

Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: December 1, 1998.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 98-32891 Filed 12-10-98; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket No. ME-057-01-7006b; FRL-6200-9]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Maine; Plan for Controlling MWC Emissions From Existing MWC Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA) proposes to approve the sections 111(d)/129 State Plan submitted by Maine Department of Environmental Protection on April 15, 1998, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Waste Combustors (MWCs) units with capacity to combust more than 250 tons/day of municipal solid waste (MSW). See 40 CFR part 60, subpart Cb. The Plan was submitted by the Maine DEP to satisfy certain Federal Clean Air Act requirements. In the Final Rules section of the **Federal Register**, EPA is approving the Maine State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule and incorporated by reference herein. If no significant, material, and adverse comments are received, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments must be received in writing by January 11, 1999.

ADDRESSES: Written comments should be addressed to: John Courcier, Office of Ecosystem Protection (CAP), U.S. EPA, JFK Federal Building, Boston, Massachusetts 02203-2211. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Air Permits Unit, Office of Ecosystem Protection, 10th Floor, One Congress Street, Boston, Massachusetts 02203. Maine Department of Environmental Protection, Bureau of Air Quality, Ray Building, Hospital Street, Augusta, Maine 04333, (207) 287-2437.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, (617) 565-9462.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules section of this **Federal Register**.
Dated: November 24, 1998.

John P. DeVillars,

Regional Administrator, Region 1.

[FR Doc. 98-32987 Filed 12-10-98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 65

[CC Docket No. 98-177; FCC 98-238]

1998 Biennial Regulatory Review—Petition for Section 11 Biennial Review.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 8, 1998, SBC Communications ("SBC") filed a petition for rulemaking in which SBC presents a number of proposals designed to reduce or eliminate Commission regulations as part of the 1998 biennial review. The attached Notice of Proposed Rulemaking ("NPRM") commences a biennial review proceeding to seek comment on SBC's proposals to reduce or eliminate regulations pertaining to incumbent local exchange carriers ("LECs"). Specifically, the NPRM seeks comments on SBC's proposals to revise the Commission's rate of return represetation rules, to eliminate the requirement to use the lead lag study methodology for calculating the cash working capital of large incumbent LECs, to detariff certain services subject to competition, to further streamline the cost allocation manual filing procedures, and to simplify the Commission's wireless radio rules. The NPRM declines to seek comment on the remaining SBC proposals because such proposals either involve rules promulgated as a result of the 1996 Act of the proposals or involve rules or

proposals that are already the subject of biennial review or other proceedings.

DATES: Submit comments on or before January 11, 1999.

Submitting reply comments on or before January 25, 1999.

ADDRESSES: Federal Communications Commission, 445-12th Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Anthony Dale, Common Carrier Bureau, Accounting Safeguards Division, (202) 418-2260, or via E-mail to "adale@fcc.gov".

SUPPLEMENTARY INFORMATION:

Released: November 24, 1998

1. In this NPRM we sought comments on several proposals submitted by SBC Communications, Inc. (SBC) in a recently filed Petition for Section 11 Biennial Review. Section 11 of the Communications Act of 1934, as amended (the Act), instructs the Commission, in every even-numbered year beginning in 1998, to "review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service" and to "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service." (See 47 U.S.C. 161(a)). Section 11 further instructs the Commission to "repeal or modify any regulation it determines to be no longer necessary in the public interest." (See 47 U.S.C. 161(b)). In addition, section 202(h) of the Telecommunications Act of 1996 (the 1996 Act) requires the Commission to review its broadcast ownership rules biennially as part of the review conducted pursuant to section 11. (See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996)). Specifically, section 202(h) of the Act provides that the Commission "shall review . . . all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 and shall determine whether any of such rules are necessary in the public interest as the result of competition. The Commission shall repeal or modify any regulation it determines to be no longer in the public interest." (See Section 202(h) of the Telecommunications Act of 1996.

