hearing aid-compatible handset choice for consumers, the Commission seeks comment on whether any additional hearing aid compatibility requirements should be imposed in the context of open platform networks.

53. The Commission seeks comment both on whether to impose additional hearing aid compatibility requirements on manufacturers in the context of open platform networks, and on whether to extend any requirements to entities that are not currently covered. In addition, the Commission seeks comment on whether and how to extend its hearing aid compatibility requirements to the responsible manufacturing party in joint venture situations.

54. The Commission also seeks comment on whether and how to extend its hearing aid compatibility rules, including handset deployment, information, and outreach requirements, from service providers to other entities offering handsets to consumers within an open platform environment. Considering the development of open platform networks, there may be a greater need for in-store testing by independent retailers or other third parties. The Commission therefore seeks comment on whether to extend in-store testing rules to independent retailers or other third parties in the context of open

platform networks. The Commission seeks comment on the regulatory status under its current hearing aid compatibility rules of application developers and other potential new participants using open platform networks, and on whether any new hearing aid compatibility requirements should appropriately be imposed on such entities.

III. Procedural Matters

A. Regulatory Flexibility Act

55. As required by the Regulatory Flexibility Act (RFA), 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 this *NPRM*. The IRFA is set forth in an Appendix to the *NPRM*. 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 *NPRM*, and must have a separate and distinct heading designating them as responses to the IRFA.

B. Initial Paperwork Reduction Act of 1995

56. This *NPRM* contains proposed 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 *NPRM*, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due on or before January 22, 2008. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107–198 (see 44 U.S.C. 3506(c)(4)), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission notes, however, that § 213 of the Consolidated Appropriations Act of 2000 provides that rules governing frequencies in the 746–806 MHz Band become effective immediately upon publication in the **Federal Register** without regard to certain sections of the Paperwork Reduction Act. Consolidated Appropriations Act of 2000, Pub. L. 106–113, 113 Stat. 2502, Appendix E, Sec. 213(a)(4)(A) through (B); see 145 Cong. Rec. H12493–94 (Nov. 17, 1999); 47 U.S.C.A. 337 note at Sec. 213(a)(4)(A) through (B). The Commission is therefore not inviting comment on any information collections that concern frequencies in the 746–806 MHz Band.

C. Other Procedural Matters

1. Ex Parte Presentations

57. The rulemaking this *NPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b) of the Commission's rules.

2. Comment Filing Procedures

58. Pursuant to 47 CFR 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before December 21, 2007 and reply comments on or before January 7, 2008. All filings related to this *NPRM* should refer to WT Docket No. 07–250. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

59. Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments. ECFS filers must transmit one electronic copy of the comments for WT Docket No. 07–250. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and WT Docket No. 07–250. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

60. Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 should be addressed to 445 12th Street, SW., Washington, DC 20554.

3. Accessible Formats

61. 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).

IV. Initial Regulatory Flexibility Analysis

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

63. Section 213 of the Consolidated Appropriations Act of 2000 provides

that the RFA shall not apply to the rules and competitive bidding procedures for frequencies in the 746–806 MHz Band. In particular, this exemption extends to the requirements imposed by Chapter 6 of Title 5, United States Code, § 3 of the Small Business Act (15 U.S.C. 632) and §§ 3507 and 3512 of Title 44, United States Code. Consolidated Appropriations Act of 2000, Pub. L. 106–113, 113 Stat. 2502, Appendix E, Sec. 213(a)(4)(A) through (B); see 145 Cong. Rec. H12493–94 (Nov. 17, 1999); 47 U.S.C.A. 337 note at Sec. 213(a)(4)(A) through (B). The Commission nevertheless believes that it would serve the public interest to analyze the possible significant economic impact of the proposed policy and rule changes in this band on small entities. Accordingly, this IRFA contains an analysis of this impact in connection with all spectrum that falls within the scope of this *NPRM*, including spectrum in the 746–806 MHz Band.

