



## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 15, and 90

[GN Docket No. 13-111; FCC 25-65; FR ID 318554]

### Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) seeks comment on proposals that would enhance public safety by removing regulatory barriers to the deployment and viability of existing and developing technologies that combat contraband wireless device use in correctional facilities. This document seeks comment on a proposed framework to authorize, for the first time, non-federal operation of radio frequency (RF) jamming solutions in correctional facilities. The Commission seeks to foster a collaborative environment among key stakeholders, including departments of correction, solutions providers, wireless providers, public safety and 911 entities, to explore an expanded range of solutions to a shared problem.

**DATES:** Interested parties may file comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**; and reply comments on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). You may submit comments, identified by GN Docket No. 13-111, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact [combatcontraband@fcc.gov](mailto:combatcontraband@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Third Further Notice of Proposed Rulemaking (*Third FNPRM*) in GN Docket No. 13-111; FCC 25-65, adopted and released on September 30, 2025. The full text of this document is available for public inspection online at <https://docs.fcc.gov/public/attachments/FCC-25-65A1.pdf>.

*Paperwork Reduction Act.* This document may contain potential new or revised information collection requirements. If the Commission adopts any new or modified information collection requirements, they will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

*Providing Accountability Through Transparency Act:* The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain language summary of the proposed rule. The required summary of this Third Further Notice of Proposed Rulemaking is available at <https://www.fcc.gov/proposed-rulemakings>.

*Ex Parte Status:* The proceeding this Third FNPRM initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents

shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

## **Synopsis**

1. In this *Third FNPRM*, the Commission proposes to deauthorize, for purposes of FCC licensing, subscriber operation of contraband wireless devices and leverage its existing leasing process as a preferred approach to licensing jamming solutions, thereby providing correctional officials with additional methods to address a demonstrable public safety threat. The Commission also proposes and seeks comment on restrictions that might prove necessary to ensure that jamming solutions are limited to this targeted use, and to mitigate the risk that these solutions are deployed in contexts other than a correctional facility environment.

### **A. Definition of Jamming Solution**

2. The Commission proposes to define the term “jamming solution” as “the deployment of RF transmitter(s) within a correctional facility to prevent contraband wireless devices from establishing or maintaining a connection with a network.” This definition is solely applicable in the context of combatting contraband wireless devices in correctional facilities and incorporates the concept that such a solution disrupts a network connection on affected spectrum bands in a specific geographic area. We seek comment on this proposed definition and any alternatives that commenters believe will further this proceeding's goals. To provide clarity for stakeholders regarding both proposed licensing frameworks, *i.e.* leasing and overlay licensing, we propose to incorporate a definition of a “jamming solution”: (1) as another type of contraband interdiction system (CIS) where appropriate to facilitate leasing arrangements, with certain

special provisions solely applicable to jamming solutions where warranted; and (2) to authorize overlay licensees to provide such a solution where certain eligibility criteria are met.

**B. Deauthorizing Subscriber Operation of Contraband Wireless Devices**

3. The Commission proposes to address the prohibition in section 333 of the Communications Act by deauthorizing subscriber operation of contraband wireless devices located within a correctional facility. Specifically, the Commission proposes to amend its rules and the rights granted under licenses issued, such that operations in this specific context would not be authorized by the Commission within the meaning of section 333. This approach would allow departments of correction (DOCs) to employ jamming solutions, or other similar technologies, without violating section 333, and would provide an additional tool to prevent criminal activity stemming from unauthorized communications within and to those outside a correctional facility.

**1. Subscriber Authority Rule**

4. Under current Commission rules, wireless providers may legally transmit RF signals within the boundaries of their geographic area license, including areas within those boundaries where a correctional facility may be located. Subscribers operating devices in connection with those licensed services are authorized under that same wireless provider license pursuant to the Commission's rules. We propose a key change to the authorization status, as it relates to Commission licensing, of subscribers operating contraband wireless devices on commercial wireless networks in correctional facilities, which will enable the Commission to authorize jamming solutions in a narrow context in compliance with section 333 of the Act.

5. As a threshold matter, the Commission proposes to amend § 1.903(c) of its rules to create an exception regarding subscriber operation of a "contraband wireless device." Specifically, the proposal is to amend the rule to make clear that subscriber contraband wireless device operation of any fixed or mobile station in the Wireless Radio Services (WRS) is not authorized by the Commission. As such operation would not be considered to be licensed or

authorized by or under the Act, there is no statutory protection against willful or malicious interference by other technologies, such as jamming solutions, that would be licensed under our proposed process. This proposal is referred to as the “deauthorization rule” or “deauthorization approach.” We tentatively conclude that we have the authority to propose this approach pursuant to section 303 of the Act, which provides the Commission with expansive powers and duties to make rules governing wireless operations that are required by the public convenience, interest, or necessity. We seek comment on this tentative conclusion, and on our deauthorization approach more generally.

6. The Commission proposes to apply the deauthorization rule to subscriber operation of a contraband wireless device that is used within a correctional facility in violation of federal, state, or local law, or a correctional facility rule, regulation, or policy, and seeks comment on this approach. This expansive approach is consistent with the Commission’s definition of “contraband wireless device” as applied in our current CIS leasing context. We note, however, that when adopting the framework permitting DOC officials with an approved CIS to request that wireless providers disable contraband wireless devices, we took a narrower view of “contraband wireless devices” and limited disabling of such devices to those “used in violation of state or federal criminal statutes.” We seek comment on whether to apply to our deauthorization rule the more restrictive approach taken in the CIS disabling context.

7. We propose to apply the deauthorization rule to subscriber operations of contraband wireless devices used in “correctional facilities,” as defined in its existing CIS leasing context. Section 1.9003 defines correctional facility as “any facility operated or overseen by federal, state, or local authorities that houses or holds criminally charged or convicted inmates for any period of time, including privately owned and operated correctional facilities that operate through contracts with federal, state or local jurisdictions.” We recognize, however, that the proposed deauthorization rule would apply broadly to contraband wireless devices located in correctional facilities that include local facilities, e.g., city or county jails, often located next to,

or relatively near, other government facilities (e.g., a city hall, courthouse, etc.) or residential areas. This proximity presents an increased risk of interference to authorized devices if a jamming solution is not properly engineered, deployed, and maintained. We seek comment on whether it is necessary to restrict the application of our deauthorization rule and subsequent authorization of jamming solutions to a particular type(s) of correctional facility. In this regard, we also seek comment on the extent to which contraband devices are used in local facilities, and whether local municipalities are seeking these particular RF solutions that require extensive technical expertise to engineer and require associated costs to install and maintain. Where are states more likely to invest in carefully deployed, properly engineered and maintained jamming solutions? Should the Commission consider the security level of the correctional facility (e.g., minimum, medium, maximum), or the average length of time of inmate incarceration, in this analysis? Commenters advocating for a restriction should consider our goal of reaching those facilities where contraband wireless device use is a serious public safety threat, and should also address the argument that a properly engineered and maintained jamming solution is substantially less likely to cause harmful interference to authorized users, notwithstanding the proximity issue.

## **2. Section 316 License Modification**

8. Section 316 of the Act states that “any station license or construction permit may be modified by the Commission . . . if in the judgment of the Commission such action will promote the public interest, convenience and necessity.” We propose a rule change to deauthorize certain operations that would be promulgated pursuant to the Commission’s rulemaking authority consistent with the Administrative Procedure Act. As additional legal support for this approach, we also propose, pursuant to section 316 of the Act, to modify any and all licenses affected by the proposed rule change, if adopted and made effective, that would eliminate authority for WRS subscribers to operate contraband wireless devices in correctional facilities. We believe that this proposed modification is within our authority under the Act, is in

the public interest and, given that its scope is limited to deauthorizing subscriber operation of contraband wireless devices in correctional facilities, does not result in a fundamental change to any underlying wireless provider license. We seek comment on this proposal.

### **3. Safe Harbor to Proposed Deauthorization Rule**

9. The proposed deauthorization rule would make subscriber operation of any contraband wireless device in a correctional facility a violation of section 301 of the Act and proposed revised § 1.903(c) of the Commission's rules. Recognizing that wireless providers might also be liable for continuing to authenticate and provide service to such devices following deauthorization, we propose to create a safe harbor, to the extent necessary, for wireless providers that engage in good faith negotiations with DOCs that are actively seeking an RF solution to this issue, including a jamming solution.

10. Specifically, we propose a "safe harbor" wherein the Commission would not take enforcement action against a wireless provider arguably in violation of section 301 of the Act for unauthorized operation on its network of contraband wireless devices in a correctional facility under the following circumstances. First, the safe harbor would apply to a wireless provider licensed in a geographic area where no DOC is actively seeking to implement an RF solution, including jamming, to combat contraband wireless device use. Second, the proposed safe harbor would apply to a wireless provider where it actively participates in good faith negotiations (or has successfully completed such negotiations) with the DOC/solutions provider that is seeking to lease spectrum to authorize operation of a CIS, including a jamming solution.

11. We clarify that, under our proposal, where a party actively seeks authority as lessee for a jamming solution to combat contraband wireless devices and negotiates in good faith, but a wireless provider fails to negotiate in good faith, the wireless provider would not be eligible for the proposed safe harbor. We also clarify that a wireless provider would not qualify for a safe harbor if it responds to a DOC/solutions provider request for a jamming solution by indicating that it is only willing to lease spectrum for a managed access system (MAS) or

detection system deployment. The Commission seeks comment on this proposal, including whether a wireless provider should be eligible for the proposed safe harbor in the absence of a good faith lease arrangement, but where it can demonstrate that a DOC's jamming solution poses an unreasonable risk of interference to authorized subscribers or otherwise is not technically feasible as sought to be deployed. We also seek comment on whether to extend the proposed safe harbor to future instances where a wireless provider actively facilitates the implementation, at a DOC/solutions provider's request, of an alternative technological solution, such as geolocation or beacon technology in the applicable correctional facility.

12. We believe our proposal to establish a safe harbor will address any potential wireless industry concerns about liability for deauthorized operations, while also encouraging wireless providers to work with correctional facilities to combat the problem of contraband wireless device use. We seek comment on this proposal and on whether there are additional liability concerns regarding potential unauthorized transmissions in violation of section 301 and proposed revised § 1.903(c) of the Commission's rules. Commenters should specifically describe instances where they believe a wireless provider should be further shielded from enforcement action, including the costs and benefits of such an approach. Also, we are not aware of any instance where a wireless provider directly owned and installed base stations within a correctional facility to effectively block signals from its macro-network pursuant to a contract with a DOC. We seek comment on the prospect of wireless providers engaging directly with DOCs to install transmitters for the purpose of effectuating a jamming solution. Should the Commission expand the scope of a prospective safe harbor to include instances where a wireless provider elects to directly employ a jamming solution in a correctional facility through a contract with a DOC?