2. On November 18, 1997, the Chairman announced that the Commission was commencing the 1998 biennial regulatory review of telecommunications regulations and broadcast ownership regulations, earlier than required. In addition, the announcement indicated that the scope

of the first biennial regulatory review would be broader than statutorily required. Specifically, the announcement indicated that the first biennial review presented a key opportunity for serious "top-to-bottom" examination of the Commission's rules and procedures to determine which of them need to be revised or eliminated. (See FCC News Release, "1998 Biennial Review of FCC Regulations Begun Early" (Nov. 18, 1997)). Commission staff then undertook a broad review of Commission regulations. A two-fold approach was followed: (1) each of the operating Bureaus and the Office of Engineering and Technology (OET) conducted a review of rules under its jurisdiction; and (2) a team made up of representatives of the Office of Plans and Policy (OPP), the Chief Economist and his staff and the Competition Division of the Office of General Counsel (OGC) conducted a parallel review of Commission rules on a cross-cutting basis. In order to maximize the universe of rules that might be candidates for modification or elimination, the staff did not focus simply on the statutory standard of whether "meaningful economic competition" justified changes in the rules. Thus, for example, despite the lack of the development of such competition in the local exchange market, the staff nevertheless included rules relating to local exchange carriers as within the scope of the review.

As part of this process, the staff sought and received substantial public input. Specifically, beginning on December 17, 1997 and continuing through January 30, 1998, each of the five operating bureaus, together with OGC, hosted a series of public forums to receive ideas from the public regarding Commission regulations that are potential candidates for repeal or modification during the first biennial regulatory review conducted pursuant to section 11 of the Act. In addition, staff from the Bureaus and OGC attended a series of five meetings held by practice groups of the Federal Communications Bar Association (FCBA), also to receive ideas about biennial review candidates. The staff also sought input from the Commissioners. Following this broad review of Commission regulations, on February 5, 1998, the Commission staff released a list of 31 proceedings it proposed the Commission initiate as part of the 1998 biennial regulatory review. (See February 5 News Release)). The list of proposed rulemaking and notice of inquiry proceedings proposed examining a wide variety of subsets of

Commission's rules. Nearly two-thirds of the proposed proceedings involved common carriers, and the proceedings covered hundreds of individual rules. The staff also noted that the Commission had many ongoing proceedings consistent with the deregulatory and streamlining goals of section 11.

3. As the News Release specifically noted, the list of proposed biennial review proceedings was a working document that reflected the Commission staff's plans. The staff established an electronic mailbox <biennial@fcc.gov> specifically for the purpose of soliciting ongoing deregulatory input from the public. In this regard, the process of determining which rules are likely candidates for modification or streamlining has been ongoing, and consequently the list of 31 proceedings proposed by the Commission staff was neither exhaustive nor static. We disagree with SBC that this process, including the proceedings that we have initiated and will initiate, does not comply with the statutory requirements. It appears that SBC may be suggesting that the Commission should instead have initiated a single mega-rulemaking proceeding to review every rule relating to common carriers (including wireline, wireless and international). We believe such a mega-proceeding is not required by statute, would be unworkable, and would result in less meaningful deregulation and streamlining than the approach the Commission is taking. The statute does not require a rulemaking determination by the Commission with respect to every rule that continues to serve the public interest and such an approach would inevitably fall under its own weight, thereby undermining the goal of section 11—to identify rules that no longer serve the public interest and modify or eliminate them.

We ask for comment on the following SBC proposals:

4. *Rate-of-Return Prescription* (47 CFR 65.101). SBC argues that section 65.101 *et seq.* of our regulations, which trigger an inquiry into whether a revised rate-of-return prescription is needed once certain financial triggers are met, are a "vestige of rate of return regulation which is no longer needed under price cap regulation." We seek comment on SBC's statement and whether these rules continue to serve any purpose for carriers subject to price cap regulation.

5. *Cash Working Capital Studies* (47 CFR 65.820(d)). SBC asserts that the lead-lag study method required for Class A carriers to calculate the working capital element of the interstate rate base is an overly burdensome endeavor for calculating what "traditionally

makes up far less than 1% of the total rate base." As detailed in Exhibit A of the SBC Petition, SBC recommends that carriers be given the option of including a cash working capital allowance in the rate base or else foregoing recovery. SBC further proposes that to the extent carriers elect an allowance for cash working capital, carriers should be allowed to freeze the amount of cash working capital or else choose from three methods of calculating the cash working capital allowance: the lead-lag study method currently required by Commission regulations; the balance sheet method; or the 45-day formula method detailed in Exhibit A to the SBC petition. We seek comment on SBC proposals to reduce the burdens currently imposed on Class A carriers by the lead-lag studies.

