

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document and various support documents from the EPA internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register - Environmental Documents." You can also go directly to the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The EPA has established an official record for this action under docket control number OPP-190001B. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. A public version of this record, including printed, paper versions of any electronic comments submitted during the comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is 703-305-5805.

C. How and to Whom do I Submit Comments?

As described in Unit I. of the proposed rule published in the **Federal Register** of October 21, 1999 (64 FR 56918) (FRL-5776-3), you may submit your comments through the mail, in person, or electronically. Please follow the instructions that are provided in the proposed rule. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, be sure to identify docket control number OPP-190001B in the subject line on the first page of your response.

D. How Should I Handle CBI Information That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that

you submit in response to this document as CBI by marking any part or all of that information as CBI.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the person identified in the "FOR FURTHER INFORMATION CONTACT" section.

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the various options we discuss in this document, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you use.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrive at the estimate.
- Tell us what you support, as well as what you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the rule.
- Make sure to submit your comments by the deadline in this notice.
- To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is EPA Taking?

EPA is extending the comment period for 60 days in response to a request for an extension. On October 21, 1999 (64 FR 56918) (FRL-5776-3), EPA reopened the comment period on the rule "Standards for Pesticide Containers and Containment" to obtain comment on four specific issues. The October 21,

1999 **Federal Register** notice solicited comments on four aspects of the original 1994 proposed rule that proposed container design and residue removal requirements for refillable and nonrefillable pesticide containers and standards for pesticide containment structures. (59 FR 6712, February 11, 1994) (FRL-4168-9). Because of the lengthy time period between the original proposal in 1994 and the recent notice to reopen the comment period, EPA believes that granting the extension is warranted.

B. What is the Agency's Authority for Taking this Action?

EPA proposed the standards for pesticide containers and containment based on the authority in section 19 of the Federal Insecticide, Fungicide, and Rodenticide Act.

III. Do Any Regulatory Assessment Requirements Apply to this Action?

No. This action is not a rulemaking, it merely extends the date by which public comments must be submitted to EPA on a proposed rule that previously published in the **Federal Register** of October 21, 1999 (64 FR 56918). For information about the applicability of the regulatory assessment requirements to that proposed rule, which published in the **Federal Register**, please refer to the discussion in Unit X of that document.

List of Subjects in 40 CFR Part 165

Environmental protection, Antimicrobial pesticides, Packaging and containers, Pesticides and pests.

Dated: December 10, 1999.

Susan H. Wayland,

Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99-33034 Filed 12-20-99; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0, 80, and 90

[WT Docket No. 99-332; FCC 99-348]

Making the Frequency 156.250 MHz Available for Port Operations Purposes in Los Angeles and Long Beach, CA Ports

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Commission's rules to designate marine VHF Channel 05A for

port operations communications in Los Angeles and Long Beach, California ports. The effect of this rule is that it will foster reliable marine communications and increase safe vessel transit in the ports. The action will allow the LA/LB Pilots to manage vessel traffic in that area more efficiently and protect the marine environment by preventing collisions and groundings.

DATES: Comments must be submitted on or before January 18, 2000 and reply comments are due on or before February 1, 2000.

FOR FURTHER INFORMATION CONTACT: James Shaffer of the Commission's Wireless Telecommunications Bureau at (202) 418-0680.

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Commission's *Notice of Proposed Rule Making* FCC 99-348, adopted on November 15, 1999, and released on November 19, 1999. The full text of this *Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY A257, 445 12th Street, SW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

2. By letter the Los Angeles and Long Beach Port Pilots (jointly, LA/LB Pilots) request the assignment of an intership marine VHF channel dedicated to port operations (namely, pilot-tug communications) in the Ports of Los Angeles and Long Beach, California. They note that marine VHF Channels 01A (156.050 MHz), 05A (156.250 MHz), and 63A (156.175 MHz) are currently used for U.S. Coast Guard (Coast Guard) designated Vessel Traffic Service (VTS) systems in defined areas of the United States. The LA/LB Pilots recommend that one of these frequencies be designated for intership communications regarding port operations to improve vessel traffic safety in the Los Angeles and Long Beach port area. In this *Notice of Proposed Rule Making*, we propose to amend part 80 of the Commission's rules to designate marine VHF Channel 05A for port operations communications in Los Angeles and Long Beach, California ports. We believe that this action will foster reliable marine communications and increase safe vessel transit in the ports.