**C. Facilitating the Authorization of Jamming Solutions Under Section 301**

**1. Authorization of Jamming Solutions**

**a. Spectrum Leasing**

13. The Commission proposes to authorize jamming solutions in correctional facilities by substantially leveraging its existing leasing regime used for CIS deployment in correctional facilities. We seek comment on a proposed definition of “jamming solution” to distinguish it, where relevant, from other CISs. Importantly, however, we also propose to amend our current definition of CIS by: (1) incorporating jamming solutions as a type of CIS for purposes of administrative efficiency and to achieve regulatory harmony across technologies where feasible and appropriate; and (2) refining the CIS definition to better describe current CISs that have the capability of preventing contraband wireless devices from ultimately connecting to a wireless provider network, while also distinguishing between contraband and non-contraband wireless devices in the area of CIS operation (e.g., MAS).

14. *Leasing Arrangement Framework and Types of Leases.* Our goal is to leverage our existing leasing rules used for CIS deployment as much as possible to reduce regulatory burdens. We therefore seek comment on the extent to which the part 1 rules require amendment to effectuate authorization through lease arrangements of transmitters operating on wireless provider licensed spectrum to deploy jamming solutions in correctional facilities. Is it necessary to revise any other existing leasing rules or add new rules to effectuate the authorization of jamming solutions in correctional facilities?

15. *Included Services.* We seek comment on the applicability of the bands currently set forth in our part 1 leasing rules as “included services,” and therefore eligible for leasing, to the deployment of jamming solutions through lease arrangements. We seek to ensure that our approach to authorizing leasing arrangements for jamming solutions in correctional facilities does not inadvertently fail to include a relevant band deployed in commercial networks, thus creating a technical loophole for inmates to potentially exploit. Accordingly, we seek comment on whether additional bands beyond the recognized included services should be part of our proposed framework. We also seek comment on whether a particular band or service currently specified as an included service should be excluded from a jamming solutions leasing framework

and, if so, through what rationale.

16. Although our focus is removing barriers to jamming solutions that would necessarily be deployed on WRS bands commonly used in commercial networks, we also seek comment on whether there are bands not typically included in current CIS leasing arrangements that commenters believe should nonetheless be considered in authorizing jamming solutions. For example, should the Commission include any Mobile Satellite Service (MSS) or Fixed Satellite Service (FSS) satellite bands that are authorized under part 25? Is there evidence that those bands, or any other bands not listed in our part 1 leasing rules as “included services,” are currently used in serving contraband wireless devices and therefore present an issue for DOCs? We ask that commenters supporting inclusion of other bands for jamming solutions through leasing arrangements indicate which bands the Commission should consider as included services, and whether there is a regulatory bar that must be overcome, address any associated costs, and describe in detail the need for the operation of jamming technology in these bands in correctional facilities. We also ask commenters to consider the international treaty implications of permitting jamming solutions in satellite bands, specifically the potential for harmful interference to any foreign spacecraft that may cover the United States.

17. *Eligibility Criteria.* We find it in the public interest to propose eligibility criteria for those seeking authorization to deploy jamming solutions as a lessee under part 1 of our rules. We believe that proposing strict eligibility restrictions is vital to ensure that use of jamming solutions is on a limited scale for a very specific public safety purpose. We also seek comment on whether, in the interest of maintaining technological neutrality and harmonizing procedures across CISs, we should require the eligibility criteria set forth below for all CIS leases.

18. We propose that an entity will be eligible for authorization to engage in jamming solutions through a leasing arrangement if it is: (1) a DOC with authority over the correctional facility for which the lease is sought; or (2) a solutions provider that has entered into a contract with a DOC with authority over the correctional facility for which the lease is sought. We also

propose that the applicant is required to provide a certification as an attachment to the FCC Form 608 stating that the applicant: (1) is eligible for authorization to engage in jamming solutions; and (2) seeks to deploy equipment that has a valid part 2 equipment authorization, as discussed below. Should we require, as a condition of the lease, that the lessee must deploy the specific equipment in its jamming solution that it certified in its attachment has a valid part 2 equipment authorization, without substitution or modification? Should we require that entities seeking authority to operate transmitters as part of a jamming solution provide proof of the contractual arrangement with the correctional facility by, for example, including a copy of the contract with any lease filing? Would it be in the public interest to require disclosure of any particular lease terms to the Commission in the application process, subject to any appropriate protections sought for proprietary information under current rules?

19. We seek comment on whether to expressly include wireless provider licensees as entities eligible to provide jamming solutions through lease arrangements, which in certain circumstances might include the need to lease spectrum from another wireless provider in the limited geographic area of a correctional facility to achieve a comprehensive spectrum solution. Are wireless providers interested in, independent of leasing to DOCs/solutions providers, directly participating in resolving this public safety issue by entering into a contract with a DOC for the purpose of operating a jamming system within a correctional facility? To the extent wireless provider licensees seek to operate transmitters that provide jamming solutions, we seek comment on whether such licensees should be subject to the same or similar requirements proposed herein for DOCs and solutions providers that provide jamming solutions.

20. We also seek comment on whether we should consider, as an eligibility criterion, a geographical component regarding the location of a correctional facility. For example, should we first take a measured approach, perhaps limiting eligibility for authorization of jamming solutions to DOCs/solutions providers seeking jamming solutions in correctional facilities located in rural areas? Would excluding from a lease authorization structure arrangements with

DOCs/solutions providers seeking solutions for more densely-populated areas reduce the potential for harmful interference to authorized devices, given the challenges presented in managing RF technologies in certain environments? Are DOCs primarily interested in jamming solutions for rural facilities, or do they seek to deploy in urban/suburban areas as well? Should DOCs/solutions providers first be required to demonstrate that a proposed solution can be sufficiently targeted so as to not impact authorized users, particularly in a less rural environment? What are the costs and benefits of taking an incremental approach? If we were to initially limit eligibility for authorization of jamming technology to rural correctional facilities, how should it define “rural,” given that the Commission has defined this term in different ways depending on context. If we were to limit eligibility to deploy jamming solutions based on geographic considerations, how should we treat suburban areas? To what extent would authorizing jamming solutions in non-rural areas be problematic, or are DOCs/solutions providers committed to properly engineering, maintaining, and updating the network as necessary to avoid causing harmful interference to non-contraband devices located either within or outside the correctional facility located in such areas?

21. *Good Faith Negotiations.* We propose to adopt a good faith negotiation rule—akin to current § 20.23(a) of the Commission’s rules—that would require wireless providers to engage in good faith lease negotiations with eligible entities seeking to deploy a jamming solution in a correctional facility. To ensure wireless provider cooperation, we proposes to require a wireless provider to engage in good faith negotiations with a DOC, or with a solutions provider that has executed a contract with a DOC, that seeks Commission authorization to deploy a jamming solution in a correctional facility via a leasing arrangement. If, after a 45-day period, there is no good faith agreement, the DOC/solutions provider may apply for a non-exclusive overlay license, as discussed below. Because wireless providers that fail to negotiate in good faith toward a leasing arrangement would not be eligible for our proposed safe harbor, the Commission potentially could take enforcement action for possible unauthorized operation of

contraband wireless devices in a correctional facility in violation of section 301 of the Act and our proposed amended rule § 1.903(c). Although below we propose to provide an overlay license fallback approach to leasing arrangements, we recognize that there may be instances where stakeholders fail to reach a lease agreement due to the bad faith of either party. To provide proper incentives for stakeholders on either side of a transaction, we propose that DOCs and their contracted solutions providers also are subject to a good faith negotiation requirement to discourage sham negotiations undertaken to avoid the Commission-preferred leasing process in favor of directly seeking what we clearly intend as a fallback overlay authorization.

22. We seek comment on this proposal and whether we should revise our approach. Are there additional distinguishing factors in play with respect to negotiating leases for the deployment of jamming solutions, thus necessitating a negotiation period lengthier than 45 days? We seek comment on whether and how we should specifically define “good faith negotiations” or elaborate on relevant factors to be considered in making the determination. Are the same factors relevant for lease negotiations to operate base station transmitters as part of a jamming solution? If not, we ask commenters to propose factors for possible incorporation into a Commission rule. Stakeholders should specifically address the questions above, as well as provide comments on the costs and benefits of the proposed approach and any alternatives.

23. *Technical Rules.* To provide flexibility for stakeholders and maintain consistency with current CIS leasing approach, we propose to apply to jamming solutions in correctional facilities our current secondary markets approach to compliance with technical rules. Accordingly, an entity seeking to deploy a jamming solution in a correctional facility would enter into a part 1 leasing arrangement(s) with a wireless provider to operate on the provider’s licensed frequencies. Under existing leasing rules, a lessee would be subject to the same technical limits as the lessor, as set forth in band-specific radio service rules (e.g., complying with power limits and out-of-band emission limits to protect adjacent band licensees). A DOC or solutions provider seeking to use a jamming solution would therefore be required to comply with

a variety of, and possibly differing, technical rules that are set forth under various parts of the Commission's rules governing spectrum typically used in commercial wireless networks, including, for example, parts 22, 24, 27, 30, and 96.

24. As in the current CIS leasing context, we generally believe that parties to a lease arrangement are best positioned to agree on technical details that not only comply with the technical limits of various applicable radio service rule parts, but that address the potential for harmful interference to a lessor's licensed operations from the lessee's operations limited to a particular correctional facility. We seek comment on whether the introduction of jamming solutions, even when authorized through leasing arrangements negotiated at arms-length, requires a stricter regulatory framework from a technical perspective than its current maximum levels set forth across various service rules to best ensure that authorized wireless devices are not subjected to harmful interference. We request that commenters provide detailed analysis in support of any proposed alternative technical parameters. If such rules are needed, what are appropriate technical parameters to govern jamming deployments through leasing in a correctional facility environment? Should we establish more restrictive technical limits for jamming solutions than those established for wireless provider commercial operations in flexible use bands? Should we require a DOC or solutions provider lessee to use narrowly tailored means to achieve the goal of combatting contraband wireless device use, which will vary from a technical perspective, depending on the particular correctional facility? For example, should we prohibit use of a jamming solution across an entire 5G band(s), some with bandwidths as large as 100 megahertz, where a jamming solution could be targeted on the control channel portion of a band? We seek comment on how to implement a narrowly tailored jamming solution, while balancing the cost tradeoffs associated with deploying an effective solution that does not cause harmful interference to authorized users.

25. Further, we seek comment on how DOCs, as the primary advocates for additional tools to combat contraband wireless device use, intend to deploy jamming solutions to avoid

harmful interference to wireless provider networks in a manner that accounts for differences in how commercial wireless networks are deployed, for example, the use of time division duplexing (TDD) versus frequency division duplexing (FDD). Should we require those seeking to deploy jamming solutions to adjust their technical parameters based on the specific technology the wireless providers use to provide a signal that covers a correctional facility? To what extent should we adopt technical rules applicable to jamming solutions that distinguish between the potential for harmful interference in bands using FDD versus those using TDD? Or, in a leasing scenario, should any such distinctions be addressed solely through leasing arrangements and the underlying contractual agreements between wireless providers and solutions providers? Are specific measures needed to prevent harmful interference to a wireless provider's base stations in a TDD context, for example taking into consideration the desired v. undesired signal levels in a TDD pattern? Should we require, in a TDD context, synchronization between a solutions provider deploying a jamming solution and the wireless provider offering service to an area that includes a correctional facility to avoid unwanted transmissions during the wireless provider's base station transmit timeslot? Are different considerations raised where a jamming solution is deployed in bands using FDD and seeks to cause interference to the contraband wireless device's ability to receive a base station's downlink transmissions?