6. *Detariffing of Services Subject to Competition.* SBC states that certain local exchange carrier (LEC) services are competitive and that the Commission should detariff these services. Specifically, SBC indicates its belief that special access services, direct trunked transport, operator services, directory assistance and interexchange services are competitive and should be detariffed for all carriers. We seek comment on SBC's conclusions about competition for these services and whether detariffing would be appropriate as an exercise of our section 10 forbearance authority. (See 47 U.S.C. 160). Commenters supporting detariffing should indicate whether they favor permissive detariffing or complete detariffing.

7. *Part 64 Cost Allocation Manual (CAM) Simplification.* SBC asserts that the Part 64 CAM requirements are too complex. SBC further argues that price cap regulation adequately guards against ratepayer subsidization of nonregulated activities, which the CAM requirements originally were designed to protect against. Exhibit D to the SBC Petition contains detailed suggestions for how many of the current CAM requirements could be simplified. We seek comment on these recommendations to simplify the CAM process in a manner consistent with its underlying purposes of discouraging, and facilitating detection of, improper cost allocations and cross-subsidization. (See *Accounting Safeguards Under the Telecommunications Act of 1996*, Report and Order, 12 FCC Rcd 2993, paras. 13, 24, 50 (1996) (*Accounting Safeguards Order*), recon. pending.

8. We note that some of SBC's CAM simplification proposals are already the subject of pending biennial review proceedings or other Commission proceedings. In the *Accounting Reductions NPRM*, we proposed

streamlining certain CAM filing and CAM audit requirements, particularly with respect to mid-size incumbent local exchange carriers. In the *Accounting Reductions NPRM*, we proposed to establish less burdensome CAM procedures for the mid-sized incumbent LECs and to reduce the frequency with which independent audits of the cost allocations based upon CAMs are required. In addition, we note that the Accounting Safeguards Division of the Common Carrier Bureau recently streamlined certain CAM filing procedures with respect to an incumbent local exchange carrier's affiliate transactions. Finally, we note that SBC's proposal regarding cost allocation procedures for incidental interLATA services is an issue raised by SBC in its Petition for Reconsideration of the *Accounting Safeguards Order*. Because we plan to address the resolution of these proposals in existing proceedings, commenters should avoid submitting redundant comments in this docket.

9. *Affiliate Transaction Rules.* SBC suggests that, like the Part 64 CAM process, the Commission should be able to simplify its affiliate transactions rules. We note that the two issues raised by SBC are issues raised by either SBC or other parties in Petitions for Reconsideration of the *Accounting Safeguards Order*. Without seeking comment on the two issues raised by SBC, we seek general comments on other ways the affiliate transactions rules might be simplified in a manner consistent with the underlying purposes of discouraging, and facilitating detection of, improper cost allocations and cross-subsidization.

10. *Wireless Radio Rules.* SBC states that process and procedure rules for wireless radio services are located in various rule parts. It suggests that "[t]o ensure consistent application and understanding of the rules related to the provision of wireless services, the rules must be streamlined and/or eliminated as appropriate to remove duplication." The Commission has already initiated a proceeding to substantially streamline and consolidate these regulations to facilitate conversion to the universal licensing system. The goals of that proceeding are "to establish a simplified set of rules that (1) minimizes filing requirements as much as possible; (2) eliminates redundant, inconsistent, or unnecessary submission requirements; and (3) assures ongoing collection of reliable licensing and ownership data." We believe that the universal licensing system proceeding addresses many of the issues that SBC raises in its petition. We also note that the Commission has

recently requested comments on whether there are any regulations of wireless telecommunications carriers from which we should forbear under section 10 of the 1996 Act. Because we want to ensure that we receive as full a record as possible, and as many suggestions as possible, we therefore seek comment on SBC's general proposals that may go beyond the proposed changes set out in these proceedings, including specific suggestions for rule changes.

