

Maintenance (O&M) period followed and included the groundwater monitoring activities described below and maintenance of the 1989 ROD remedy.

In the final stages of remedial activities under the 1989 ROD, contamination not previously identified was discovered in the North Pond area, located in the northeast corner of the Site adjacent to the Site boundary near Chinaberry Street. However, residual soil and drums which were found during the North Pond excavation contained different contaminants than those which were cited for disposal in the 1989 ROD. This material was stockpiled for further analysis. Due to the excavation of these materials, it was suspected that contamination extending below the bottom of the pond into the groundwater existed. In order to address the stockpiled excavated materials and the potential for groundwater contamination at the North Pond, EPA designated this area as a separate unit, OU2. The remedial activities covered under the 1989 ROD were thereafter referred to as OU1 activities.

The RI for OU2 was completed in February of 1995. Since the contaminated soils and materials had already been removed (with the exception of the stockpiled materials from the North Pond, which were disposed off-site in October 1995), the primary focus of the OU2 RI was to determine the extent of the groundwater contamination at the Site. As described in the OU2 ROD, no discernable groundwater plume of contamination could be identified and detections of COCs were sporadic. The OU2 ROD, signed on August 8, 1997, specified that no remedial action was necessary for OU2. However, to ensure that possible groundwater contaminants did not pose a future threat to the off-site residents, the OU2 ROD specified a 3-year period of groundwater monitoring.

#### *D. Groundwater Monitoring Network*

In accordance with the OU1 Post Remedial Groundwater Monitoring Plan and the OU2 Revised Groundwater Monitoring Program, Reichhold has been conducting groundwater monitoring on selected OU1 monitoring wells since May 1994. The five-year OU1 monitoring was performed quarterly during the first year and semi-annually for the subsequent four years of the required 5-year O&M period. The OU2 wells have been monitored since May 1997 on a quarterly basis during the first year and on a semi-annual basis during the subsequent two years. The list of COCs included in these monitoring events remained constant

throughout the groundwater monitoring program for both OU1 and OU2. A current analysis of the ARARs indicates that the GWPS established in the ROD are still consistent with the NCP. The last required monitoring event for OU1 took place in November 1998 and for OU2 in December 1999.

The results of the groundwater monitoring are thoroughly discussed in the *Final Summary Report, April 2000*, prepared by Malcolm, Pirnie, Inc., for Reichhold. The results of the groundwater monitoring program do not indicate the presence of any COCs in concentrations exceeding GWPS or ROD performance standards.

#### *E. Characterization of Risk*

As discussed in the OU2 ROD, the soil exposure pathway was eliminated when the stockpiled soils were removed from the site in 1995. The only remaining pathway was the potential effects caused by uncontrolled groundwater migration to off-site residential wells located down gradient from the site. However, this exposure pathway is incomplete because there are no receptors. The site is wholly owned by Reichhold and its access is restricted. All on-site water is supplied by the City of Columbia water system. No municipal or private drinking water wells are located offsite in the direction of the groundwater migration from the site. As described, above, the groundwater monitoring performed does not indicate the presence of any COCs in concentrations exceeding GWPS or ROD performance standards. Therefore, the groundwater does not pose a current or future threat to off-site residents.

#### *F. Community Involvement*

This site has always been of interest to the surrounding communities. EPA has been directly involved with the community since the NPL listing in 1986. Several community groups have formed to represent concerned citizens over the years. The most recent group is the Jesus People Against Pollution (JPAP), which formed in 1992. JPAP has been an active participant ever since and currently is the only active group around the site. JPAP was awarded the Technical Assistance Grant (TAG) for the Site.

#### *G. Applicable Deletion Criteria*

EPA must demonstrate that any of the three criteria for deletion described in Section II are satisfied. EPA, with concurrence from the Mississippi DEQ, believes that the responsible party, Reichhold, has implemented all appropriate response actions required for OU1 and OU2. Furthermore, with

concurrence of the Mississippi DEQ, EPA has determined that all appropriate responses under CERCLA have been completed, and that no further action is necessary. The State of Mississippi concurred with the proposal to delete this site from the NPL, in a letter dated June 8, 2000, from Charles H. Chisholm, Mississippi DEQ, to Mario E. Villamarzo, Jr., EPA.

Therefore, EPA proposes to delete the Site from the NPL and requests public comments on the proposed deletion. Documents supporting this action are available in the site information repository and from the regional public docket.

Dated: July 21, 2000.

