

totaled \$145,885,773. This figure represents Medicare payments for such immunizations furnished in all settings, including, but not limited to, hospitals, nursing homes, and HHAs. Immunization experts working under contract to CMS estimate that implementation of this rule will increase immunization rates by 10 percent. Therefore, we generally estimate that broad implementation of standing orders as allowed by this rule will increase Medicare immunization expenditures by \$14,588,577 above the 2001 expenditure.

These cost-effectiveness results provide a compelling case for clinical and public policy to more forcefully promote pneumococcal vaccination for elderly people in the United States. They thus add support on economic grounds to public and private efforts already under way. (JAMA; Oct 22–29; 1997; 278:16)

#### C. Alternatives Considered

##### 1. Immunization Standards for Hospitals, Long-Term Care Facilities, and Home Health Agencies

An alternative would be to keep the present rules, as they are written. The current regulations, however, inhibit our ability to increase the rate of immunizations and to accomplish our goal to immunize at least 90 percent of the institutionalized population.

Another alternative would be to educate providers on the value of influenza and pneumococcal vaccines while maintaining the Federal barrier requiring a physician's order for every vaccine given in these provider types. Studies previously referred to, however, show that this has not been very effective in improving immunization rates.

#### D. Conclusion

Increasing the utilization of Medicare-funded preventive services is the goal of both CMS and CDC, and this final rule will facilitate the delivery of appropriate vaccinations in a timely manner, increase the levels of vaccination rate, and decrease the morbidity and mortality rate of influenza and pneumococcal diseases.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

#### List of Subjects

##### 42 CFR Part 482

Grant programs-health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

##### 42 CFR Part 483

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

##### 42 CFR Part 484

Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

#### PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

1. The authority citation for part 482 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

##### Subpart C—Basic Hospital Functions

2. In § 482.23, the first sentence of paragraph (c)(2) is revised to read as follows:

##### § 482.23 Condition of participation: Nursing services.

\* \* \* \* \*

(c) \* \* \*

(2) All orders for drugs and biologicals must be in writing and signed by the practitioner or practitioners responsible for the care of the patient as specified under § 482.12(c) with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. \* \* \*

\* \* \* \* \*

#### PART 483—REQUIREMENTS FOR STATES AND LONG-TERM CARE FACILITIES

1. The authority citation for part 483 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

##### Subpart B—Requirements for Long-Term Care Facilities

2. In § 483.40, paragraph (b)(3) is revised to read as follows:

##### § 483.40 Physician services.

\* \* \* \* \*

(b) \* \* \*

(3) Sign and date all orders with the exception of influenza and pneumococcal polysaccharide vaccines,

which may be administered per physician-approved facility policy after an assessment for contraindications.

\* \* \* \* \*

#### PART 484—HOME HEALTH SERVICES

1. The authority citation for part 484 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) unless otherwise indicated.

2. In § 484.18 the first sentence of paragraph (c) is revised to read as follows:

##### § 484.18 Condition of participation: Acceptance of patients, plan of care, and medical supervision.

\* \* \* \* \*

(c) *Standard: Conformance with physician orders.* Drugs and treatments are administered by agency staff only as ordered by the physician with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician, and after an assessment for contraindications. \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 23, 2002.

**Thomas A. Scully,**  
*Administrator, Centers for Medicare & Medicaid Services.*

Approved: August 28, 2002.

**Tommy G. Thompson,**  
*Secretary.*  
[FR Doc. 02–25096 Filed 10–1–02; 8:45 am]  
BILLING CODE 4120–01–P

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 25

[IB Docket 99–67; RM 9165; FCC 02–134]

#### Petition of the National Telecommunications and Information Administration To Amend the Commission's Rules To Establish Emission Limits for Mobile and Portable Earth Stations Operating in the 1610–1660.5 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission adopts a new rule section,

that specifies limits on the permissible strength of out-of-band emissions from mobile earth stations in order to prevent interference with use of GPS or similar satellite radionavigation services for airplane guidance during approach to landing.