26. To minimize the risk of harmful interference to authorized users, should we set specific limits on: radiated power (e.g., limiting transmitter output power to 1-watt or 5-watt maximum) or power spectral density per band, out-of-band emission (OOBE) limits, field strength limit at a correctional facility boundary, power flux density (PFD) limit measured at a certain point from a transmitter, and/or Signal to Interference Noise Ratio (SINR) at the boundary of proposed jamming operations? Are more stringent restrictions required, in particular PFD or OOBE limits, in order to protect authorized operations outside of the boundary of the leased service area and users of immediately adjacent or nearby frequency bands? If so, what are the appropriate limits? If we impose more restrictive limits, would the efficacy of the

jamming solution be compromised? Would providers of jamming solutions find it necessary to internalize a guard band to comply with our technical rules? Would adopting stricter limitations on transmitter power levels in an effort to help prevent harmful interference to authorized users, potentially resulting in a substantial increase in the number of transmitters required to be deployed, drive up the cost of deploying and maintaining a jamming solution? Conversely, if DOCs/solutions providers seek to deploy a jamming solution that operates band-wide with multiple licensees within a band, are there any current technical rules or policies in any of the included services that might hinder operation of a jamming solution across the band that might require revision? Should any of our technical rules be more permissive to foster an effective jamming solution in the limited context of correctional facilities?

27. We seek comment on whether technical parameters should vary depending on various factors including, but not limited to: whether the deployment is in a rural, suburban, or urban location; the size of the correctional facility and the topography of the surrounding area; the materials used in constructing the facility; and the proximity of wireless provider networks in the area, including the proximity of wireless provider service to residential/office locations, highways, and the corresponding strength of those RF signals entering the correctional facility. We also seek comment on how to adequately protect public safety communications from harmful interference potentially caused by jamming solutions. Are there appropriate technical measures, including filters, that could protect first responder communications near correctional facilities that deploy a jamming solution? What agreements should be in place to prevent interference to public safety communications? In addition, we seek comment on whether additional measures would need to be in place to protect first responder and priority communications using commercial wireless spectrum, such as FirstNet, Verizon's Frontline, and T-Mobile's T-Priority. Are there other spectrum bands that support public safety communications that might require specific protection against potential harmful interference from jamming solutions?

28. We also seek comment on the potential effect of jamming solutions on the

public's ability to receive Wireless Emergency Alerts (WEA), which federal, state, Tribal, territorial, and local officials rely on to send critical notifications concerning emergencies.

Could the use of jamming solutions by correctional officials prevent the wireless providers that participate in WEA (Participating CMS Providers) from delivering WEAs in or near facilities employing jamming solutions? Would this result in Participating CMS Providers being unable to comply with the Commission's WEA rules, including its geographic accuracy requirements? Do emergency managers have concerns that the use of jamming solutions would put the public at risk? If the use of jamming solutions did prevent the delivery of WEAs, what effect could this have on the safety of correctional officials, prisoners, and other individuals during emergencies?

29. *Solutions Providers with Existing Lease Arrangements for CIS Operation.* We seek comment on whether we should permit solutions providers with existing CIS leases that seek authority for jamming operations to file a lease modification application, rather than file a new FCC Form 608 for a spectrum manager or *de facto* transfer leasing arrangement. If so, what information or certification should we require to be filed with the modification application to support the lessee's eligibility to engage in jamming operations? We ask commenters to discuss the pros and cons of this approach, and to provide any other proposals on ways in which an existing leasing arrangement could be modified to reflect authorization of a newly proposed jamming solution.

30. *Immediate Approval Procedures.* We also seek comment on whether leases for the operation of jamming systems, consistent with our approach to CISs, should be subject to the Commission's immediate approval procedures. We seek to seek to harmonize its CIS leasing rules to accommodate jamming solutions within the framework where feasible. As its proposed revised definition of CIS in the leasing rules would include jamming solutions, qualifying leases for jamming solutions in correctional facilities would be subject to immediate processing and approval. We seek comment on whether this is the appropriate approach for these types of lease applications. We also seek comment on whether there is a compelling reason to exclude leasing

arrangements for jamming solutions from immediate processing procedures. Commenters supporting such an exclusion are requested to provide details regarding why an application for lease of spectrum for deployment of a jamming solution, if otherwise complete and meeting the Commission's requirements, would necessitate lengthier Commission review than that of current CIS lease arrangements subject to expedited processing.

31. *Regulatory Status.* We believe that a Private Mobile Radio Service (PMRS) presumption is most applicable to eligible DOCs/solutions provider entities seeking to deploy jamming solutions, which we understand are not intended to provide a service that meets the Commercial Mobile Radio Service (CMRS) definition. We therefore seek comment on applying the PMRS presumption to all spectrum leasing arrangements entered into for the provision of jamming solutions, unless the lessee includes an exhibit to its lease application indicating that it is CMRS for regulatory status purposes, thereby aligning the treatment of regulatory status for jamming solutions with other CIS operations, e.g., MAS and detection systems.

32. *911-Related Leasing Rules.* We seek comment on the possible effects on wireless emergency/911 calls and public safety communications of the deployment of jamming solutions in correctional facilities. Our understanding is that jamming solutions block calls on all affected frequencies and, unlike MAS, are unable to allow 911 calls to be transmitted to a PSAP. We seek comment on whether it is in fact technically infeasible for the operator of any type of jamming solution to satisfy, under any circumstances, the 911-related requirements in part 1 and § 9.10 of the Commission's rules. Commenters citing a technical inability to comply with these rules should describe which particular requirements are not feasible and why. We ask that commenters provide details regarding any scenario where a jamming system, including any type of system under development, could be deployed in a correctional facility in a way that permits the transmission of 911 calls to a PSAP.

33. We seek comment from stakeholders on how emergency calls from wireless devices are addressed today in a correctional facility environment. We are aware that some state

DOC officials have indicated that correctional facilities typically do not allow any calls from within, including emergency calls. In contrast, we seek comment as to how 911 calls are routed today if made from an authorized phone that might be used, for example, by counsel during visitation or by a vendor serving the premises that requires emergency services. Are such calls routed to a local PSAP or to internal DOC personnel, including perhaps internal DOC firefighting and/or medical personnel? Are such calls handled differently if made from an inmate using a contraband wireless device? To what extent have PSAPs opted to not receive calls from correctional facilities regardless of whether the source of the call is authorized by the correctional facility?

34. Based on the record in this proceeding, including our assumption that current jamming solutions are not capable of permitting impacted calls to reach a PSAP, we seek comment on the prospect of not applying the Commission's 911 and E911 rules to entities that have entered into leasing arrangements for the provision of jamming solutions in correctional facilities, if ultimately regulated as PMRS, whether it be a DOC directly or through its contracted solutions provider. To the extent jamming solutions are included in the proposed revised definition of CIS, we seek comment on whether it is necessary to modify existing leasing rules related to the provision of 911 service in the context of CIS leasing. Finally, we seek comment on how to treat a CMRS wireless provider, for 911 regulatory purposes, that opts to deploy base stations as part of a jamming solution, if the developing record indicates wireless provider interest in participating at that direct level to address this public safety issue. If so, what rule revisions are necessary to reflect the apparent technical limitations of jamming solutions, if deployed directly by wireless providers, with respect to passage of 911 calls to PSAP?

35. *Interference-Related Leasing Rules.* We seek comment on leasing rules and the issue of potential interference to non-contraband, authorized devices within a correctional facility and/or interference to authorized devices outside of the correctional facility perimeter. We seek comment on whether to retain the existing hierarchy of responsibility in the context of a

proposed framework that would authorize jamming solutions in correctional facilities. Does our proposal to permit jamming solutions in such a limited context warrant revisions to Commission rules relating to interference resolution? In the case of a spectrum manager lease under the proposed jamming authorization framework, is it practical and appropriate for direct responsibility and accountability to apply to the licensee/lessor, where unwanted harmful interference would likely be to the licensee/lessor's authorized subscribers? Commenters seeking a rule revision are requested to address how this risk differs from that currently existing with deployment of transmitters for MAS and detection systems. Should we specify in the jamming solutions context that the lessee is primarily responsible for interference resolution caused by its jamming operations?

36. *Community Notification.* We seek comment on whether we should apply the current CIS community notification requirement to deployments of jamming solutions, to the extent that jamming solutions are proposed to be included within a revised definition of CIS for purposes of part 1 leasing arrangements. We also seek comment on whether the existing notification requirement has been effective in contributing to corrective action by DOCs in cases, if any, where users outside of the correctional facility were negatively impacted. Conversely, are there relevant DOC security reasons for not mandating such a notification requirement, or perhaps eliminating the current notification requirement applicable to CIS? Is it in the public interest to continue to require inherently sensitive information regarding the status of CIS deployments, specifically focused on preventing contraband wireless device use, to be made publicly available, where inmates potentially are able to obtain real-time updated deployment information on a per-facility basis nationwide?

37. *Notification to Solutions Providers of Wireless Provider Technical Changes.* We seek comment on applying to wireless providers the advance notification rule applicable to wireless providers and MAS lessees to assist jamming system operators in maintaining the effectiveness of jamming solutions deployed in a correctional facility. What are the costs and

benefits of applying our current notification structure to jamming solutions? Are there differences in the operation of MAS compared to jamming solutions that would necessitate amendments to our current advance notification criteria?

38. *Length of Lease.* We seek comment on whether to apply the current part 1 lease term requirements to leasing arrangements for jamming solutions. Although we seek to provide regulatory flexibility where feasible, we seek comment on whether a revised approach is warranted here, given the contractual collaboration between solutions providers implementing jamming solutions and DOCs. For example, should we amend our rules to specify that the length of the lease for the provision of jamming services may only be as long as the length of the contractual arrangement with the applicable DOC, with possible extensions? What are the costs and benefits of such a restriction? Should we strengthen our approach to CISs generally and revise current rules to take this approach for MAS and detection systems?

39. *Subleasing.* In the proposed framework, an eligible entity—whether a lessee DOC or lessee solutions provider under contract—would be implementing jamming solutions to combat contraband device use in a specific correctional facility. Under this framework, we believe that the ability to sublease to a third party would raise practical and technical issues, particularly with respect to system security, oversight of operations, and increased risk of harmful interference. Accordingly, we propose to not allow subleasing under the proposed jamming framework and seek comment on this proposal and on whether we should clarify in our rules that subleasing is not permitted for any CIS in the interest of harmonizing our leasing rules across technologies.

40. *Construction Attribution.* Due to the nature of jamming solutions deployed to prevent “service” in a limited public safety-related circumstance, we propose to not allow a licensee/lessor(s) to rely on its lessee(s) deployment of a jamming solution for purposes of satisfying the performance requirements of the underlying license. We seek comment on this proposal, and whether we should clarify in our rules that such construction attribution is not

permitted for any CIS.