3. The LA/LB Pilots state that the ports of Los Angeles and Long Beach are among the busiest in the world, with considerable vessel congestion. In this type of environment, harbor pilots rely upon clear and effective radio communications with tugs to help ensure the safe ingress and egress of large vessels. The LA/LB Pilots note that there is only one frequency, marine VHF Channel 77 (156.875 MHz), dedicated to intership communications related to port operations. The Commission's rules provide that Channel 77 "is limited to communications with pilots regarding the movement and docking of ships," and that "[n]ormal output power must not exceed 1 watt." The LA/LB Pilots state that marine VHF Channel 77 is frequently congested. They further contend that while output power is limited to one watt, communications often carry over from one port to the other and there is interference when more than one ship is maneuvering in or out of port.

4. The LA/LB Pilots note that marine VHF Channels 01A (156.050 MHz), 05A (156.250 MHz), and 63A (156.175 MHz) are used for communications related to port operations in certain Coast Guard-designated VTS areas. Specifically, the frequencies 156.050 MHz and 156.175 MHz are currently allocated in the United States to the Public Safety Pool in the private land mobile radio services; however, they were made available to maritime radio users for commercial and port operation purposes in a portion of the Coast Guard-designated New Orleans VTS system. The frequency 156.250 MHz, which is currently allocated to maritime mobile radio, was made available for port operations purposes within the Coast Guard-designated Houston and New Orleans VTS systems, and Seattle VTS system. The LA/LB Pilots state that their monitoring of these channels detected no users in the area of the Ports of Los Angeles and Long Beach.

5. In addition, the Los Angeles/Long Beach Harbor Safety Committee (LA/LB Safety Committee) note that the Coast Guard and Marine Exchange of Los Angeles-Long Beach Harbor, Inc., acting for the State of California, currently have a Memorandum of Agreement in which the Coast Guard agrees to provide personnel support for the operation of an interim Vessel Traffic Information Service (VTIS). The VTIS system is an advisory communications service to coordinate vessel movement and prevent damage to or loss of vessels, bridges or other structures, and to protect these waters and associated natural resources from environmental harm resulting from such damage or

loss. Vessels report, by voice, information related to position, navigation and conditions affecting navigation to the Coast Guard, which tracks the vessels' movements. The LA/LB Safety Committee also recommend the use of either marine VHF Channels 01A, 05A, or 63A for intership communications related to port operations in the Los Angeles and Long Beach ports.

6. The LA/LB Pilots also note that authorities responsible for port safety, including the Coast Guard, the California Office of Oil Spill Response and Prevention, and the LA/LB Harbor Safety Committee, fully support the request. The Southern California Marine Radio Council (SCMRC), which is the FCC-designated marine VHF frequency coordinating committee for this region, also supports this request.

7. As an initial step to provide some relief for frequency congestion in communications related to port operations in the Los Angeles and Long Beach port areas the feasibility of using frequency 156.250 MHz for intership communications was investigated in conjunction with the Coast Guard and industry. This frequency had not been previously assigned, other than in Coast Guard-designated Houston, New Orleans, and Seattle VTS systems because of its band edge location and the resultant potential harmful interference with land mobile radio assignments on the adjacent public safety frequency 156.240 MHz. However, after reviewing assignments in the Los Angeles and Long Beach area it appears that 156.250 MHz could be utilized without harmful interference to existing radio operations as it is not assigned for public safety purposes. Therefore, we believe it is in the public interest to provide in the Rules for the use of frequency 156.250 MHz (marine VHF Channel 05A) in the Los Angeles and Long Beach port areas to alleviate the communications congestion related to port operations. Thus, we propose to amend § 80.373 of the Commission's rules to so provide. Further, we propose to make assignments on Public Safety Pool frequencies of 156.240 and 156.2475 MHz within 100 miles of the geographic center of Los Angeles, defined as 34° 03' 15" north latitude and 118° 14' 28" west longitude, secondary to marine port operations on 156.250 MHz. We propose to amend § 90.20 of the Commission's rules to indicate the aforementioned secondary status. We seek comment on these proposals.