11. Many additional SBC proposals mirror the staff's list of proposed biennial review proceedings. The Commission has already initiated proceedings on these matters, or will do so in the near future. Accordingly, we do not seek comment on those matters here. The proposals contained in the SBC Petition that track the staff's proposals have been incorporated by reference into each of the recently released notices. Other biennial review proposals advocated by SBC involve regulations only recently adopted as part of the Commission's implementation of the Telecommunications Act of 1996. With implementation just recently underway, and in some instances appellate review still pending, we believe it premature to modify or eliminate these rules as part of the 1998 biennial review. Yet another subset of biennial review proposals included in the SBC Petition involves issues that are already the subject of ongoing proceedings, either before the Commission or the courts. We think it more appropriate to handle these proposals in the context of such existing proceedings. These various proposals may be further considered at an appropriate time in the future. Finally, we do not request comment on SBC's suggestion that we reduce our enforcement efforts with respect to those rules that do remain on the books and on its request that we use the biennial review to increase regulation of others. We believe neither of these proposals is consistent with the thrust of section 11. Specifically, we do not believe it is appropriate that section 11 be used as a shield for carriers to avoid the consequences of violations of the Communications Act or Commission rules, or as a sword to impose new regulatory burdens on others.

12. By this NPRM, we solicit comment on those proposals submitted by SBC so identified above. Commenters should frame their discussion and analysis in a manner consistent with the analytical framework set forth by Congress in section 11 of the Act. In addition to our more specific requests for comment above, we invite

commenters to submit information on the costs and benefits of the rules at issue in this proceeding and of our proposed modifications. We also ask commenters to provide data and evidence to support their positions so as to facilitate objective analysis of the issues raised.

13. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's revised ex parte rules, which became effective June 2, 1997. *See Amendment of 47 CFR 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings*, GC Docket No. 95-21, Report and Order, 12 FCC Rcd 7348, 7356-57, ¶ 27 (citing 47 CFR 1.1204(b)(1)). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.

14. This Notice of Proposed Rulemaking contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 114-13. Public and agency comments are due at the same times as other comments on this NPRM; OMB comments are due 60 days from the date of publication of this NPRM in the **Federal Register**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

15. The Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on

a substantial number of small entities." The RFA defines the term "small entity" as having the same meaning as "small business concern" under the Small Business Act (SBA), which defines "small business concern" as "one which is independently owned and operated and which is not dominant in its field of operation." Section 121.201 of the SBA regulations defines small telecommunications entities in SIC Code 4813 (Telephone Communications, Except Radiotelephone) as any entity with fewer than 1,500 employees at the holding company level. Some entities employing fewer than 1,500 employees at the holding company level may be affected by SBC's proposals. We, however, do not consider such entities to be "small entities" under the RFA because they are either affiliates of large corporations or dominant in their field of operations. Therefore, we do not believe that the proposed rules will affect a substantial number of small entities that are incumbent local exchange carriers.

16. The rule changes proposed in the NPRM, if adopted, will affect all small businesses filing new wireless license applications or modifying or renewing an existing wireless license. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide estimates of the number of small entities who will be affected by the rules proposed in this NPRM. The Commission estimates the following number of small entities that provide wireless telecommunications service may be affected by the proposed rule changes.

(a) Cellular Radiotelephone Service

The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. The size data provided by the SBA does not enable us to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 1000 or more employees. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, is the most recent information available. This document shows that only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more

employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. The Commission assumes, for purposes of this IRFA, that all of the current cellular licensees are small entities, as that term is defined by the SBA. In addition, the Commission notes that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to the data released in November, 1997, there are 804 companies reporting that they engage in cellular or PCS service. It seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees; however, the Commission is unable at this time to estimate with greater precision the number of cellular service carriers qualifying as small business concerns under the SBA's definition. For purposes of this IRFA, the Commission estimates that there are fewer than 804 small cellular service carriers.

(b) Broadband and Narrowband PCS

Broadband PCS. The broadband PCS spectrum is divided into six frequency blocks designated A through F. The Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than \$40 million in the three previous calendar years. (*See* 47 CFR 24.720(b)(1)). This definition of "small entity" in the context of broadband PCS auctions has been approved by the SBA. The Commission has auctioned broadband PCS licenses in blocks A through F. Of the qualified bidders in the C and F block auctions, all were entrepreneurs. Entrepreneurs was defined for these auctions as entities, together with affiliates, having gross revenues of less than \$125 million and total assets of less than \$500 million at the time the FCC Form 175 application was filed. Ninety bidders, including C block reauction winners, won 493 C block licenses and 88 bidders won 491 F block licenses. For purposes of this IRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS

licensees, a total of 178 licensees, are small entities.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Given that nearly all radiotelephone companies have no more than 1,500 employees, and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