**A. Stanley Meiburg,**

*Acting Regional Administrator, U.S.*

*Environmental Protection Agency, Region 4.*

[FR Doc. 00-19537 Filed 8-1-00; 8:45 am]

**BILLING CODE 6560-50-U**

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 1**

**[FCC 00-209]**

### **Extending Wireless Telecommunications Services to Tribal Lands**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Communications Commission is issuing a Report and Order contemporaneous with this document that adopts rules and policies to encourage the deployment of wireless services to tribal lands. In this document, the Commission seeks comment on additional auctions-based incentives it could adopt to encourage the deployment of wireless telecommunications services to tribal and other underserved areas.

**DATES:** Comments are due on or before September 1, 2000. Reply comments are due on or before September 18, 2000.

**ADDRESSES:** Submit comments and reply comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, TW-A306, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Davida Grant, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 202-418-7050, or via the Internet at [dgrant@fcc.gov](mailto:dgrant@fcc.gov).

**SUPPLEMENTARY INFORMATION:** Contemporaneous with the Further

Notice, the Commission is publishing a Report and Order (published elsewhere in this publication) which adopts initiatives to encourage the deployment of facilities, and ultimately service, to the most underserved tribal communities. We recognize, however, that there are other areas, both tribal and non-tribal, that have penetration levels above 70 percent, but significantly below the nationwide average. In the Further Notice, we seek comment on other possible uses of bidding credits to encourage deployment of wireless services to tribal communities and other areas. Specifically, we seek comment on whether to: (1) Award bidding credits to entities that commit to serve non-tribal areas and/or tribal areas with penetration levels above 70 percent, but significantly below the national penetration average; (2) expand the bidding credit program by awarding credits for use in future auctions to licensees in already-established wireless services who deploy facilities to unserved tribal communities; and (3) make credits available to licensees that enter into partitioning agreements with tribal authorities that allow the tribal government to provide service, either directly or through negotiation with a third-party carrier.

**ELECTRONIC AND PAPER FILING:** Comments and reply comments may be filed with the FCC using the Commission's Electronic Comment Filing System ("ECFS") or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998). Parties may also submit an electronic comment by Internet e-mail. Parties who choose to file by paper must file an original and four copies of each filing. If you want each Commissioner to receive a copy of your comments, you must file an original plus eleven copies. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, TW-A306, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties who choose to file by paper should also submit their comments on diskette. A 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word for Windows or compatible software Diskettes should be submitted to: Davida Grant, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, SW., Room 4-C241, Washington, DC 20554. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name,

proceeding (including the docket number in this case—WT Docket No. 99-266), type of pleading (comments or reply comments), date of submission, and the name of the electronic file on the diskette. The label also should include the following phrase, "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036.

#### INITIAL REGULATORY FLEXIBILITY ANALYSIS:

As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the Further Notice of Proposed Rulemaking (Further Notice).<sup>2</sup> Written public comments are requested on this IRFA. These comments must be filed in accordance with the filing deadlines for comments on the rest of the Further Notice, provided in Section V.D, and they must have a separate and distinct heading designating them as responses to the IRFA. The Commission will send a copy of the Further Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the RFA.<sup>3</sup> In addition, the Further Notice and IRFA (or summaries thereof) will be published in the Federal Register.<sup>4</sup>

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

The initiatives we adopt in the Report and Order should facilitate the deployment of facilities, and ultimately service, to the most underserved tribal communities. We recognize however, that there are other areas, both tribal and non-tribal, that have penetration levels above 70 percent, but still significantly below the nationwide average of 94 percent. It is our goal to ensure that all Americans have access to telecommunications service. In the Further Notice, we seek comment on other possible uses of bidding credits to

encourage deployment of wireless facilities, and ultimately service, to these areas.

#### B. Legal Basis

We have authority under Sections 4(i), 303(r), 309(j) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303(r), 309(j) and 706, to adopt the proposals set forth in the Further Notice.

#### C. Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply

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 proposed rules, if adopted.<sup>5</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>6</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>7</sup> A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>8</sup>

A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."<sup>9</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>10</sup> And finally, "small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."<sup>11</sup> As of 1992, there were approximately 85,006 such jurisdictions in the United

<sup>5</sup> 5 U.S.C. 603(b)(3).

<sup>6</sup> *Id.* at 601(6).

<sup>7</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. section 601(3).

<sup>8</sup> Small Business Act, 15 U.S.C. 632.

<sup>9</sup> 5 U.S.C. 601(4).

<sup>10</sup> 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

<sup>11</sup> 5 U.S.C. 601(5).

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>2</sup> Extending Wireless Telecommunications Services to Tribal Lands, Further Notice of Proposed Rulemaking, WT Docket No. 99-266, FCC 00-209 (adopted June 8, 2000).

<sup>3</sup> See 5 U.S.C. 603(a).