**DATES:** Effective November 1, 2002.

**FOR FURTHER INFORMATION CONTACT:**

William Bell at (202) 418-0741 (Internet: [bbell@fcc.gov](mailto:bbell@fcc.gov)) or Marcus Wolf at (202) 418-0736 (Internet: [mwolf@fcc.gov](mailto:mwolf@fcc.gov)), International Bureau, Federal Communications Commission, Washington, DC 20554.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order in IB Docket No. 99-67, FCC 02-134, adopted May 2, 2002 and released on May 14, 2002. In a Notice of Proposed Rulemaking adopted in 1999, 64 FR 16687 (April 6, 1999), the Commission proposed to adopt a new rule section specifying limits on the permissible strength out-of-band emissions from mobile earth stations in order to prevent interference with use of GPS of similar satellite radionavigation services for airplane guidance during approach to landing. After considering relevant public comments, the Commission has decided to adopt the proposed new rule section. The complete text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

### Paperwork Reduction

This Report and Order requires either new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under the emergency processing provisions of the PRA. The Commission invites the public and other Federal agencies to comment on information collection(s) required by this Report and Order. Comments should address: (a) Whether the new or modified 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.

Public and agency comments on the request for approval of the information collection requirements are due December 2, 2002. All comments regarding the requests for approval of the information collection should be submitted to Judy Boley Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jbHerman@fcc.gov](mailto:jbHerman@fcc.gov). In addition, comments on the emergency request for approval of the information collections should be submitted to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet [tojthornto@mb.eop.gov](mailto:tojthornto@mb.eop.gov).

### Final Regulatory Flexibility

The Regulatory Flexibility Act of 1980, as amended ("RFA"), requires a regulatory flexibility analysis to be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." As required by the RFA, the original Notice of Proposed Rulemaking in this proceeding included an Initial Regulatory Flexibility Analysis ("IRFA"). The Commission invited written public comment on the rulemaking proposal and on the IRFA. This Final Regulatory Flexibility Analysis is also included in compliance with the RFA.

#### A. Need for and Objectives of This Report and Order

The purpose of this Report and Order is to adopt a rule specifying limits on the permissible strength of emissions produced by mobile earth stations outside their assigned frequency bands, in order to prevent interference with aircraft reception of satellite radionavigation signals in the 1559-1610 MHz band.

#### B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

None of the comments filed in this proceeding discussed the IRFA.

#### C. Description and Estimate of the Number of Small Entities To Which the New Rule Will Apply

The RFA directs agencies to provide a description of, and when feasible, an estimate of the number of, small "entities" that may be affected by the rules they adopt. The RFA generally defines the term "small entity" as

referring to a "small business," "small organization," or "small governmental jurisdiction." 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).

For satellite telecommunications carriers and resellers, the SBA established a small business size standard that excludes companies with annual receipts in excess of \$12.5 million. Ten companies are currently licensed for operation of 1.6 GHz mobile earth stations subject to the rule requirements we are adopting in this order. We have ascertained from published data that four of those companies are not small entities according to the SBA's definition, but we do not have sufficient information to determine which, if any, of the other six are small entities. We anticipate issuing several licenses for 2 GHz mobile earth stations subject to the requirements we are adopting here. We do not know how many of those licenses will be held by small entities, however, as we do not yet know exactly how many 2 GHz mobile-earth-station licenses will be issued or who will receive them.

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

In this Report and Order, the Commission prescribes limits on the permissible strength of emissions in the 1559-1610 MHz frequency band that may be generated by mobile earth stations with assigned transmission frequencies between 1610 MHz and 1660.5 MHz or between 1990 MHz and 2025 MHz. Those licensed by the Commission to operate, or supervise operation of, such mobile earth stations will be obliged to ensure that the equipment covered by their licenses performs in compliance with the new emission restrictions. Some licensees may find it necessary to alter, replace, or decommission equipment currently in service in order to comply. We do not know, nor do the comments filed in this proceeding indicate, how much expense the pertinent companies may incur to achieve compliance with the new emission limits. The rule we are adopting here does not impose reporting or recordkeeping requirements.

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

The RFA requires an agency to describe any significant alternatives that it has considered that might reduce economic impact on small entities, such as: establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities; clarifying, consolidating, or simplifying such requirements for small entities; using performance rather than design standards; or completely or partially exempting small entities from new requirements.

We have not considered exempting small entities from the emission limits we are adopting here or prescribing more lenient requirements or compliance timetables for small entities, as we do not believe that such measures could be effected without thwarting fulfillment of our regulatory objective of preventing interference. We have taken steps, however, to minimize adverse impact on affected licensees. Most notably, in the interest of minimizing consequent equipment obsolescence, we have decided to exempt equipment currently in service from full compliance until January 1, 2005.