41. *ECIP Holding Period Exception.* In July 2022, the Commission established the Enhanced Competition Incentive Program (ECIP), which among other things, modified the Commission's leasing rules to provide incentives for stakeholders to engage in qualifying transactions that make spectrum available in rural areas for advanced wireless services. In this regard, the Commission adopted several measures to protect the integrity of ECIP, including a five-year holding period during which licensees cannot further partition, disaggregate, assign, or lease licenses assigned through ECIP. The Commission, however, adopted an exception to the holding period for lease arrangements involving CIS providers, deeming CIS deployment in correctional facilities as vital to public safety. Because leasing arrangements entered into for the provision of jamming solutions would likewise promote public safety, we propose to apply the exception to the ECIP holding period for lease arrangements involving providers of jamming solutions in correctional facilities. We seek comment on this proposal.

**b. Non-Exclusive Overlay Licensing**

42. We propose, as a method of last resort, an authorization path for jamming solutions in correctional facilities available only when parties fail to reach a leasing arrangement negotiated in good faith. In such cases, we propose to permit eligible entities to directly apply for an overlay license, provided certain conditions are met, to increase flexibility for jamming solutions in correctional facilities and to incentivize market-based solutions in the first instance. We believe that an overlay construct is an appropriate mechanism for authorizing jamming solutions where DOCs/solutions providers seek lease arrangements in good faith, but the wireless provider is unwilling to enter into the leasing arrangement on a good faith basis.

43. *Statutory Authority and Mutual Exclusivity.* Consistent with the proposed deauthorization rule, we believe that a non-exclusive overlay licensing approach complies with section 333 of the Act, as the overlay licensee would be licensed to transmit under section 301 of the Act and would be permitted to cause interference to the operations of subscribers using

contraband wireless devices that are no longer authorized under the wireless provider's license. We also believes that a non-exclusive, eligibility-based licensing approach is consistent with its statutory authority under section 309(j) of the Act. We seek comment on an overlay licensing approach that would not result in receipt of mutually exclusive applications requiring resolution through competitive bidding. Under the proposal, absent a good faith leasing arrangement, DOCs/solutions providers would be eligible to receive an overlay license to operate on the identical spectrum used in that geographic area by the relevant wireless provider, effectively resulting in spectrum sharing. We therefore propose, pursuant to section 316 of the Act, to modify any and all licenses affected by overlay licensing for jamming solutions, if adopted and made effective, which would eliminate the wireless providers' exclusive use rights to their licensed spectrum in certain limited geographic areas. We seek comment on this proposed modification as applied in the overlay licensing construct.

44. In addition, we seek comment on an approach that would permit more than one applicant to serve a given correctional facility, at a DOC's option, which also results in spectrum sharing in the defined geographic area and the absence of mutual exclusivity. We seek comment on implementing an approach whereby applications for new overlay licenses would be placed in a processing "queue" and would be reviewed and processed in the order in which they are filed.

45. *Overlay Licensing Through Part 90.* Currently, wireless providers that provide service across several spectrum bands to contraband wireless devices in correctional facilities are regulated through service and technical rules set forth in a number of rule parts, for example, parts 22, 24, 27, 30, 90, and 96. Providers of jamming solutions must necessarily transmit on bands used to provide commercial wireless service to counteract contraband wireless device use in correctional facilities. For administrative ease, we propose to adopt a new, standalone subpart within part 90 of the Commission's rules to address the use of overlay licenses for jamming solutions in correctional facilities, and we seek comment on this proposal. We propose to define "jamming solution" in a new part 90 subpart in the same way as proposed in the leasing rules,

and we seek comment on whether there is any reason not to mirror, for overlay licensing purposes, the language ultimately adopted in the leasing construct.

**(i) Overlay Licensing and Operating Rules**

46. *Eligibility Restrictions.* To effectuate an overlay licensing framework, we propose to limit eligibility to apply for an overlay license to DOCs with authority over the correctional facility for which authority to operate a jamming solution is sought and solutions providers that have entered into a contract with a DOC with authority over the correctional facility for which authority to operate a jamming solution is sought. We also propose that, to be eligible to seek an overlay license for a jamming solution: (1) the entity must have attempted to negotiate a lease arrangement with the relevant wireless provider in good faith; and (2) the wireless provider must have acted in bad faith during the negotiation process resulting in no lease arrangement.

47. Further, we recognize that there may be a fact-specific circumstance where a mix of Commission authorization vehicles for jamming solutions may be necessary. For example, a solutions provider may be able to negotiate lease arrangements with two wireless providers for a given correctional facility, but unable to reach a good faith agreement with a third wireless provider serving that same geographic area. In such a case, we believe it is in the public interest to permit the solutions provider to apply for an overlay authorization for bands/specific frequencies at a given correctional facility for which it has not reached a good faith leasing arrangement, so as to prevent an incomplete spectrum solution in that correctional facility. We seek comment generally on these proposed eligibility restrictions, and on whether we should consider any other eligibility restrictions and/or entry criteria in an overlay licensing model.

48. *Overlay Licensing Bands.* We seek comment on whether, in an overlay licensing framework, we should limit the authorization of jamming solutions to those bands typically used by wireless providers to provide commercial service to subscribers, identified as “included services” in the leasing context. We seek comment on the inclusion of each band (or block

within a band), currently set forth as an included service in its leasing rules, in the proposed overlay license framework. We seek comment on whether the authorization of jamming operations by issuing non-exclusive overlay licenses in bands currently licensed to wireless providers would require an amendment to § 2.106 of the U.S. Table of Allocations, including potentially the addition of a table footnote applicable to relevant bands.

49. *License Area.* We seek comment on a licensing model in which the overlay license area would be confined to the geographic area affected by the proposed subscriber operation deauthorization rule, so as to comply with section 333 of the Act. We seek comment on permitting an applicant, most likely a solutions provider, to seek authority to transmit in a geographic area that is based upon its agreement with a DOC, which could involve the entire area within the perimeter of a correctional facility or a defined smaller area within the correctional facility. We seek comment on the necessary information and level of detail that should be provided to the Commission in describing the requested license area, for example, the name and address of the facility, the exact coordinates of the leased spectrum boundaries, or a shapefile reflecting the requested area. We also seek comment on the appropriate mechanism by which this information should be provided to the Commission.

50. *License Term/Renewal.* We seek comment on the appropriate license term if we implement our overlay license proposal. Commercial wireless provider licensees seek certainty and flexibility in implementing their networks and clearly benefit from a 10-year (or in some bands a 15-year) term, for administrative certainty and planning purposes. We seek comment on whether we should issue an overlay license for a shorter period, noting that the Commission has granted shorter license terms in other bands as a means to manage and ensure periodic reevaluation of possible interference issues. Should the initial license term mirror the contractual terms with a DOC for each individual facility to ensure the license authorization does not exceed the jamming solutions provider's contract with the correctional facility? Similarly, we seek comment on the appropriate term to apply for any subsequent license renewal.

51. We also seek comment on how to address compliance with the Commission's renewal standard at the end of any license term. We seek comment on whether to require overlay licensees for jamming operations to make a "renewal showing" consistent with the WRS rules, for instance, certifying that it is operating consistent with its authorization to operate at specific correctional facilities with which the licensee continues to have a contract to perform jamming operations. We seek comment on the costs and benefits of imposing a renewal requirement for these licensees and invite commenters to submit alternate proposals for the appropriate license terms and renewal showings.

52. *Regulatory Status.* We seek comment on applying the PMRS presumption—similar to the regulatory status that we seek comment on for leasing arrangements—to any overlay licenses issued for the provision of jamming operations as discussed herein. Would applying this presumption to eligible entities in the overlay license model help align with the services to be provided, which are not intended to provide CMRS service as defined in the statute and our rules?

53. *Secondary Market Transactions.* We seek comment on allowing overlay licensees for jamming solutions to engage in secondary market transactions only where the licensee is engaging in a transfer of control of the licensee, and not permitting assignment, partitioning, or disaggregation to another party. We likewise seek comment on not permitting overlay licensees to lease the non-exclusively licensed spectrum, which is not permitted under current secondary markets rules. Are such limitations necessary in the jamming solutions overlay context, where different considerations may be relevant, including that the request for authority would be limited a relatively small service area of a correctional facility, and that such authority would be available only to entities that meet strict eligibility requirements as a DOC or solutions provider following the failure of good faith leasing negotiations? Or should we permit alienability conditioned upon the assignee, for example, making a showing that it too meets all underlying requirements to be an overlay licensee in this specific, limited context? Commenters

should address the costs and benefits of these potential limitations and any alternatives that we should consider.

54. *911 Call Transmission Requirements.* We seek comment on whether to refrain from applying the Commission's 911 and E911 rules to PMRS overlay licensees authorized to provide jamming solutions in correctional facilities. We seek comment on whether there are considerations in the overlay license context that are different from considerations in the leasing context with regard to the treatment of 911 for jamming operations. We ask stakeholders to discuss whether it is technically feasible for a licensee that deploys any type of jamming solution to satisfy the requirements in § 9.10 of the Commission's rules, and if not, which particular requirements are not feasible and why.

55. *Performance Requirements.* Due to the nature of jamming operations, we believe it unnecessary to impose performance requirements on the overlay licensee, and seek comment on this proposal. Although we believe that operation through an overlay license in satisfaction of a contract with a correctional facility for public safety purposes meets our goal of ensuring spectrum usage, we seek comment on whether an overlay licensee should be required to meet some form of construction obligation.

#### **(ii) Technical Parameters for Overlay Licenses**

56. We seek detailed comment on the specific technical requirements that we should apply to an overlay license for jamming solutions in correctional facilities. Commenters are requested to provide technical details and analysis in support of any recommended action, including an evaluation of the impact of their proposals on other radio services. Among other issues, these studies and analyses should address how entities seeking to deploy jamming solutions plan to protect co- and adjacent channel, geographically proximate licensees, and also protect out-of-band spectral neighbors from harmful interference. Additionally, commenters should compare their recommendations to the technical requirements applicable to existing licensees as authorized under the pertinent service rules. We seek comment on the challenges

and issues that stakeholders have experienced when testing or deploying jamming technology and welcomes the results of technical studies and analyses.

57. We also seek comment on how our proposal to authorize jamming solutions through an overlay license might impact non-contraband devices located within a correctional facility. These include so-called “white-listed devices” approved for use by select correctional facility personnel (i.e., administrators, corrections staff, on-premises vendors, contractors, medical personnel). We seek detailed comment as to how correctional facilities and solutions providers with which they contract intend to deploy jamming solutions, while limiting the impact to only contraband devices within a correctional facility. Commenters that propose particular techniques to address this issue should also indicate whether their proposal should be incorporated into our technical rules and, if so, provide specific requirements.

58. *Power Limits.* We seek comment on the appropriate power limits that should be applied to jamming operations in correctional facilities under an overlay license. We seek comment on whether we should apply the power limits applicable to each band in the respective service rules or, in the alternative, implement a uniform power limit for overlay jamming operations. Is there a way to regulate power limits that does not unnecessarily constrain jamming technological advancements, while also allowing for successful operations in a manner that does not create harmful interference to authorized users in widely deployed commercial bands? Should we adopt varying power levels for overlay licenses based on bands in operation, as is done for CMRS licenses today? Should we permit higher power levels in certain geographic areas, such as rural areas, with significantly less power available for jamming solutions operating in non-rural areas? Should we establish power limits for overlay licensee operation based on the size of the correctional facility at issue? Should we apply the power spectral density (PSD) model to transmitters deployed as part of a jamming solution? What are the costs and benefits of taking this approach, which has been implemented to achieve parity amongst varying technologies in the commercial services? Commenters advocating for higher

power should also address how much more power they believe is necessary to effectively serve correctional facilities in rural areas, and provide comment on how we should define rural areas in this specific context.