<sup>4</sup> See *id.*

States.<sup>12</sup> This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.<sup>13</sup> The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.<sup>14</sup> According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons.<sup>15</sup> The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the policies and rules proposed in this Further Notice.

We further describe and estimate the number of wireless small business concerns that may be affected by the rules we propose in the Further Notice.

**Cellular Providers.** Neither the Commission nor the SBA has 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 (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.<sup>16</sup> According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000

or more employees.<sup>17</sup> Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent Telecommunications Industry Revenue data, 808 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data.<sup>18</sup> We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 808 small cellular service carriers that may be affected by the rules adopted herein.

**Broadband PCS Licensees.** The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.<sup>19</sup> For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.<sup>20</sup> These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.<sup>21</sup> No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small

entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.<sup>22</sup> Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

**SMR Licensees.** 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 previous calendar years.<sup>23</sup> In the context of 900 MHz SMR, this regulation defining "small entity" has been approved by the SBA; approval concerning 800 MHz SMR is being sought. We do 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. We assume, 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. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

**220 MHz Radio Service—Phase I Licensees.** The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.<sup>24</sup> According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more

<sup>12</sup> 12 U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

<sup>13</sup> Id.

<sup>14</sup> United States Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1-123 (1995) ("1992 Census").

<sup>15</sup> 13 CFR 121.201, SIC Code 4812.

<sup>16</sup> 13 CFR 121.201, SIC code 4812.

<sup>17</sup> 1992 Census, Series UC92-S-1, at Table 5, SIC code 4812.

<sup>18</sup> Trends in Telephone Service, Table 19.3 (March 2000).

<sup>19</sup> See Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, FCC 96-278, WT Docket No. 96-59, paras. 57-60 (released Jun. 24, 1996), 61 FR 33859 (Jul. 1, 1996); see also 47 CFR 24.720(b).

<sup>20</sup> See Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order, FCC 96-278, WT Docket No. 96-59, para. 60 (1996), 61 FR 33859 (Jul. 1, 1996).

<sup>21</sup> 21 See, e.g., Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order, 9 FCC Rcd 5532, 5581-84 (1994).

<sup>22</sup> FCC News, Broadband PCS, D, E and F Block Auction Closes, No. 71744 (released Jan. 14, 1997).

<sup>23</sup> 47 CFR 90.814(b)(1).

<sup>24</sup> 13 CFR 121.201, Standard Industrial Classification (SIC) code 4812.

employees.<sup>25</sup> Therefore, if this general ratio continues in 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

**220 MHz Radio Service—Phase II Licensees.** The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz Third Report and Order, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.<sup>26</sup> We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.<sup>27</sup> The SBA has approved these definitions.<sup>28</sup> An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.<sup>29</sup> Nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction.<sup>30</sup>

**Paging Licensees.** The Commission has adopted a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. 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. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.<sup>31</sup> At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent Telecommunications Industry Revenue data, 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services, which are placed together in the data.<sup>32</sup> We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by the rules adopted herein. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

**Narrowband PCS Licensees.** 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. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

**Rural Radiotelephone Service.** The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.<sup>33</sup> A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems

(BETRS).<sup>34</sup> We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.<sup>35</sup> There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

**Air-Ground Radiotelephone Service.** The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.<sup>36</sup> Accordingly, we will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.<sup>37</sup> There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

**Fixed Microwave Services.** Microwave services include common carrier,<sup>38</sup> private-operational fixed,<sup>39</sup> and broadcast auxiliary radio services.<sup>40</sup> At present, there are approximately 22,015 common carrier fixed licensees and 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, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons.<sup>41</sup> We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA

<sup>34</sup> BETRS is defined in sections 22.757 and 22.759 of the Commission's Rules, 47 CFR 22.757 and 22.759.

<sup>35</sup> 13 CFR 121.201, SIC code 4812.

<sup>36</sup> The service is defined in section 22.99 of the Commission's Rules, 47 CFR 22.99.

<sup>37</sup> 13 CFR 121.201, SIC code 4812.

<sup>38</sup> 47 CFR 101 *et seq.* (formerly, part 21 of the Commission's Rules).

<sup>39</sup> Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

<sup>40</sup> Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's Rules. See 47 CFR 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

<sup>41</sup> 13 CFR 121.201, SIC 4812.

<sup>25</sup> U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

<sup>26</sup> 220 MHz Third Report and Order, 12 FCC Rcd 10943, 11068-70, at paras. 291-295 (1997).

<sup>27</sup> 220 MHz Third Report and Order, 12 FCC Rcd at 11068-69, para. 291.

<sup>28</sup> See Letter from A. Alvarez, Administrator, SBA, to D. Phythyon, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1998).