8. Accordingly, effective upon the adoption date of this *Notice of Proposed Rule Making*, no applications for public safety pool frequencies of 156.240 and

156.2475 MHz within 100 miles of the geographic center of Los Angeles will be accepted for filing during the pendency of the *Notice of Proposed Rule Making*. Any applications received on or after this date will be returned as unacceptable for filing.

9. We note that currently there are no private coast stations authorized to operate on marine VHF Channel 05A within the Los Angeles and Long Beach area. We propose not to authorize future private coast stations on this channel if we ultimately designate marine VHF Channel 05A for port operations. The Marine Exchange of Los Angeles-Long Beach Harbor, Inc., which operates the VTIS for the ports of Los Angeles and Long Beach, describes its area of responsibility as within a 25-nautical mile radius of Point Fermin. We propose to designate this area as the radio protection area for port operations on 156.250 MHz. We do not believe that such an approach would adversely affect private coast operations. In this connection, Wireless Telecommunications Bureau staff would assist future applicants in finding suitable alternative channels to Channel 05A. We seek comment on this proposal.

10. Finally, we propose to amend § 0.331 of the Commission's rules to authorize the Chief, Wireless Telecommunications Bureau to amend the maritime service rules at the request of the United States Coast Guard to indicate that the use of marine VHF frequencies in defined port areas are available for intership communications related to port operations to alleviate the communications congestion related to port operations. We believe that this approach will allow the Commission to expedite these requests, which will increase safe vessel transit and protect U.S. waters and associated natural resources from environmental harm. We seek comment on this proposal.

11. We conclude that permitting frequency 156.250 MHz (marine VHF Channel 05A) for intership communications related to port operations in the Los Angeles and Long Beach, California ports will allow the LA/LB Pilots to manage vessel traffic in that area more efficiently and protect the marine environment by preventing vessel collisions and groundings. We are proposing, therefore, to amend § 80.373(f) of the Commission's rules to indicate that frequency 156.250 MHz (marine VHF Channel 05A) is available only for intership communications related to port operations within the Los Angeles and Long Beach harbor areas. The radio protection area will be defined as "within a 25-nautical mile

radius of Point Fermin, California." Additionally, we are proposing to amend § 90.20(c) of the Commission's rules to indicate that assignments on public safety pool frequencies of 156.240 and 156.2475 MHz within 100 miles of the geographic center of Los Angeles are secondary to marine port operations on 156.250 MHz.

Procedural Matters

12. *Ex Parte Presentations*. This *Notice of Proposed Rule Making* is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in Commission Rules.

13. *Pleading Dates*. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before January 18, 2000, and reply comments on or before February 1, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

14. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

15. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-B204, Washington, DC 20554.

16. Parties who choose to file by paper should also submit their

comments on diskette. These diskettes should be submitted to: Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 12th Street, SW, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20037.

Initial Regulatory Flexibility Act Analyses

17. As required by the Regulatory Flexibility Act,¹ the Commission has prepared an Initial Regulatory Flexibility Analysis of the possible impact on small entities of the proposals suggested in the *Notice of Proposed Rule Making*. See Appendix A. Written public comments are requested on the Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this Notice but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Office of Public Affairs, Reference Operations Division, will send a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

18. Authority for issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i), 4(j), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 403.

19. NOTICE IS HEREBY GIVEN and COMMENT IS SOUGHT on the proposed regulatory changes described

¹ See 5 U.S.C. 603.

in the *Notice of Proposed Rule Making*, as set forth in Proposed rules.

20. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

21. IT IS FURTHER ORDERED that effective upon the release date of this *Notice of Proposed Rule Making*, no applications will be accepted for filing for the public safety frequencies of 156.240 and 156.2475 MHz within 100 miles of the geographic center of Los Angeles, defined as 34° 03' 15" north latitude and 118° 14' 28" west longitude. This freeze will continue until the Commission makes an announcement that such applications acceptance will resume.

Initial Regulatory Flexibility Analysis

As required by section 603 of the Regulatory Flexibility Act,² the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in the *Amendment of parts 0, 80, and 90 of the Commission's rules to Make the Frequency 156.250 MHz Available for Port Operations Purposes in Los Angeles and Long Beach, CA Ports*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Amendment of parts 0, 80, and 90 of the Commission's rules to Make the Frequency 156.250 MHz Available for Port Operations Purposes in Los Angeles and Long Beach, CA Ports*, provided in paragraph 11 of the item. The Commission will send a copy of the *Amendment of parts 0, 80, and 90 of the Commission's rules to Make the Frequency 156.250 MHz Available for Port Operations Purposes in Los Angeles and Long Beach, CA Ports*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, the *Amendment of parts 0, 80, and 90 of the Commission's rules to Make the Frequency 156.250 MHz Available for Port Operations Purposes in Los Angeles and Long Beach, CA Ports* and IRFA (or summaries thereof) will be published in the **Federal Register**. See *id.*

I. Need for and Objectives of the Proposed Rule

The purpose of this *Notice* is to determine whether it is in the public interest, convenience, and necessity to amend our rules to allow frequency 156.250 MHz (marine VHF Channel 05A) to be used for communications related to port operations in the Los Angeles and Long Beach harbor areas. These proposed actions should protect the marine environment and increase the safety and efficiency of navigation and movement of ship by allowing the LA/LB Pilots to manage vessel traffic in that area more efficiently.

II. Legal Basis:

Authority for issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

III. Description and Estimate of the Number of Small Entities to Which Rule Will Apply

The proposed amendments will affect small businesses in the marine radio services that use a marine VHF radio. Neither the Commission nor the SBA has developed a definition of small entities applicable to marine radio services that use a marine VHF radio. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were companies that used a marine VHF radio, nearly all such companies were small businesses under the SBA's definition. We invite comment on whether this is the correct definition to use in this context.

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

There are no reporting, recordkeeping and other compliance requirements proposed.

V. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

The proposed rules would make frequency 156.250 MHz (marine VHF Channel 05A) available for intership communications related to port operations in the Los Angeles and Long

Beach harbor areas. We believe that this flexible approach allows the LA/LB Pilots to manage vessel traffic in the Los Angeles and Long Beach harbor areas more efficiently and protect the marine environment by preventing vessel collisions and groundings. Currently under the rules frequency 156.250 MHz is currently allocated to maritime mobile and was made available for port operations purposes within the Coast Guard designated Houston and New Orleans, and Seattle Vessel Traffic Service (VTS) systems. We seek comments on whether the proposed amendment are sufficient to alleviate the communications congestion related to port operations in the Los Angeles and Long Beach harbor areas. This decision benefits small entities and seeks to ensure reliable marine communications, increase safe vessel transit to protect U.S. waters and associated natural resources from environmental harm, and increase port efficiency thereby promoting growth within the shipping community.

VI. Federal Rules Which Overlap, Duplicate or Conflict With These Rules

None.

List of Subjects

47 CFR Part 0

Administrative practice and procedure.

47 CFR Part 80

Communications equipment, marine safety.

47 CFR Part 90

Communications equipment.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Proposed Rules

Title 47 of the Code of Federal Regulations, parts 0, 80 and 90, are proposed to be amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.331 is amended by adding new paragraph (d)(3) to read as follows:

§ 0.331 Authority delegated.