59. Further, should we also generally require overlay licensees to use narrowly tailored means in implementing a jamming solution, which will vary from a technical perspective depending on the particular correctional facility? For example, should we prohibit use of jamming technology across an entire 5G band(s) where a jamming solution could be targeted on the control channel portion of a band, which would require less overall radiated power and potentially reduce the risk of harmful interference to authorized devices? Should we require licensees to adjust their technical parameters contingent on what technology the wireless provider is using in the particular correctional facility, for example, deployments in FDD or TDD bands?

60. *Field Strength Limit and Market Boundaries.* We seek comment on whether we should adopt a new, uniform field strength or power flux density limit that will apply to jamming overlay licensees, if commenters believe that existing field strength limits set forth in the Commission's rule parts governing commercial wireless services are not sufficient to protect co-channel adjacent market users. We seek comment on whether modified or additional technical protections are required, as well as the costs and benefits of any alternative approach.

61. *Intermodulation Interference.* We seek comment on the likelihood of jamming operations causing intermodulation interference and what technical solutions, if any, are available to mitigate such interference during the design of a jamming solution. We also seek comment on what methods could mitigate such interference, should it occur after a jamming solution is installed and operating.

62. *Interference Resolution Procedures.* We seek comment on whether to implement strict responsibility for eliminating harmful interference to authorized devices. Should operators utilizing jamming technologies be required to respond to every complaint of interference to an

authorized in-band or adjacent band licensee with full cooperation and utmost diligence to abate objectionable interference in the shortest practicable time? In addition, we seek comment on the appropriate obligations of an operator using jamming solutions following receipt of a complaint of harmful interference to a non-contraband wireless device. Should such an operator be required to immediately shut down all operations until it can ensure that the interference issue has been resolved? Would such an obligation unintentionally allow inmates or other stakeholders to circumvent a jamming solution?

63. We seek comment on whether we should adopt standardized procedures for reporting any such harmful interference and implementing a solution. For example, should we require overlay licensees to establish some type of common electronic means of receiving initial notification of harmful interference complaints from in-band and adjacent band licensees? If so, what information should we require in a complaint? Should we also impose a response time on the overlay licensee? We seek comment on whether we should require overlay licensees receiving an initial notification of harmful interference to perform a timely analysis and identification of the harmful interference, including, whenever necessary, an immediate on-site visit. We ask stakeholders to discuss whether we should consider alternatives or additions to the interference resolution mechanisms discussed.

64. *RF Exposure.* We propose to require jamming solutions to comply with the RF exposure rules set forth in §§ 1.1307, 2.1091, and 2.1093 of the Commission's rules that outline exposure limits, equipment authorization requirements, and other regulatory requirements that are based on the type of device, how it is deployed or used, the power of its transmissions, and the proximity of its antenna and radiating structures to a person's body. Are there additional provisions we should implement for transmitters utilizing jamming technology? We also seek comment on whether to prohibit any transmitters implementing a jamming solution that are designed to be deployed where the radiating structure(s) is/are within 20 centimeters of the user or other persons, as defined for portable devices in § 2.1093(b) of the Commission's rules.

65. *Canadian and Mexican Border Coordination.* We seek comment on whether compliance with existing bilateral agreements is sufficient in the context of overlay licensing for jamming solutions, or whether additional limits on transmissions are required to prevent harmful interference to operations across international borders. If commenters believe that additional protections (e.g., stricter limits, larger coordination distances, or other technical criteria) are required in this regard, we ask for specific technical comments.

66. *Other Technical Requirements and Limitations.* We seek comment on how other current technical limits for operations in bands commonly used to provide commercial wireless service should be applied to jamming operations in correctional facilities in an overlay licensing framework. For example, should we apply the existing frequency stability, duty cycle, synchronization requirements, and other limits that apply to CMRS base stations and devices, as set forth in the service rules for the respective band of operation, to jamming solutions? If existing technical limits are insufficient to protect against harmful interference, commenters should offer specific limits, with a justification of why those limits are needed and an analysis of how they might impact in-band and adjacent band authorized operations in the bands under consideration. We also seek comment on the applicability to jamming operations of various coordination, notification, and other rules currently applicable to 800 MHz cellular terrestrial base stations to protect public safety operations.

67. *Other Licensing and Operational Rules.* We seek comment on whether there are any other relevant service rules that we should consider including in an overlay licensing framework for jamming solutions. We invite comment on the costs and benefits associated with authorizing jamming solutions and ask that commenters provide detailed technical and economic data to support their suggestions. We seek comment on whether there are other studies, standards, efforts, or analyses that we should consider in this proceeding. We also invite comment on other possible approaches to authorizing jamming solutions in correctional facilities.

### **(iii) Application Process and Procedures**

68. We propose and seek comment on a multi-step application process that includes: (1) submission of an application with supporting information demonstrating that the licensee is prepared to deploy an effective jamming solution without causing harmful interference to authorized devices; (2) Commission review of the application and, where in the public interest, an initial grant of a conditional overlay license; (3) satisfaction of the condition of the license grant through on-site testing; and (4) provision of final Commission authority to operate at the facility following successful testing.

69. As an initial step, we propose that an eligible entity seeking an overlay license would be required to submit an FCC Form 601 in ULS that provides: administrative information, a certification regarding its eligibility, a certification that it seeks to deploy equipment as part of a jamming solution with a valid part 2 equipment authorization, a brief description of its jamming solution, the requested technical parameters, the proposed service area and geographic boundaries of the requested license area, and a showing as to how the proposed system will not cause harmful interference to authorized devices. We seek comment regarding what specific additional information should be required to be filed along with the application. Should we require an applicant to file an attachment to its FCC Form 601 sufficiently demonstrating that it attempted to negotiate in good faith, that the wireless provider acted in bad faith during the negotiation process, and that as a result, the parties were unable to enter into a lease agreement? We seek comment on what would constitute a sufficient demonstration of bad faith in the exhibit. Regarding service area, should we require that the applicant submit the name and address of the facility, the specific services to be provided and frequency bands requested, and the service area requested for the overlay license, including specific coordinates and/or map? Should the application include, as an attachment, a copy of the applicant's contract with the DOC to provide jamming services at the particular correctional facility? Alternatively, would it be sufficient for the applicant to provide a certification that a contract with a DOC exists to

provide jamming services at the facility? We propose to require an applicant to include a declaration consistent with § 1.16 of the Commission's rules that its application contains truthful and accurate information. Finally, the application would be required to be accompanied by the requisite filing fee, and we propose to treat an overlay license application for jamming solutions as site-based for application fee purposes, given that the area of operation is limited to a specific correctional facility (e.g., the perimeter of the facility). We seek comment on each of these proposals, including related costs and benefits.

70. Following the initial grant of an overlay license for a jamming solution, as a condition of the grant, we propose that a DOC/solutions provider perform on-site testing at the correctional facility to demonstrate that the system will function as expected and within the boundaries of the overlay license service area, protecting authorized users both within and outside the boundaries from harmful interference. We seek comment on the nature of wireless provider participation in the testing and what details the conditional licensee will be required to provide the Commission following the testing.

71. We seek comment on what information conditional licensees must provide to the Commission to show successful testing and how such information should be provided. Following the filing and Commission approval of the on-site test results, we propose that a jamming solutions provider would be authorized to begin jamming operations. We seek comment on whether, and how often, we should require an overlay licensee to re-test the effectiveness of its system, particularly where technical or operational details of the deployment change in response to wireless provider network adjustments. We seek comment on the costs, benefits, and burdens to potential stakeholders of requiring a jamming solutions provider to obtain conditional authorization, test, and provide test results to the Commission for approval before commencing jamming operations, and of potentially requiring the relevant wireless providers to be part of the solution through mandatory involvement in the on-site testing process, and if so, to what extent.

72. We seek comment on whether there are alternatives to the proposed overlay licensing mechanism that would authorize jamming solutions where good faith leasing agreements cannot be reached. Commenters should include detailed descriptions of their proposals and should discuss the costs and benefits of the approach.

## **2. Authorizing Jamming Solutions on Other Spectrum**

73. We seek comment on whether contraband devices operating in other radio services, such as part 25, or on unlicensed spectrum are a substantial issue in correctional facilities and, if so, on the appropriate means to authorize jamming solutions to address this issue.

### **a. Unlicensed Operations Under Part 15**

74. *Part 15 Equipment.* We seek comment on whether inmate use of Wi-Fi in a contraband wireless device is a current or anticipated problem in correctional facilities and ask stakeholders to specifically describe the nature of the problem, if any. Commenters should also discuss in detail the types of current or future technologies that are available to block, interfere with, or de-authenticate Wi-Fi transmissions; how the Commission should facilitate the authorization of those technologies; and whether any of these technologies include functions that might enable certain Wi-Fi devices to communicate, while blocking others located in the same limited geographic area. We also seek comment on whether correctional facilities are relying on any unlicensed devices essential for facility operation, such as wireless security cameras, and how these devices can be protected while jamming contraband Wi-Fi devices.

75. *Framework for Deauthorization of Contraband Part 15 Devices and Authorizing Part 15 Jamming Solutions.* If we determine that jamming solutions should be authorized to cause interference to contraband wireless devices operating on unlicensed spectrum, such as those that communicate using Wi-Fi, we seek comment on the appropriate deauthorization approach to permit such action consistent with section 333 of the Act. We seek comment on whether the definition of a contraband wireless device in § 1.9003 of our leasing rules is broad

enough to cover unlicensed devices, such that a cross-reference to the § 1.9003 definition in part 15 is sufficient, or whether we would need to replicate this definition within part 15 to ensure that it is applicable to unlicensed devices. With respect to deauthorization of contraband wireless devices operating on part 15 spectrum, is it necessary to adopt a part 15 provision expressly prohibiting the operation of such devices under part 15? Alternatively, is a rule change unnecessary to comply with section 333 of the Act because part 15 devices already operate without any protection from interference that may be caused by the operation of an authorized radio station? We seek comment on these issues.

76. We seek comment on the appropriate authorization framework for jamming solutions using part 15 spectrum. In lieu of leasing, should we require an operator of a jamming solution intended to prevent unlicensed contraband device use to obtain a part 90 overlay license for authorization to operate such equipment? Should such a license be a separate part 90 authorization for part 15 spectrum use or should it be combined with a more expansive part 90 overlay license that covers a mix of licensed bands, as well as the bands most commonly used by unlicensed devices? Are there other alternatives available to license transmissions for which current operations are authorized on an unlicensed basis? Further, should we take an approach analogous to the procedures proposed herein for licensed operations, where an entity (if acting on behalf of a DOC) seeking such a license would certify that it: (1) has entered into a contractual agreement with a DOC that requires the solutions provider to block or otherwise deny access to unlicensed (e.g., Wi-Fi transmissions); and (2) is proposing to use equipment that has part 2 equipment authorization? We seek comment on the appropriate licensing requirements for jamming solutions intended to prevent unlicensed devices from communicating and to what extent amendments are needed to parts 15 and 90.