(c) 220 MHz Radio Services

Since the Commission has not yet defined a small business with respect to 220 MHz radio services, it will utilize the SBA definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. With respect to the 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) for Economic Area (EA) licensees, a firm with average annual gross revenues of not more than \$6 million for the preceding three years; and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than \$15 million for the preceding three years. Given that nearly all radiotelephone companies employ no more than 1,500 employees, for purposes of this IRFA the Commission will consider the approximately 3,800 incumbent licensees as small businesses under the SBA definition.

(d) Paging

The Commission has proposed a two-tier definition of small businesses in the context of auctioning geographic area paging licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$3 million; or (2) an entity that, together with affiliates and controlling

principals, has average gross revenues for the three preceding calendar years of not more than \$15 million. Since the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, there were 172 "paging and other mobile" carriers reporting that they engage in these services. Consequently, the Commission estimates that there are fewer than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

(e) Air-Ground Radiotelephone Service

The Commission has not adopted a definition of small business specific to the Air-Ground radiotelephone service. Accordingly, the Commission will use the SBA definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground radiotelephone service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

(f) Specialized Mobile Radio (SMR)

The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three preceding calendar years. This regulation defining "small entity" in the context of 900 MHz SMR has been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes for purposes of this IRFA that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses

won by winning bidders, of which 38 licenses were won by small or very small entities.

(g) Private Land Mobile Radio Services (PLMR)

PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. The Commission has not developed a definition of small entities specifically applicable to PLMR licensees due to the vast array of PLMR users. 23. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. The Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Any entity engaged in a commercial activity is eligible to hold a PLMR license, therefore these proposed rules could potentially impact every small business in the United States.

(h) Aviation and Marine Radio Service

Small entities in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules. Most applicants for individual recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of the evaluations and conclusions in this IRFA, the Commission estimates that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA.

(i) Offshore Radiotelephone Service

This service operates on several ultra high frequency (UHF) TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.

At present, there are approximately 55 licensees in this service. The

Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications. The Commission assumes, for purposes of this IRFA, that all of the 55 licensees are small entities, as that term is defined by the SBA.

(j) General Wireless Communication Service

This service was created by the Commission on July 31, 1995 by transferring 25 MHz of spectrum in the 4660–4685 MHz band from the federal government to private sector use. The Commission has scheduled the GWCS auction for May 27, 1998. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

(k) Fixed Microwave Services

Microwave services includes common carrier fixed, private operational fixed, and broadcast auxiliary radio services. At present, there are 22,015 common carrier fixed licensees and approximately 61,670 private operational fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity with less than 1,500 persons. The Commission estimates that for purposes of this IRFA all of the Fixed Microwave licensees (excluding broadcast auxiliary radio licensees) would qualify as small entities under the SBA definition for radiotelephone communications.

(l) Commercial Radio Operators (restricted and commercial)

There are several types of commercial radio operator licenses. Individual licensees are tested by Commercial Operator License Examination managers (COLEMs). COLEMs file the applications on behalf of the licensee. The Commission has not developed a definition for a small business or small organization that is applicable for COLEMs. The RFA defines the term “small organization” as meaning “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field * * *” (See 5 U.S.C. 601(4)). The Commission’s rules do not specify the nature of the entity that may act as a COLEM. However, all of the COLEM

organizations would appear to meet the RFA definition for small organizations.

(m) Amateur Radio Services

Amateur Radio service licensees are coordinated by Volunteer Examiner Coordinators (VECs). The Commission has not developed a definition for a small business or small organization that is applicable for VECs. The RFA defines the term “small organization” as meaning “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field * * *” (See 5 U.S.C. 601(4)). The Commission’s rules do not specify the nature of the entity that may act as a VEC. All of the sixteen VEC organizations would appear to meet the RFA definition for small organizations.

(n) Personal Radio Services

Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. These services include citizen band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS). Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition.