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

64. In the *NPRM*, the Commission reexamines existing hearing aid compatibility requirements to ensure that they will continue to be effective in an evolving marketplace of new technologies and services. Although the *NPRM* tentatively concludes substantially to adopt new M3- and T3-rated handset deployment benchmarks through 2011, and a related requirement to offer handsets with different levels of functionality, for Tier I carriers only, it also seeks comment on the appropriate regime for smaller service providers. In addition, the *NPRM* tentatively concludes to adopt new deployment benchmarks for all manufacturers, subject to a *de minimis* exception for certain manufacturers with small product lines. Moreover, the Commission also tentatively concludes that the following steps that might affect small businesses are needed to meet its objectives: (1) Implement a ''product refresh'' rule for manufacturers; (2) adopt, after a suitable phase-in period, the use of a single version of the ANSI C63.19 standard, ANSI C63.19–2007; and (3) adopt new content and timelines for hearing aid compatibility reporting requirements. In the context of several of these tentative conclusions, the Commission requests comment on possible compliance requirements not included within the Joint Consensus Plan's framework. For example, the Commission seeks comment on the possibility of staggered handset deployment deadlines for different classes of service providers and manufacturers, additional reporting/outreach obligations, and other measures that may impact small entities. In addition, following upon the recommendations in the Staff Report, the *NPRM* invites comments on new hearing aid compatibility issues implicated by recent developments relating to provision of Voice over Internet Protocol (VoIP) over wireless platforms, as well as ''open platform'' networks. The Commission is open to comment on what, if any, requirements it should, or should not, impose for small entities if it adopts new rules based on the proposals in the *NPRM*.

65. To promote compatibility between digital wireless telephones and hearing aids, this *NPRM* could result in rule changes that, if adopted, would create new opportunities and obligations for several categories of wireless service providers, as well as manufacturers of wireless handsets. The rule changes in the *NPRM* may affect service providers and equipment manufacturers in services for which technical standards both have and have not been established. In addition, the *NPRM* requests comment on potential rule changes that may affect providers of VoIP applications over wireless technologies, as well as independent retailers and other third parties in the context of ''open platform'' networks.

66. The Commission states that ensuring the availability of hearing aid-compatible handsets to hard of hearing consumers, as well as information about such handsets, remains a high priority. To the extent people who use hearing aids have difficulty finding a wireless mobile telephone that functions effectively with those devices because of interference or compatibility problems, the Commission states that a continued expansion in the number and availability of hearing aid-compatible wireless telephones is warranted. It explains that its objective is to take account of changing market and technological conditions with appropriate new steps to ensure that hearing aid users will continue to benefit from the convenience and features offered by the newest wireless communications systems being provided to American consumers.

B. Legal Basis

67. The potential actions about which comment is sought in this *NPRM* would be authorized pursuant to the authority contained in 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 Rules Will Apply

68. 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. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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 Small Business Administration (SBA). To assist the Commission in analyzing the total number of potentially affected small entities, the Commission requests commenters to estimate the number of small entities that may be affected by any rule changes that might result from this *NPRM*.

69. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses in the 2305–2320 MHz and 2345–2360 MHz bands. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

70. *700 MHz Guard Bands Licenses*. The Commission adopted size standards for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not

more than $15 million for the preceding three years. SBA approval of these definitions is not required. An auction of 52 Major Economic Area (MEA) licenses for each of two spectrum blocks commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of remaining 700 MHz Guard Bands licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses. Subsequently, the Commission reorganized the licenses pursuant to an agreement among most of the licensees, resulting in a spectral relocation of the first set of paired spectrum block licenses, and an elimination of the second set of paired spectrum block licenses (many of which were already vacant, reclaimed by the Commission from Nextel). A single licensee that did not participate in the agreement was grandfathered in the initial spectral location for its two licenses in the second set of paired spectrum blocks. Accordingly, at this time there are 54 licenses in the 700 MHz Guard Bands.

71. *700 MHz Band Commercial Licenses*. There is 80 megahertz of non-Guard Band spectrum in the 700 MHz Band that is designated for commercial use: 698–757, 758–763, 776–787, and 788–793 MHz Bands. With one exception, the Commission adopted criteria for defining two groups of small businesses for purposes of determining their eligibility for bidding credits at auction. These two categories are: (1) ''Small business,'' which is defined as an entity that has attributed average annual gross revenues that do not exceed $15 million during the preceding three years; and (2) ''very small business,'' which is defined as an entity with attributed average annual gross revenues that do not exceed $40 million for the preceding three years. In Block C of the Lower 700 MHz Band (710–716 MHz and 740–746 MHz), which was licensed on the basis of 734 Cellular Market Areas, the Commission adopted a third criterion for determining eligibility for bidding credits: An ''entrepreneur,'' which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small size standards.