<sup>29</sup> See generally Public Notice, "220 MHz Service Auction Closes," Report No. WT 98-36 (Wireless Telecom. Bur. Oct. 23, 1998).

<sup>30</sup> Public Notice, "FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made," Report No. AUC-18-H, DA No. 99-229 (Wireless Telecom. Bur. Jan. 22, 1999).

<sup>31</sup> 13 CFR 121.201, SIC code 4812.

<sup>32</sup> Trends in Telephone Service, Table 19.3 (February 19, 1999).

<sup>33</sup> The service is defined in section 22.99 of the Commission's Rules, 47 CFR 22.99.

definition for radiotelephone companies.

**Offshore Radiotelephone Service.** This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.<sup>42</sup> At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

**Wireless Communications Services.** This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of \$15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

**Multipoint Distribution Systems (MDS).** This service involves a variety of transmitters, which are used to relay programming to the home or office, similar to that provided by cable television systems.<sup>43</sup> In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of \$40 million.<sup>44</sup> This definition of a small entity in the context of MDS auctions has been approved by the SBA.<sup>45</sup> These stations were licensed prior to implementation of Section 309(j) of the Communications Act of 1934, as amended.<sup>46</sup> Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas

(BTAs) and BTA-like areas.<sup>47</sup> The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business. There are 2,050 MDS stations currently licensed. Thus, we conclude that there are 1,634 MDS providers that are small businesses as deemed by the SBA and the Commission's auction rules.

#### **D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

The Further Notice does not propose any specific reporting, recordkeeping or compliance requirements. However, we seek comment on what, if any, such requirements we should impose if we adopt the proposals set forth in the Further Notice.

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

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (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 or reporting requirements under the rule for 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 small entities.

The Further Notice seeks broad comment on additional uses of bidding credits to facilitate the provision of service to tribal and non-tribal areas.<sup>48</sup> The Further Notice does not make specific implementation proposals, but rather seeks guidance from the industry on how to further expand our bidding policies. We tentatively conclude that these initiatives should not have a significant economic impact on small carriers. Importantly, small business many combine any additional tribal lands bidding credits with the small business bidding credits available under our existing rules. Commenters are encouraged to discuss the alternatives proposed in the Further Notice, and specifically how to minimize any

significant economic impact on small entities.

#### **F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

None.

#### **Ordering Clauses**

Pursuant to Sections 1, 4(i), 303(r), 309(j) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 303(r), 309(j), and 706, that the *Further Notice of Proposed Rulemaking is hereby Adopted*.

#### **List of Subjects in 47 CFR Part 1**

Telecommunications.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 00-19480 Filed 8-1-00; 8:45 am]

BILLING CODE 6712-01-U

### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Part 73**

[DA 00-1396, MM Docket No. 00-111, MM Docket No. 00-112, MM Docket No. 00-113, RM-9900, RM-9901, RM-9904]

#### **Radio Broadcasting Services; Fallon, NV, Weiser, OR, Randolph, NY**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on three petitions for rule making. FBB requests the allotment of Channel 281C to Fallon, NV, as the community's third local FM service. WE Broadcasting requests the allotment of Channel 280C1 to Weiser, OR, as the community's first local aural service. New Testament Christian Ministries, Inc., requests the allotment of Channel 290A to Randolph, NY, as the community's first local aural service.

**DATES:** Comments must be filed on or before August 14, 2000, and reply comments on or before August 29, 2000.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: A. Wray Fitch III, Gammon & Grange, P.C., 8280 Greensboro Drive, 7th Floor, McLean, VA 22102-3807 (Counsel to FBB Broadcasting, petitioner in RM-9900, and WE Broadcasting, petitioner in RM-9901); David G. O'Neil, Rini, Coran & Lancellotta, P.C., 1350 Connecticut

<sup>42</sup> This service is governed by subpart I of part 22 of the Commission's Rules. See 47 CFR 22.1001 through 22.1037.

<sup>43</sup> For purposes of this item, MDS includes both the single channel Multipoint Distribution Service (MDS) and the Multichannel Multipoint Distribution Service (MMDS).

<sup>44</sup> 47 CFR 1.2110(a)(1).

<sup>45</sup> Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 10 FCC Rcd 9589 (1995), 60 FR 36524 (Jul. 17, 1995).

<sup>46</sup> 47 U.S.C. 309(j).

<sup>47</sup> Id. A Basic Trading Area (BTA) is the geographic area by which the Multipoint Distribution Service is licensed. See Rand McNally 1992 Commercial Atlas and Marketing Guide, 123rd Edition, pp. 36-39.

<sup>48</sup> See Further Notice paras. 23-25.