77. Some stakeholders have expressed a belief that transmitting devices that are fully intended to cause harmful interference could arguably operate on commercial bands within the current part 15 rules if their power levels are sufficiently low. We propose that the Commission

will not certify transmitter(s) intended for use as part of a jamming solution under part 15 of the rules. Are there other safeguards we should put in place to achieve the same result? We seek comment on these proposals.

78. *Technical Requirements.* Unlicensed operation is permitted under part 15 rules in multiple frequency bands. We seek comment on the specific bands for which it should authorize jamming solutions for unlicensed devices. Should the rules be flexible to permit jamming solutions for any band where unlicensed devices can operate, which would also include the same bands on which services allocated in the frequency allocation table operate, or only the most commonly used unlicensed bands? How can the Commission ensure that jamming solutions adequately protect unauthorized incumbent users operating on spectrum shared with unlicensed operations?

79. We seek comment on what technical rules should apply to jamming solutions that are intended to prevent unlicensed devices from communicating. We also seek comment on whether a jamming solution operator should comply either fully or in-part with the existing part 15 rules for each band in which it operates. Or should the technical rules for jamming solutions be specific to jamming solutions? We seek comment on the specific rules that either should or should not apply in each band of interest, as well as relevant interference analyses to demonstrate how authorized incumbent users can be protected if a jamming solution is operating nearby and on the same or adjacent spectrum bands.

80. We also seek comment on what interference protection obligations jamming solutions should have with respect to unlicensed device operations that are permitted either within or near a correctional facility. We seek comment on whether the general rule requiring unlicensed devices to accept interference from authorized devices should be amended when such interference is caused by a jamming solution and whether, in such instances, the jamming solution operator should be obligated to adjust its system to ensure that interference to such unlicensed, yet authorized, operations is remedied. We request that commenters provide relevant

interference analyses supporting the co-existence between jamming solutions and non-contraband unlicensed devices or justifications for requiring non-contraband unlicensed devices to have to accept interference from a jamming solution.

**b. Part 25 Spectrum**

81. We seek comment on whether contraband devices that operate using part 25 (satellite communications) spectrum is a current or anticipated problem in correctional facilities. We ask stakeholders to specifically describe the nature of the problem and to discuss in detail the types of technologies, whether current or potentially under development, that can block or interfere with part 25 authorized transmissions. How should the Commission facilitate the authorization of those technologies, and do any of these technologies include functions that enable network connections for authorized devices that might be located in a correctional facility? How can these technologies protect other satellite services, including international satellite systems, from harmful interference? Finally, if we determine that we should deauthorize contraband wireless device satellite communications currently authorized under part 25, we seek comment on the appropriate approach to authorizing jamming solutions in the relevant bands.

**3. Transmitters Used to Enable Jamming Solutions**

**a. Part 2 Equipment Authorization**

82. We propose to apply our current procedures to eligible entities for equipment certification regarding equipment to be used as part of a jamming solution in correctional facilities. Specifically, we propose to require entities to comply with existing part 2, subpart J, equipment authorization procedures for certification of equipment used as part of a jamming solution that would be authorized for operation pursuant to our part 1 leasing rules, a part 90 overlay license, or a combination thereof. This would require that RF equipment associated with jamming solutions must be shown to comply with a variety of, and possibly differing, technical rules under various parts of the Commission's rules governing spectrum typically used in commercial wireless networks, including, for example, parts 22, 24, 27, 30, and 96. Because the

equipment could also potentially be used under a part 90 overlay license, it would necessarily require a part 90 equipment certification. Importantly, we propose that the Commission will not certify such transmitters under part 15 of the rules to ensure the authorization of jamming solutions does not result in the production, marketing, and sale of unlicensed low-power, hand-held jamming solution devices. We seek comment on this proposal.

83. We seek comment on whether the application requirements of current Commission rule §§ 2.911 and 2.1033 are appropriate in this case or whether specific requirements should be added, modified, or considered inapplicable. We believe that a transmitter used for jamming solutions would fall within § 2.1033(e), which applies to a “composite system that incorporates devices subject to certification under multiple rule parts.” Commenters should target any proposals regarding this rule to the specific issues associated with approving jamming solutions and not generally comment on equipment authorization procedures that could apply to any device. Further, should the testing of equipment used to provide jamming solutions include a method to ensure that it does not operate in any unauthorized bands (not just the bands adjacent to those for which it seeks authorization)? Finally, we propose to include jamming solutions equipment on the “Pre-approval Guidance List,” thus requiring a TCB to process the application in coordination with the Commission in accordance with the Commission’s rules.

84. Are any additional procedures necessary to ensure the equipment’s ability to comply with the Commission’s technical rules? We seek comment on the costs and benefits of applying existing procedures to certifying equipment to transmitters that can be deployed as part of a jamming solution in a correctional facility. We also seek comment on ways the Commission can facilitate, encourage, or require the production of these devices within the United States or United States allied countries. Are there specific actions we should take to mitigate any national security risks posed by jamming solutions that use equipment produced by foreign adversaries or other entities that have been determined to pose an unacceptable risk to the national security of

the United States or the security and safety of United States persons?

85. *Operation of Equipment Used for Jamming Solutions Prior to Equipment Authorization.* We seek comment on whether we should amend § 2.805 to specify that jamming solutions may not be operated for testing purposes, unless and until equipment authorization is obtained. Alternatively, should we adopt more flexible rules to permit testing of jamming solutions prior to equipment authorization, but only through one of two methods: (1) special temporary authority granted by the Bureau; or (2) experimental license granted by OET pursuant to part 5 of the Commission's rules? What are the costs and benefits of either of these approaches or any suggested alternatives?

**b. Marketing, Labeling, and Importation of Equipment Used for Jamming Solutions**

86. We seek comment on whether we should limit the marketing of transmitters intended for use in jamming solutions directly to DOCs and solutions providers that contract to provide jamming solutions within a correctional facility. If so, what rule changes would be required to limit the marketing of transmitters in this way? What are stakeholders' concerns, challenges, or cost considerations associated with limiting the marketing of transmitters to these entities? Further, should we adopt a specific rule in its marketing rules? Such a rule could set forth the compliance requirements that apply to the responsible party associated with the part 2 equipment certification. If we adopt such a rule, should applicants be required to address compliance with the rule requirements by including a compliance plan in any certification application submitted to a TCB? Should all marketing include clear disclosures that such equipment can only be sold to DOC or solutions provider lessees or overlay licensees for the provision of jamming solutions in correctional facilities? Should specific language be required for the disclosure? Should the marketer be required to verify and retain documentation that any sale is only to a DOC or solutions provider lessee or licensee?

87. To ensure compliance with any marketing restriction that we might adopt, we

seek comment on the need for a number of potential requirements the Commission could put on manufacturers dealing with tracking jamming equipment, reporting, and rule enforcement. We also seek comment on whether labeling requirements are necessary, including e-labeling.

88. In addition, we ask whether we should exclude equipment used to provide jamming solutions from exceptions for importing and marketing RF devices prior to equipment authorization, or apply significantly more restrictive limits, while permitting such pre-equipment authorization importation. Alternatively, rather than restricting importation, should we require that equipment intended for use in a jamming solution be manufactured or assembled in the United States to simplify efforts by our federal partners to interdict equipment imported into the United States intended for use outside of the correctional facility context? Should we restrict distribution of equipment intended for use in a jamming solution, such that the equipment may only be shipped directly from the manufacturer to a DOC or solutions provider lessee or licensee?

89. We seek comment on whether it is in the public interest to require manufacturers to employ some type of locking mechanism, if technically feasible, that would prevent any non-eligible entities from using such a transmitter outside of the correctional facilities context. If so, we seek detailed comment on how to accomplish this goal. We seek comment on whether there are other conditions that might be appropriate to prevent transmitters authorized for correctional facility use from being diverted to uses outside of the intended locations and purposes.

#### **4. Other Implementation Issues**

90. *Phased Implementation.* We seek comment on a phased implementation of jamming solutions, such as a pilot program in controlled environments, or an initial restriction to, for example, facilities located in rural areas that might pose an even lower risk of harmful interference. We seek comment on the costs and benefits of phased implementation and on whether this would ultimately help reduce the risk of harmful interference, or whether it would inhibit manufacturers from developing equipment at scale. We also seek comment on

appropriate parameters for phased implementation. For example, what is the optimal duration of any such program to draw accurate and valuable conclusions? How should eligible facilities be chosen? Should we prioritize facilities with a greater volume of contraband devices? Can such a program be limited in a way that allows us to proceed cautiously while providing the benefits of representative sampling?

91. *Consumer Complaints.* We recognize that the public might benefit from specific processes for communicating complaints of harmful interference from jamming solutions. Do wireless providers have effective contacts at correctional facilities or jamming solutions providers that they can work with to resolve issues if they receive complaints from the public? Should the Commission require that correctional facilities and solutions providers establish and publicize a phone number or dedicated email address for complaints from the public or that providers can use when an issue arises? Would the Commission's existing complaints mechanism adequately enable affected persons to file complaints about signal jamming in and around correctional facilities? We also seek comment on our authority to serve complaints on DOCs and/or jamming solutions providers noting that, under our lead proposal, such entities would be operating as lessees on spectrum licensed to common carrier wireless providers. How might the Commission use complaint data to track challenges, resolution, and any consumer issues that might arise from jamming? Is such tracking needed?

**D. Facilitating Other Handset-Centric Technologies**

92. We seek comment on whether there are other device-based solutions that should be considered for inclusion in the proposed deauthorization framework in addition to jamming solutions. In the context of the proposed deauthorization framework, we invite commenters to refresh the record specifically on the feasibility of geofencing, or geolocation-based denial (and if feasible, whether the Commission should consider mandating that wireless providers eliminate unauthorized devices within correctional facility perimeters), and beacon technology, including whether there have been technological, economic, or policy developments affecting the

deployment of these technologies, and whether the Commission can play a role in promoting these tools. We seek comment on specific rules that we should amend or adopt, if any, to promote the use of these technologies as tools available to combat contraband wireless devices in correctional facilities.

**E. Further Facilitating and Streamlining the Authorization of Current CIS Technology**

93. We seek comment to refresh the record on potential steps the Commission could take to ensure that MAS maintains effectiveness as technology evolve and facilitate MAS deployments. We invite stakeholders to refresh the record on the question of whether it should make any changes to rules in parts 1 and 20 to further streamline the current CIS leasing process. We also seek comment on whether we should amend any procedures in § 20.23, in particular, to further streamline the CIS Phase 1 and Phase 2 processes or make changes to the disabling process.

**F. Other Technological Solutions**

94. We seek comment generally on whether there are other technologies currently available or under development that could be used in correctional facilities to combat contraband devices. If so, what steps could the Commission take to facilitate deployment of those technologies? We also seek comment on whether there are other studies, standards, efforts, or analyses regarding the effectiveness of CISs or other related solutions that we should consider in this proceeding.