72. An auction of 740 licenses for Blocks C (710–716 MHz and 740–746 MHz) and D (716–722 MHz) of the Lower 700 MHz Band commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business, or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, and closed on June 13, 2003, and included 256 licenses: five EAG licenses and 251 CMA licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.

73. The remaining 62 megahertz of commercial spectrum is currently scheduled for auction on January 24, 2008. Bidding credits for all of these licenses will be available to ''small businesses'' and ''very small businesses.''

74. *Government Transfer Bands.* The Commission adopted small business size standards for the unpaired 1390–1392 MHz, 1670–1675 MHz, and the paired 1392–1395 MHz and 1432–1435 MHz bands. Specifically, with respect to these bands, the Commission defined an entity with average annual gross revenues for the three preceding years not exceeding $40 million as a ''small business,'' and an entity with average annual gross revenues for the three preceding years not exceeding $15 million as a ''very small business.'' SBA has approved these small business size standards for the aforementioned bands. Correspondingly, the Commission adopted a bidding credit of 15 percent for ''small businesses'' and a bidding credit of 25 percent for ''very small businesses.'' This bidding credit structure was found to have been consistent with the Commission's schedule of bidding credits, which may be found at § 1.2110(f)(2) of the Commission's rules. The Commission found that these two definitions will provide a variety of businesses seeking to provide a variety of services with opportunities to participate in the auction of licenses for this spectrum and will afford such licensees, who may have varying capital costs, substantial flexibility for the provision of services. The Commission noted that it had long recognized that bidding preferences for qualifying bidders provide such bidders with an opportunity to compete successfully against large, well-financed entities. The Commission also noted that it had found that the use of tiered or graduated small business definitions is useful in furthering its mandate under § 309(j) to promote opportunities for and disseminate licenses to a wide variety of applicants. An auction for one license in the 1670–1674 MHz band commenced on April 30, 2003 and closed the same day. One license was awarded. The winning bidder was not a small entity.

75. *Advanced Wireless Services.* The Commission adopted rules that affect applicants who wish to provide service in the 1710–1755 MHz and 2110–2155 MHz bands. The Commission did not know precisely the type of service that a licensee in these bands might seek to provide. Nonetheless, the Commission anticipated that the services that will be deployed in these bands may have capital requirements comparable to those in the broadband Personal Communications Service (PCS), and that the licensees in these bands will be presented with issues and costs similar to those presented to broadband PCS licensees. Further, at the time the broadband PCS service was established, it was similarly anticipated that it would facilitate the introduction of a new generation of service. Therefore, the Commission adopts the same small business size definition that it adopted for the broadband PCS service and that the SBA approved. In particular, it defines a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. It also provides small businesses with a bidding credit of 15 percent and very small businesses with a bidding credit of 25 percent.

76. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service (''BRS''), formerly known as Multipoint Distribution Service (''MDS''), and Educational Broadband Service (''EBS''), formerly known as Instructional Television Fixed Service (''ITFS''), use frequencies at 2150–2162 and 2500–2690 MHz to transmit video programming and provide broadband services to residential subscribers. These services, collectively referred to as ''wireless cable,'' were originally designed for the delivery of multichannel video programming, similar to that of traditional cable systems, but over the past several years licensees have focused their operations instead on providing two-way high-speed Internet access services. The Commission estimates that the number of wireless cable subscribers is approximately 100,000, as of March 2005. The SBA small business size standard for the broad census category

of Cable and Other Program Distribution, which consists of such entities generating $13.5 million or less in annual receipts, appears applicable to MDS and ITFS. Other standards also apply, as described.

77. The Commission has defined small MDS (now BRS) entities in the context of Commission license auctions. In the 1996 MDS auction, the Commission defined a small business as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. In the MDS auction, 67 bidders won 493 licenses. Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities. MDS licensees and wireless cable operators that did not receive their licenses as a result of the MDS auction fall under the SBA small business size standard for Cable and Other Program Distribution. Information available to us indicates that there are approximately 850 of these licensees and operators that do not generate revenue in excess of $13.5 million annually. Therefore, the Commission estimates that there are approximately 850 small entity MDS (or BRS) providers, as defined by the SBA and the Commission's auction rules.

78. Educational institutions are included in this analysis as small entities; however, the Commission has not created a specific small business size standard for ITFS (now EBS). The Commission estimates that there are currently 2,032 EBS licensees, and all but 100 of the licenses are held by educational institutions. Thus, it estimates that at least 1,932 EBS licensees are small entities.