(o) Public Safety Radio Services and Governmental Entities

Public Safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small business. (See 5 U.S.C. 601(5)). There are approximately 37,566 governmental entities with populations of less than 50,000. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. The definition of a small governmental entity is one with a population of less than 50,000. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000; however, this number includes 38,978 counties, cities, and towns and

of those, 37,566 or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 96 percent or 81,600 are small entities that may be affected by our rules.

(p) Rural Radiotelephone Service

The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

(q) Marine Coast Service

The Commission has not adopted a definition of small business specific to the Marine Coast Service. The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing no more than 1,500 persons. There are approximately 10,500 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

(r) Wireless Communications Services (WCS)

WCS is a wireless service, which can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the WCS auction as an entity with average gross revenues of \$40 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. There were seven winning bidders who qualified as very small business entities and one small business entity in the WCS auction. Based on this information, the Commission concludes that the number of geographic area WCS licensees affected include these eight entities. In addition to the above estimates, new applicants in the wireless radio services will be affected by these rules, if adopted. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide information regarding how many small business entities will be affected by the proposed rules. Comments relating to the number

of small business entities affected are due by the deadlines contained in the NPRM.

17. In this NPRM, we seek comment on proposals to revise the Commission's rate-of-return prescription regulations, the methodologies used for calculating cash working capital, the detariffing of certain telecommunications services, streamlining cost allocation manual filing procedures, and consolidating the Commission's wireless radio rules. These proposals are specifically designed to streamline regulations that apply to incumbent local exchange carriers (LECs), including the Bell operating companies (BOCs) and GTE, and to wireless telecommunications providers. We therefore expect that the potential impact of the proposals, if adopted, is beneficial and does not amount to a possible significant economic impact on affected entities. If commenters believe that the proposals discussed in the Notice require additional RFA analysis, they should include a discussion of these issues in their comments.

18. We therefore certify, pursuant to section 605(b) of the RFA, that the rules proposed in this NPRM will not have a significant economic impact on a substantial number of small entities. The Commission will publish this certification in the **Federal Register** and will provide a copy of the certification to the Chief Counsel for Advocacy of the SBA. The Commission will also include this certification in the report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act. (See 5 U.S.C. 801(a)(1)(A)).

19. Pursuant to applicable procedures set forth in section 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. 1.415, 1.419, interested parties may file comments on or before January 11, 1999 and reply comments on or before January 25, 1999. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Anthony Dale, Legal Branch, Accounting Safeguards Division, FCC, Suite 201, Room 200D, 2000 L Street, N.W., Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W.,

Washington, D.C. 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

20. Written comments by the public on the proposed and/or modified information collections are due January 11, 1999 and reply comments on or before January 25, 1999. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

21. Parties are also asked to submit comments and reply comments on diskette. Such diskette submission would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Anthony Dale, Legal Branch, Accounting Safeguards Division, FCC, Suite 201, Room 200D, 2000 L Street, N.W., Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS Dos 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labeled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

22. Parties also may file comments electronically via the Internet at: <http://www.fcc.gov/e-file/ecfs.html>. See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, FCC 98-56 (rel. April 6, 1998). Only one copy of an electronic submission must be submitted. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the lead docket number for this proceeding, which is CC Docket No. 98-177. Parties may also file informal comments or an exact copy of your formal comments electronically via the Internet at <http://www.fcc.gov/e-file/> or via e-mail at biennial@fcc.gov.

Only one copy of electronically-filed comments must be submitted. You must put the docket number of this proceeding in the subject line if you are using e-mail (CC Docket No. 98-177), or in the body of the text if by Internet. Parties must note whether an electronic submission is an exact copy of formal comments on the subject line. Parties also must include their full name and Postal Service mailing address in their submission.

List of subjects in 47 CFR Part 65

Administrative practice and procedure, Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 98-32910 Filed 12-10-98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-207, RM-9408]

Radio Broadcasting Services; Wellsville, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by RP Communications to allot Channel 246A to Wellsville, NY, as the community's second local FM service. Channel 246A can be allotted to Wellsville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 42-07-12 North Latitude and 77-56-54 West Longitude. Canadian concurrence in the allotment is required since Wellsville is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before January 25, 1999, and reply comments on or before February 9, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert N. Felgar, Fletcher, Heald & Hildreth, P.L.C., 11th Floor, 1300 North 17th Street, Arlington, VA 22209-3801 (Counsel to petitioner).