**Report to Congress:** The Commission will send a copy of this Report and Order, including a copy of this Final Regulatory Flexibility Analysis ("FRFA"), in a report to Congress pursuant to the Congressional Review Act. The Commission will also send a copy of this Report and Order and FRFA to the Chief Counsel for Advocacy of the SBA, and a copy of the Report and Order and FRFA (or a summary thereof) will be published in the **Federal Register**.

**Ordering Clauses**

It is ordered that, pursuant to sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), 303(r), 307, 309(a), 310, part 25 of the Commission's rules is amended, as specified in the rule changes, effective November 1, 2002.

It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Report and Order the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 25**

Satellite communications.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

**Rule changes**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

**PART 25—SATELLITE COMMUNICATIONS**

1. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

**§ 25.200 [Removed]**

2. Section 25.200 is removed.

**§ 25.213 [Removed and reserved]**

3. Section 25.213 is amended by removing and reserving paragraph (b).

4. Add § 25.216 to read as follows:

**§ 25.216 Limits on emissions from mobile earth stations for protection of aeronautical radionavigation-satellite service.**

(a) The e.i.r.p. density of emissions from mobile earth stations placed in service on or before July 21, 2002 with assigned uplink frequencies between 1610 MHz and 1660.5 MHz shall not exceed –70 dBW/MHz, averaged over any 20 millisecond interval, in the band 1559–1587.42 MHz. The e.i.r.p. of discrete emissions of less than 700 Hz bandwidth generated by such stations shall not exceed –80 dBW, averaged over 20 milliseconds, in that band.

(b) The e.i.r.p. density of emissions from mobile earth stations placed in service on or before July 21, 2002 with assigned uplink frequencies between 1610 MHz and 1626.5 MHz shall not exceed –64 dBW/MHz, averaged over 20 milliseconds, in the 1587.42–1605 MHz band. The e.i.r.p. of discrete emissions of less than 700 Hz bandwidth generated by such stations shall not exceed –74 dBW, averaged over 20 milliseconds, in the 1587.42–1605 MHz band.

(c) The e.i.r.p. density of emissions from mobile earth stations placed in service after July 21, 2002 with assigned uplink frequencies between 1610 MHz and 1660.5 MHz shall not exceed –70 dBW/MHz, averaged over 20 milliseconds, in the 1559–1605 MHz band. The e.i.r.p. of discrete emissions of less than 700 Hz bandwidth from such stations shall not exceed –80 dBW, averaged over 20 milliseconds, in the 1559–1605 MHz band.

(d) As of January 1, 2005 and from then on, the e.i.r.p. density of emissions from mobile earth stations placed in service on or before July 21, 2002 with assigned uplink frequencies between 1610 MHz and 1660.5 MHz (except Standard A Inmarsat terminals used as Global Maritime Distress and Safety System ship earth stations) shall not exceed –70 dBW/MHz, averaged over 20 milliseconds, in the 1559–1605 MHz band or a level in the 1605–1610 MHz band determined by linear interpolation from –70 dBW/MHz at 1605 MHz to –10 dBW/MHz at 1610 MHz, and the e.i.r.p. of discrete emissions of less than 700 Hz bandwidth from such stations shall not exceed –80 dBW, averaged over 20 milliseconds, in the 1559–1605 MHz band.

(e) The e.i.r.p. density of emissions from mobile earth stations with assigned uplink frequencies between 1990 MHz and 2025 MHz shall not exceed –70 dBW/MHz, averaged over 20 milliseconds, in frequencies between 1559 MHz and 1610 MHz. The e.i.r.p. of discrete emissions of less than 700 Hz bandwidth from such stations shall not exceed –80 dBW, averaged over 20 milliseconds, in frequencies between 1559 MHz and 1605 MHz.

(f) Mobile earth stations placed in service after July 21, 2002 with assigned uplink frequencies in the 1610–1660.5 MHz band shall suppress the power density of emissions in the 1605–1610 MHz band to an extent determined by linear interpolation from –70 dBW/MHz at 1605 MHz to –10 dBW/MHz at 1610 MHz.

**Note to § 25.216:** Operation of mobile earth stations is also subject to all pertinent emissions limits specified in other sections of the Commission's rules. See §§ 25.202(f) and 25.213(a)(1).

[FR Doc. 02–24892 Filed 10–1–02; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 00–39; FCC 02–253]

**Conversion to Digital Television**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; denial.

**SUMMARY:** This item denies a Petition for Reconsideration, filed by Diversified Broadcasting, Inc., of the *Memorandum Opinion and Order* in this proceeding, which addressed a number of issues related to the conversion of the nation's