79. *Cellular Licensees.* The SBA has developed a small business size standard for small businesses in the category ''Wireless Telecommunications Carriers (except satellite).'' Under that SBA category, a business is small if it has 1,500 or fewer employees. For the census category of ''Cellular and Other Wireless Telecommunications,'' Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the majority of firms can be considered small.

80. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 ''small'' and ''very small'' business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission reauctioned 155 C, D, E, and F Block licenses; there were 113 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F PCS licenses in Auction 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

81. *Specialized Mobile Radio.* The Commission awards ''small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards ''very small entity'' bidding credits to firms that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 900 MHz Service. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

82. The auction of the 1,050 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed ''small business'' status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

83. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million, or have no more than 1,500 employees. One firm has over $15 million in revenues. The Commission assumes, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is established by the SBA.

84. *Rural Radiotelephone Service.* The Commission uses the SBA definition applicable to Wireless Telecommunications Carriers (except satellite), i.e., an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

85. *Air-Ground Radiotelephone Service.* The Commission uses the SBA

definition applicable to Wireless Telecommunications Carriers (except satellite), *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

86. *Offshore Radiotelephone Service.* This service operates on several ultra high frequency (UHF) TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission uses the SBA definition applicable to Wireless Telecommunications Carriers (except satellite), i.e., an entity employing no more than 1,500 persons. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition. The Commission assumes, for purposes of this analysis, that all of the 55 licensees are small entities, as that term is defined by the SBA.

87. *Mobile Satellite Service Carriers.* Neither the Commission nor the U.S. Small Business Administration has developed a small business size standard specifically for mobile satellite service licensees. The appropriate size standard is therefore the SBA standard for Satellite Telecommunications, which provides that such entities are small if they have $13.5 million or less in annual revenues. Currently, the Commission's records show that there are 31 entities authorized to provide voice and data MSS in the United States. The Commission does not have sufficient information to determine which, if any, of these parties are small entities. The Commission notes that small businesses are not likely to have the financial ability to become MSS system operators because of high implementation costs, including construction of satellite space stations and rocket launch, associated with satellite systems and services. Still, the Commission requests comment on the number and identity of small entities that would be significantly impacted by the proposed rule changes.

88. *Wireless Communications Equipment Manufacturers.* The SBA has established a small business size standard for wireless communications equipment manufacturers. Under the standard, firms are considered small if they have 750 or fewer employees. Census Bureau data for 1997 indicates that, for that year, there were a total of 1,215 establishments in this category. Of those, there were 1,150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The Commission estimates that the majority of wireless communications equipment manufacturers are small businesses.

89. *Radio, Television, and Other Electronics Stores.* This U.S. industry comprises: (1) establishments known as consumer electronics stores primarily engaged in retailing a general line of new consumer-type electronic products; (2) establishments specializing in retailing a single line of consumer-type electronic products (except computers); or (3) establishments primarily engaged in retailing these new electronic products in combination with repair services. The SBA has developed a small business size standard for this category of retail store; that size standard is $7.5 million or less in annual revenues. According to Census Bureau data for 1997, there were 8,328 firms in this category that operated for the entire year. Of these, 8,088 firms had annual sales of under $5 million, and an additional 132 had annual sales of $5 million to $9,999,999. Therefore, the majority of these businesses may be considered to be small.

90. *Internet Service Providers.* In the *NPRM*, the Commission seeks comment on whether to extend hearing aid compatibility requirements to entities offering access to VoIP applications over WiFi and other wireless technologies that may fall outside the definition of CMRS and/or the criteria in § 20.19(a), such as those operating on networks that do not employ ''an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs.'' Such applications may be provided, for example, by Internet Service Providers (ISPs). ISPs are Internet Publishing and Broadcasting and Web Search Portals that provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to Internet connectivity. To gauge small business prevalence for these Internet Publishing and Broadcasting and Web Search Portals, the Commission must, however, use current census data that are based on the previous category of Internet Service Providers and its associated size standard. That standard was: all such firms having $23.5 million or less in annual receipts. Accordingly, to use data available to it under the old standard and Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by this action.

91. *All Other Information Services.* This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives). VoIP services over wireless technologies could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $6.5 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in this category that operated for the entire year. Of these, 172 had annual receipts of under $5 million, and an additional nine firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by this action.