**G. Costs and Benefits**

95. The benefits of the proposed rule amendments include reduced criminal activity resulting from inmates' use of contraband wireless devices, which can impact the safety of prison officials and employees, the prison population, and members of the general public. The costs of the proposed rule amendments include the need for considerable stakeholder cooperation and a commitment, particularly from DOCs, to make the expenditures necessary to ensure that

jamming solutions are installed, deployed, and maintained in such a manner as to avoid harmful interference to non-contraband devices located outside a correctional facility, as well as non-contraband devices that might be permitted within a particular correctional facility, depending on state or local law or policies (e.g., devices used by vendors, attorneys, or medical personnel).

We seek comment on all costs and benefits associated with adopting the proposals, accompanied by specific data and analysis supporting claimed costs and benefits.

## **INITIAL REGULATORY FLEXIBILITY ANALYSIS**

96. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis 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.” Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this Third FNPRM. The IRFA is set forth in Appendix B of the Third FNPRM. The Commission invites the general public, in particular small businesses, to comment on the IRFA.

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

97. In the Third FNPRM, the Commission aims to strengthen public safety through the removal of regulatory barriers to the deployment and viability of existing and developing technologies that can assist the ability of correctional facilities to stem the use of contraband wireless devices in correctional facilities, which can be used to engage in criminal activity. The proposals contained in the Third FNPRM build upon prior Commission actions and seek to meet our objectives of expanding the scope of technical options available to corrections officials, while simultaneously fostering a collaborative environment among key stakeholders, including DOCs, solutions providers, and wireless providers. To achieve these goals, the Commission seeks comment on a broad range of potential actions intended to help eliminate a continuing public safety threat, reduce regulatory burdens, and also continue the growth of currently

deployed technologies, commonly known as CISs, while ensuring that the Commission's rules evolve to afford consistent regulatory treatment across technologies, some of which are operated by small entities.

98. As a first step, the Third FNPRM proposes to deauthorize subscriber operation of contraband wireless devices in correctional facilities. The proposed deauthorization rule is intended to facilitate the use of jamming solutions consistent with section 333 of the Act and is a key step towards permitting corrections officials to engage with wireless providers to use jamming solutions or other technologies in the limited context of combatting contraband wireless devices in correctional facilities. The Commission's lead licensing proposal would involve the participation of wireless providers, so as to help prevent harmful interference to legitimate users, a long-standing wireless industry concern.

99. In addition, the proposed approach ensures that a contraband wireless device located in a correctional facility would not be considered, for purposes of section 301 of the Act, a "station licensed or authorized by or under [the] Act" and, therefore, would not be afforded protection against willful or malicious interference by other technologies, such as jamming solutions, that have been approved under our proposed process. The Third FNPRM proposes to apply the deauthorization rule to subscriber operation of a contraband wireless device that is used in a correctional facility in violation of federal, state, or local law, or a correctional facility rule, regulation, or policy, consistent with the approach that the Commission took in prior decisions to facilitate CISs. The Third FNPRM also seeks comment on only applying a jamming solutions approach to a narrower group of correctional facilities (e.g., only those located in jurisdictions that impose criminal penalties for possessing or using contraband wireless devices, or for delivering or attempting to deliver those devices to prison inmates).

100. Recognizing that the proposed deauthorization rule would make operation of any contraband wireless device a violation of section 301 of the Act and revised § 1.903(a) of the Commission's rules, the Third FNPRM also proposes to create a "safe harbor" wherein the

Commission would take no enforcement action against a wireless provider, to the extent it might be liable, for unauthorized operation of contraband wireless devices in a correctional facility if certain conditions exist. Specifically, the proposed safe harbor would apply to (1) wireless providers licensed in a geographic area where no DOC is actively seeking to implement a technology solution, including jamming, to combat contraband devices; and (2) any wireless provider that is actively participating in good faith negotiations (or has successfully completed such negotiations) with the DOC/solutions provider that is seeking to lease spectrum to authorize operation of a CIS solution, including jamming.

101. The Third FNPRM also seeks to establish the framework whereby correctional facilities or solution providers that contract with them can become authorized to deploy an expanded range of technological solutions to combat contraband wireless devices. The Commission's lead proposal in the Third FNPRM is to authorize jamming solutions in correctional facilities by applying its existing secondary markets framework. The Commission's goal and expectation is that wireless providers will reach agreement with DOCs and solutions providers on lease terms for authorized jamming solutions, in the same way that parties have, to date, successfully negotiated in good faith for CIS deployments. The Third FNPRM seeks comment on, among other things, the types of leases parties may wish to utilize, eligibility criteria, including whether wireless providers should be required to provide jamming technology directly to correctional facilities, and a requirement for good faith negotiations.

102. As a method of last resort, in cases where parties fail to reach a good faith leasing arrangement, the Commission proposes to permit eligible entities to directly apply for a non-exclusive overlay license to deploy a jamming solution in a correctional facility provided certain conditions are met. The Third FNPRM seeks comment on a variety of issues related to the framework for issuing a last resort overlay license, including licensing and operating rules, license term and renewal, application procedures, and technical parameters of the overlay licenses. The Third FNPRM also seeks comment on other issues related to the deployment of

jamming solutions. For example, the Commission seeks comment on authorizing jamming solutions on Wi-Fi spectrum and part 25 satellite spectrum, in order to ensure that the proposed authorization framework is broad enough to include all spectrum that may be used to communicate with contraband wireless devices.

103. In addition, the Commission seeks comment on possible measures to ensure that jamming solutions are limited solely to correctional facilities. For example, the Third FNPRM proposes an express prohibition against certifying any transmitter utilizing jamming solutions pursuant to part 15 of the Commission's rules and against the operation of such equipment under part 15 to ensure that the proposed deauthorization framework does not result in low-power, hand-held jamming devices being produced, marketed, and sold in the United States for use on a part 15 unlicensed basis. The Commission also seeks comment on the appropriate procedures for the certification of equipment used to provide jamming solutions in correctional facilities, and on the extent to which it is necessary to specifically limit the marketing and sale of such transmitters directly to DOCs and solutions providers that contract with them to provide jamming solutions.

104. Given the novelty of the proposed framework, the Commission also seeks comment on a phased implementation of jamming solutions, such as a pilot program in controlled environments, or an initial restriction to, for example, facilities located in rural areas that might pose an even lower risk of harmful interference. The Commission requests specific comment on the costs and benefits of a phased implementation, as well as appropriate parameters for a phased approach. In addition, the Commission seeks comment on whether the public would benefit from specific processes for communicating complaints of harmful interference from jamming solutions, beyond processes currently in place.

105. Finally, the Commission seeks comment on whether there are other device-based solutions that should be considered for inclusion in the proposed deauthorization framework in addition to jamming solutions. In the context of the proposed deauthorization framework, the

Third FNPRM invites commenters to refresh the record specifically on the feasibility of geofencing, or geolocation-based denial (and if feasible, whether the Commission should consider mandating that wireless providers eliminate unauthorized devices within correctional facility perimeters), and beacon technology, whether there have been technological, economic, or policy developments affecting the deployment of these technologies, and whether the Commission can play a role in promoting these tools.

**B. Legal Basis**

106. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(j), 301, 302, 303, 307–310, 319, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 302a, 303, 307–310, 319, 324, and 332, and § 1.411 of the Commission’s rules, 47 CFR 1.411.

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

107. 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 rules adopted herein. The RFA generally defines the term “small entity” as having the same meaning as under the Small Business Act. 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 SBA.

108. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and not dominant their field.

While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

109. The actions taken in the Third FNPRM will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard.

<b>Regulated Industry (NAICS Classification)</b>	<b>NAICS Code</b>	<b>SBA Size Standard</b>	<b>Total Firms</b>	<b>Small Firms</b>	<b>% Small Firms in Industry</b>
Radio and Television Broadcasting and Wireless Communications Equip Manufacturing	334220	1,250 employees	656	624	95.12
Other Communications Equipment Manufacturing	334290	750 employees	321	310	96.57
Wireless Telecommunications	517112	1,500 employees	2,893	2,837	98.06

<b>Regulated Industry (NAICS Classification)</b>	<b>NAICS Code</b>	<b>SBA Size Standard</b>	<b>Total Firms</b>	<b>Small Firms</b>	<b>% Small Firms in Industry</b>
Carriers (except Satellite)					
Telecommunications Resellers	517121	1,500 employees	1,386	1,375	99.21
Satellite Telecommunications	517410	\$47 million	275	242	88.00
All Other Telecommunications	517810	\$40 million	1,079	1,039	96.29
Engineering Services	541330	\$34 million	37,462	34,803	92.90
Facilities Support Service	561210	\$47 million	1,922	1,783	92.77
Security Guards and Patrol Services	561612	\$47 million	76	76	100.00
All Other Support Services	561990	\$16.5 million	9,615	9,350	97.24
Correctional Institutions	922140	No SBA Size Standard	1,677	813	48.48

110. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we provide additional information regarding the number of potentially affected entities in the above identified industries, and

information for other affected entities, as follows.

<b>2024 Universal Service Monitoring Report Telecommunications Service Provider Data(Data as of December 2023)</b>	<b>SBA Size Standard  (1500 Employees)</b>		
<b>Affected Entity</b>	<b>Total # FCC Form 499A Filers</b>	<b>Small Firms</b>	<b>% Small Entities</b>
Toll Resellers	411	398	96.84
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13

111. *Experimental Radio Service (Other Than Broadcast)*. Neither the SBA nor the Commission have developed a size standard for this industry. Experimental Radio Service is a service in which radio waves are employed for purposes of experimentation in the radio art or for purposes of providing essential communications for research projects that could not be conducted without the benefit of such communications. The majority of experimental licenses are issued to companies such as Motorola and Department of Defense contractors such as Northrop Grumman and Lockheed Martin. Large businesses such as these are the primary applicants for such licenses and may have as many as 200 licenses at one time. For the purposes of this regulatory flexibility analysis, using the SBA’s Office of Advocacy’s general definition that a small business is an independent business having fewer than 500 employees, the Commission estimates that 30 percent of applications, will be awarded to small entities. The Commission processes approximately 1,000 applications a year for experimental radio operations. About half, or 500 of these are renewals and the other half are for new licenses. We

do not have adequate information to predict precisely how many of these are from small entities. However, based on the above figures we estimate that as many as 300 of these applications could be from small entities and could potentially be impacted.

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

112. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

113. In the Third FNPRM, the Commission seeks public comment on a potential framework that would increase the RF options that DOCs could utilize to combat contraband wireless device use in correctional facilities. There are three classes of small entities that might be impacted: correctional facilities, solutions providers, and providers of wireless services. For all of these entities, the Commission first proposes to leverage its existing leasing rules applicable to CISs as much as possible to reduce regulatory burdens and continue expedited processing for these important solutions. With this intent in mind, the Third FNPRM seeks comment on the extent to which the Commission's rules require amendment to effectuate authorization through lease arrangements of transmitters operating on wireless provider licensed commercial spectrum to deploy jamming solutions in correctional facilities. Small and other entities are encouraged to comment on any potential regulatory burdens or costs incurred in connection with these proposals, if adopted. We also encourage suggestions from small and other entities on ways in which the Commission may minimize any required information collections, while ensuring that all parties meet the desired goals of providing an additional tool toward combating contraband wireless device use, and that only non-authorized devices are impacted.

