

Advocacy Recommends That FCC Assess Small Business Impacts from Proposed Aviation Communications Rules

On April 24, 2013, the U.S. Small Business Administration's (SBA) Office of Advocacy (Advocacy) submitted public comments to the Federal Communications Commission (FCC) on the FCC's proposed Aviation Communication's rules. [78 Fed. Reg. 6276 (January 30, 2013)].

FCC's proposed rules consider whether the FCC should, among other things, prohibit the manufacture, importation, sale, or use of 121.5 MHz emergency locator transmitters (ELTs). ELTs are radio-beacons that are activated manually or automatically to alert search and rescue personnel that an aircraft has crashed, and to identify the location of the aircraft and any survivors. The FCC proposes this ban chiefly because the international Cospas-Sarsat satellite system, which relays distress alerts to search and rescue authorities, stopped monitoring the 121.5 MHz frequency in 2009 (in favor of the newer, digital 406 MHz frequency). However, many 121.5 MHz ELTs are still in use and the 121.5 MHz frequency is still monitored by other search and rescue entities.

In response to the publication of the proposed rules, Advocacy hosted a small business roundtable on February 14, 2013, to discuss the proposed rules and obtain small business input. Advocacy also organized meetings at the FCC and U.S. Department of Transportation (DOT) with small business aviation stakeholders to discuss small business concerns with the proposed rules. Advocacy's comments are reflective of the issues raised during the roundtable discussion and at the FCC and DOT meetings.

A copy of Advocacy's letter to the FCC is available at: www.sba.gov/advo/laws/comments/.

- While some representatives of the search and rescue community were supportive of the FCC's proposed rules, the small business aviation stakeholders expressed strong opposition, particularly with respect to the FCC prohibiting the "use" of 121.5 MHz ELTs (which would require retrofitting much of the general aviation fleet), but also to the FCC proceeding with this rulemaking without the full concurrence of the Federal Aviation Administration (FAA).
- FAA filed comments with the FCC in 2010 asking the FCC not to implement the proposed rules and raising concerns about the costs and availability of replacement ELTs.
- Small business aviation stakeholders stated that the FCC would have benefited from conducting a cost-benefit analysis of the proposed rules to better inform the agency's decision making, and noted that FAA has considered but declined to prohibit the installation and use of 121.5 MHz ELTs on aircraft.
- Advocacy stated that the FCC's Initial Regulatory Flexibility Analysis (IRFA) is deficient, and recommended that the FCC revise and republish its IRFA for additional public comment before proceeding with this rulemaking.

For more information about this rule, please visit Advocacy's web page at www.sba.gov/advocacy or contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 (or bruce.lundegren@sba.gov).