92. *Part 15 Device Manufacturers.* Manufacturers of unlicensed wireless devices may also become subject to requirements in this proceeding for their devices used to provide VoIP applications. The Commission has not developed a definition of small entities applicable to unlicensed communications devices manufacturers. Therefore, the Commission will utilize the SBA definition applicable to Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. The Census Bureau defines this category as follows: This industry comprises 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. The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under

500, and an additional 13 had employment of 500 to 999.[1] Thus, under this size standard, the majority of firms can be considered small.

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

93. The Commission tentatively concludes that it will adopt several reporting, recordkeeping, and other compliance requirements which could affect small entities. For example, manufacturers and service providers have filed regular reports with the Commission since 2003 detailing their hearing aid compatibility efforts. In order to address shortcomings that have been observed in the existing reports and to render future reports as transparent and useful as possible for consumers, industry, and Commission staff responsible for helping to ensure that the Commission's hearing aid compatibility requirements are fully implemented, the Commission tentatively concludes to adopt new content requirements, as recommended in the Staff Report and proposed in the Joint Consensus Plan.

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

94. 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) and exemption from coverage of the rule, or any part thereof, for small entities.

95. The Commission seeks comment generally on the effect the rule changes considered in this *NPRM* would have on small entities, on whether alternative rules should be adopted for small entities in particular, and on what effect such alternative rules would have on those entities. The Commission invites comment on ways in which it can achieve its goals while minimizing the burden on small wireless service providers, equipment manufacturers, and other entities.

96. For example, the Commission specifically considers handset deployment benchmark alternatives for small businesses. In this regard, the Commission requests comment regarding the appropriate benchmarks and deadlines for Tier II and Tier III carriers, resellers, mobile virtual network operators (MVNOs), and other categories of smaller service providers. The Commission notes that in the past numerous Tier II and Tier III carriers have requested, and many have been granted, extension of compatible handset deployment deadlines because they were unable timely to obtain compliant handsets in sufficient quantities from manufacturers. The Commission states that Tier II and Tier III carriers may have more difficulty than Tier I carriers in obtaining handsets due to market realities. Accordingly, the Commission seeks comment on the alternative of whether the handset deployment benchmarks proposed for Tier I carriers are appropriate for smaller carriers, and on whether the deadlines for those entities in particular should be later than those applicable to manufacturers. To consider the economic impact on small entities, the Commission asks commenters to address whether there is anything inherent in the characteristics of smaller service providers that would prevent them from meeting either the RF interference or inductive coupling-capable handset numbers and percentages set out for Tier I carriers. The Commission asks commenters to discuss with specificity any alternative requirements or schedules that they propose for these types of service providers, and the reasons for those alternatives.

97. The *NPRM* also considers the alternative of delayed reporting obligations for non-Tier I carriers, which includes small entities. The *NPRM* seeks comment on the appropriate reporting timelines for Tier II and III carriers, including the alternative of delaying their next reports for a period of 18 months to two years from their reports that will be submitted in November 2007, versus the alternative of whether they should instead be held to the same schedule as Tier I carriers in order to provide a steady source of information to consumers and to the Commission. In this context, the Commission considers the extent of the burdens to Tier II and III carriers that would be avoided by postponing their first reports as proposed under the Joint Consensus Plan. For example, given that Tier II and III carriers have already been filing reports regularly, the Commission seeks comment on the extent of any inconvenience or costs that would be avoided by postponing their first reports as proposed under the Joint Consensus Plan, balanced against the extent of information that would be lost by introducing a gap of 18 months or more in their reporting. Finally, the *NPRM* asks commenters to address whether the delayed reporting deadline alternative for Tier II and III carriers should depend on what deployment deadlines are adopted.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

98. None.

V. Ordering Clauses

99. *It is ordered* that, pursuant to the authority of 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 *NPRM is hereby adopted.*

100. *It is further ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on the *NPRM* on or before December 21, 2007 and reply comments on or before January 7, 2008.

101. *It is further ordered* that the petition of American National Standards Institute Accredited Standards Committee C63 (EMC) ANSI ASC C63™ *is granted* to the extent set forth herein.

102. *It is further ordered* that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Ruth A. Dancey,

Associate Secretary.

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[1] *Id.* An additional 18 establishments had employment of 1,000 or more.