**E. Discussion of Significant Alternatives Considered That Minimize the**

## **Significant Economic Impact on Small Entities**

114. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: “(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 and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

115. As discussed above, in the Third FNPRM, the Commission seeks public comment on a proposed framework that seeks to increase the RF options that DOCs could utilize to better combat contraband wireless device use. Additionally, the Commission seeks comment on several regulatory alternatives that might reduce impacts on small entities. For example, the Commission seeks to leverage its current licensing process and existing leasing rules applicable to CISs, which small and other correctional facilities and/or solution providers that contract with correctional facilities have successfully used for more than a decade, rather than creating a completely new paradigm. Many entities that may be interested in participating in the framework proposed in the Third FNPRM may already be engaged in the process of combatting contraband wireless devices by the processes currently available, specifically for CISs. By leveraging the Commission’s current spectrum leasing rules, small entities – be they solutions providers, or even the DOCs, as well as wireless providers – will already be familiar with the processes, thereby decreasing any new regulatory burdens and, by extension, minimizing significant economic impact to such entities. The Commission also seeks comment on the alternative of a phased implementation of jamming solutions, such as a pilot program in controlled environments, or an initial restriction to, for example, facilities located in rural areas that might pose an even lower risk of harmful interference. The Commission requests specific

comment on the costs and benefits of a phased implementation, as well as appropriate parameters for a phased approach.

116. The Third FNPRM also proposes a safe harbor for wireless providers to avoid potential liability for unauthorized operation of subscriber devices that fall within the proposed deauthorization rule, as well as direct jamming solution authorization mechanisms. The safe harbor will provide wireless providers with assurance that they will not be subject to enforcement action, provided they either: have not received a specific request to lease their spectrum to support the authorization of a jamming solution or, if they have received such a request, they negotiated a good faith leasing arrangement with a DOC or its contracted solutions provider.

117. The Commission invites comment on its proposed deauthorization rule and framework for facilitating the authorization of jamming solutions. Through these comments, the Commission seeks to develop final rules that combat the exigent public safety concerns of contraband wireless device use in correctional facilities, while also minimizing economic and other compliance burdens on small and other entities to the greatest extent possible.

118. To clarify and simplify compliance and reporting requirements for impacted small and other entities, the Third FNPRM also invites comment regarding the prospective needs of the entities and the various approaches that can be taken to accommodate those needs in both a leasing arrangement and in a direct overlay licensing approach. In so doing, the Commission invites small and other entities to help inform on any necessary clarifications and/or simplification of compliance and reporting requirements that should be incorporated in the final rules. Receiving input from small entities will allow the Commission, to the extent feasible, to better consider options that could minimize the impact for these entities.

119. Finally, the Commission finds an overriding public interest in preventing the illicit use of contraband wireless devices by incarcerated people to perpetuate criminal enterprises and therefore does not propose any exemptions for small entities from the potential

solutions discussed in the Third FNPRM. If small entities were to be exempted from the selected approach, it is likely that the overall effectiveness of the solution would be reduced which is not consistent with, and is contrary to, the Commission's overarching goal of eliminating the use of contraband wireless devices in correctional facilities. Small and other entities have the opportunity to provide comments on technological, economic, policy, and/or legal developments sufficient to overcome the potential challenges presented by widespread deployment of the various options discussed in the Third FNPRM to combat wireless contraband use in correctional facilities. Importantly, the Third FNPRM gives small entities the ability to submit cost-benefit analyses, comments on economic and other challenges they may face with the potential solutions that have been discussed, and the opportunity to suggest other alternatives for the Commission to consider in any final rules that it may adopt.

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

120. None.

**List of Subjects**

**47 CFR Part 1**

Administrative practice and procedure, Communications, Radio, Telecommunications.

**47 CFR Part 15**

Communications equipment, Radio.

**47 CFR Part 90**

Administrative practice and procedure, Communications, Communications equipment, Radio, Telecommunications.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

## Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 15, and 90 as follows:

### **PART 1 – PRACTICE AND PROCEDURE**

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

**Authority:** 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

2. Section 1.903 is amended by revising paragraph (c) to read as follows:

#### **§ 1.903 Authorization required.**

\* \* \* \* \*

(c) **Subscribers.** Authority for subscribers to operate mobile or fixed stations in the Wireless Radio Services, except for certain stations in the Rural Radiotelephone Service and except for any fixed or mobile station that is considered a contraband wireless device, as defined in § 1.9003 of this chapter, is included in the authorization held by the licensee providing service to them. Subscribers are not required to apply for, and the Commission does not accept, applications from subscribers for individual mobile or fixed station authorizations in the Wireless Radio Services, and individual authorizations for contraband wireless devices are not permitted. Individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as provided in § 22.703 of this chapter. Individual authorizations are required for end users of certain Specialized Mobile Radio Systems as provided in § 90.655 of this chapter. In addition, certain ships and aircraft are required to be individually licensed under parts 80 and 87 of this chapter. See §§ 80.13 and 87.18 of this chapter.

3. Section 1.9003 is amended by revising the definition of “Contraband Interdiction System” and by adding the definition of “Jamming Solution” in alphabetical order to read as follows:

## § 1.9003 Definitions

*Contraband Interdiction System.* A Contraband Interdiction System is a system that transmits radio communication signals comprised of one or more stations used only in a correctional facility to: provide a jamming solution, subject to the special provisions of § 1.9041 of this chapter; prevent transmissions to or from contraband wireless devices within the boundary of the facility, while being capable of distinguishing transmissions from contraband and non-contraband wireless devices; and/or obtain identifying information from a contraband wireless device.

\* \* \* \* \*

*Jamming Solution.* A Jamming Solution is the deployment of RF transmitter(s) within a correctional facility to prevent contraband wireless devices from establishing or maintaining a connection with a network.

\* \* \* \* \*

4. Add § 1.9041 to read as follows:

### **§ 1.9041 Special provisions relating to spectrum leasing arrangements for a jamming solution in correctional facilities.**

(a) ***Eligibility criteria.*** An entity seeking to engage in spectrum leasing as a lessee under this section may do so if it is a department of corrections with authority over the correctional facility for which the lease is sought, or a solutions provider that has entered into a contract with a department of corrections with authority over the correctional facility for which the lease is sought.

(b) ***Application requirements.*** An entity seeking to engage in spectrum leasing as a lessee under this section must provide a certification as an attachment to FCC Form 608 stating that the entity:

(1) Meets the eligibility criteria; and

(2) Seeks to deploy equipment with a valid equipment authorization under part 2 of this

chapter.

(c) **Subleasing.** Notwithstanding the provisions of §§ 1.9020(l) and 1.9030(k), a spectrum lessee authorized to provide a jamming solution may not sublease spectrum usage rights.

(d) **Construction/performance requirements.** Notwithstanding the provisions of §§ 1.9020(d)(5)(i) and 1.9030(d)(5)(i), a licensee may not attribute to itself the build-out or performance activities of its spectrum lessee(s) providing a jamming solution for purposes of complying with any applicable performance or build-out requirement.

(e) **Good faith negotiations.** CMRS licensees must negotiate in good faith with entities seeking to deploy a jamming solution in a correctional facility. Upon receipt of a good faith request by such an entity, a CMRS licensee must negotiate toward a lease agreement. If, after a 45-day period, there is no agreement, the entity seeking to operate a jamming solution in the absence of CMRS licensee consent may file an application for a part 90 non-exclusive overlay license for a jamming solution on FCC Form 601, as described in § 90.1403 of this chapter, accompanied by evidence demonstrating its good faith, and the lack of good faith on the part of the CMRS licensee(s), in negotiating a lease arrangement.

## **PART 15 – RADIO FREQUENCY DEVICES**

5. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

6. Section 15.5 is amended by adding paragraph (e) to read as follows:

### **§ 15.5 General conditions of operation.**

\* \* \* \* \*

(e) Operation of devices as part of a jamming solution, as defined in § 1.9003 of this chapter, is prohibited under this part, even under power levels that comply with the limits set forth in this part. Any jamming solution must be authorized pursuant to §§ 1.9041 or 90.1401, or a combination thereof, of this chapter.

7. Section 15.201 is amended by adding paragraph (e) to read as follows:

**§ 15.201 Equipment authorization requirement.**

\* \* \* \* \*

(e) An intentional radiator intended for use as part of a jamming solution, as defined in § 1.9003 of this chapter, is not eligible for certification under part 15 pursuant to the Commission's part 2, subpart J Equipment Authorization Procedures.

**PART 90 – PRIVATE LAND MOBILE RADIO SERVICES**

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

**Authority:** 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 1401–1473.

9. Add subpart AA, consisting of §§ 90.1401 and 90.1403, to read as follows:

**Subpart AA Regulations Governing the Licensing of Jamming Solutions.**

**Sec.**

90.1401 Eligibility.

90.1403 Application requirements.

**§ 90.1401 Eligibility.**

An entity is eligible to apply for an overlay license for the provision of a jamming solution (as defined in § 1.9003 of this chapter) under this subpart if it:

- (a) Is a department of corrections with authority over the correctional facility for which authority to implement a jamming solution therein is sought, or is a solutions provider that has entered into a contract with a department of corrections with authority over a correctional facility for which authority to implement a jamming solution therein is sought; and
- (b) Meets the good faith negotiation requirements specified in § 1.9041(e) of this chapter.

**§ 90.1403 Application requirements.**

- (a) ***Jamming overlay license application requirements.*** An overlay license applicant seeking authority to provide a jamming solution in a correctional facility must apply

using FCC Form 601 in the Commission's Universal Licensing System (ULS) in accordance with part 1, subpart F of this chapter. All modifications or renewals of licenses and associated waiver requests must also be filed on FCC Form 601 in the Commission's Universal Licensing System (ULS) in accordance with part 1, subpart F. The entity seeking an overlay license under this section must provide with its FCC Form 601 the following information:

- (1) A certification regarding its eligibility as specified in § 90.1401;
- (2) A certification that it seeks to deploy equipment as part of a jamming solution with a valid equipment authorization under part 2 of this chapter;
- (3) A description of the jamming solution to be deployed at the correctional facility demonstrating that the applicant is prepared to deploy a solution that does not interfere with authorized devices, including technical parameters, and the service area associated with the proposed operations; and
- (4) A declaration in accordance with § 1.16 of this chapter.

(b) ***Authorization of jamming solutions.*** An overlay license for a jamming solution in a correctional facility is deemed effective only after the following actions are completed:

- (1) Conditional grant of an overlay license application for the specified geographic area;
- (2) Satisfaction of the condition(s) of the overlay license following on-site testing at the correctional facility demonstrating to the Commission, through the filing of a certification, that the system functions as expected and within the licensed area, protecting authorized users within and outside the correctional facility from harmful interference; and
- (3) Grant of final Commission authority to provide a jamming solution at the correctional facility following successful on-site testing.