* * * * *

(d) * * *

(3) Designate by footnote to frequency table in § 80.373(f) of this chapter marine VHF frequencies are available

² 5 U.S.C. 603.

for intership port operations communications in defined port areas.

PART 80—STATIONS IN THE MARITIME SERVICES

3. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 307 (e), 309 and 322, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307 (e), 309 and 322 unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

4. In § 80.373 (f), footnote 2 to the table is amended as follows:

§ 80.373 Private communications frequencies.

* * * * *

² 156.250 MHz is available for port operations communications use only within the U.S. Coast Guard designated VTS radio protection areas of New Orleans and Houston described in § 80.383. 156.250 MHz is available for intership port operations communications used only within the area of Los Angeles and Long Beach harbors, within a 25-nautical mile radius of Point Fermin, California.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

5. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309 and 322, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 322 unless otherwise noted.

6. Section 90.20 is amended by revising the table in paragraph (c) (3) and by adding paragraph (d)(79) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) * * *

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
156.240	do	43, 79	PH
156.2475	do	43, 44, 79	PH

* * * * *

(d) * * *

(79) This frequency will be secondary to marine port operations within 100 miles of Los Angeles (coordinates 34° 03' 15" north latitude and 118° 14' 28" west longitude).

* * * * *

[FR Doc. 99–32840 Filed 12–20–99; 8:45 am] BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[CC Docket No. 92–297; FCC 99–379]

Local Multipoint Distribution Service

AGENCY: Federal Communications Commission

ACTION: Notice of proposed rule making.

SUMMARY: The Commission's rules for the Local Multipoint Distribution Service (LMDS) prohibit an incumbent local exchange carrier (LEC) or incumbent cable company, or any entity with an attributable interest in these incumbents, from having an attributable interest in an A-block LMDS license whose geographic service area significantly overlaps the incumbent's service area. This LMDS eligibility rule will sunset on June 30, 2000, unless the Commission extends it. This document seeks comment on whether to allow the restriction to sunset, or to extend the restriction.

DATES: Submit comments on or before January 21, 2000; submit reply comments on or before February 11, 2000.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th St SW, Washington, DC 20554. See Supplementary Information for information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Stacy Jordan or John Spencer, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Sixth Notice of Proposed Rule Making (Sixth NPRM) in CC Docket No. 92–297 (including the associated Initial Regulatory Flexibility Analysis), FCC 99–379, adopted December 1, 1999, and released December 13, 1999. The complete text of the Sixth NPRM and Initial Regulatory Flexibility Analysis is available on the Commission's Internet site, at www.fcc.gov. It is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW, Washington, DC, and may be purchased from the Commission's copy contractor, International Transcription Services, Inc., CY–B400, 445 12th Street SW, Washington, DC. Comments may be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>, or by e-mail to ecfs@fcc.gov.

Synopsis of the Sixth NPRM

1. The LMDS allocation consists of two primary blocks of spectrum: an A block consisting of 850 MHz at 27.5 GHz, 150 MHz at 29 GHz, and 150 MHz at 31 GHz; and a B block consisting of 150 MHz at 31 GHz. The LMDS allocation is unusual in both the size of the allocation and the extent to which the spectrum is unencumbered.

2. When the Commission adopted final LMDS rules in 1997, it assumed that the LMDS spectrum allocation provided a rare opportunity for facilities-based providers of local exchange services, multi-channel video programming distribution (MVPD) services, broadband data services, or all of the above. In order to foster competition, the Commission imposed in 47 CFR 101.1003 a short-term ownership eligibility rule prohibiting incumbent local exchange carriers (LECs) or cable companies from having an attributable interest in an LMDS A-block license that overlaps with ten percent or more of the population in their service areas. This decision was based on four considerations: the most likely uses for LMDS; the then-current market structure for local exchange services and MVPD services, and whether the incumbent operators in these markets would have the incentive to attempt to forestall competition in their respective markets; whether an eligibility restriction would be the best means to promote competition; and whether efficiencies would be lost if the LMDS spectrum were operated by