

**ENVIRONMENTAL PROTECTION AGENCY****[OPP-00654A; FRL-6793-4]****Pesticides; Final Guidance for Pesticide Registrants on Disposal Instructions for Non-Antimicrobial, Residential/Household Use Pesticide Product Labels****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of availability.

**SUMMARY:** The Agency is announcing the availability of a Pesticide Registration Notice (PR-Notice) entitled "Disposal Instructions on Non-Antimicrobial, Residential/Household Use Pesticide Product Labels." This PR-Notice was issued by the Agency on September 7, 2001, and is identified as PR-Notice 2001-6. A draft for comment of this notice was published in the **Federal Register** of June 14, 2000 (65 FR 37383) (FRL-6553-4), with a 60-day comment period. PR-Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures and registration-related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular PR-Notice provides guidance to the registrant concerning disposal instructions for both empty and partly filled containers of non-antimicrobial, residential/household use pesticide product labels. The revised instructions should decrease the number of accidental exposures to sanitation workers and to the environment and allow state/local governments greater latitude in carrying out their responsibilities for product disposal and waste management programs.

**FOR FURTHER INFORMATION CONTACT:** By mail: Amy L. Breedlove, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9069; fax number: (703) 305-5884; e-mail address: [Breedlove.amy@epa.gov](mailto:Breedlove.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Does this Action Apply to Me?**

This action is directed to the public in general. Although this action may be of particular interest to those persons who are required to register, regulate, or label pesticides, people who manage or regulate household hazardous waste facilities or collection events may also be interested in this notice. Since other entities may also be interested, the

Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

**II. What Guidance Does this PR Notice Provide?**

This PR-Notice provides guidance to the registrant concerning the development of disposal instructions for non-antimicrobial, residential/household use pesticide product labels. EPA is providing instructions that direct consumers to call their local solid waste authorities for specific disposal instructions for partly filled containers, rather than directing them to wrap the container in paper and dispose of it in the trash. The notice also informs registrants of what EPA considers to be a residential/household use pesticide; provides criteria to be met by any toll-free phone number provided within the disposal instructions; and addresses how to develop recycling statements and why providing a rationale to consumers for following the disposal instructions is useful. The new instructions provide state and local governments greater latitude in carrying out their responsibilities for product disposal and waste management programs and decreases the potential for accidental pesticide exposures to sanitation workers and to the environment.

**III. Do PR-Notices Contain Binding Requirements?**

The PR-Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR-Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

**IV. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?**

1. *Electronically.* You may obtain an electronic copy of this **Federal Register** document using the date of publication from the listing of EPA **Federal Register** documents at <http://www.epa.gov/fedrgstr/>. You may obtain an electronic copy of this PR-Notice, as well as other

PR-Notices, both final and draft, at [http://www.epa.gov/PR\\_Notices/](http://www.epa.gov/PR_Notices/).

2. *Fax-on-demand.* You may request a faxed copy of the PR-Notice entitled "Disposal Instructions on Non-antimicrobial, Residential/Household Use Pesticide Product Labels," by using a faxphone to call (202) 401-0527 and selecting item 6143. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP-00654A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

**List of Subjects**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 7, 2001.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

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**BILLING CODE 6560-50-S**

**FEDERAL COMMUNICATIONS COMMISSION**

[Report No. AUC-01-43-A (Auction No. 43); DA 01-2076]

**Auction No. 43 Multi-Radio Service Auction Scheduled for January 10, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction of licenses in multiple radio services to commence on January 10, 2002, and seeks comment on auction procedural issues.

**DATES:** Comments are due on or before September 21, 2001 and reply comments are due on or before September 28, 2001.

**ADDRESSES:** An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 Twelfth Street, SW, Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules.

**FOR FURTHER INFORMATION CONTACT:**

Legal questions: Howard Davenport (202) 418-0660 or e-mail [hdavenport@fcc.gov](mailto:hdavenport@fcc.gov) For general auction questions: Lyle Ishida (202) 418-0660 or e-mail [lishida@fcc.gov](mailto:lishida@fcc.gov) or Barbara Sibert (717) 338-2888 or e-mail [bsibert@fcc.gov](mailto:bsibert@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 43 Comment Public Notice* released September 7, 2001. The complete text of the *Auction No. 43 Comment Public Notice*, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. The *Auction No. 43 Comment Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

## I. General Information

1. By the *Auction No. 43 Comment Public Notice*, the Wireless Telecommunications Bureau ("Bureau") announces the auction of licenses in multiple radio services to commence on January 10, 2002 ("Auction No. 43"). Auction No. 43 will include 4 licenses in the Phase II 220 MHz Service, 23 licenses for the 800 MHz Specialized Mobile Radio ("SMR") Service General Category Frequencies, and 42 multilateration licenses in the Location and Monitoring Service ("LMS"). The licenses included in Auction No. 43 either remain unsold from a previous auction or were defaulted on by a winning bidder in a previous auction. A complete list of licenses available for Auction No. 43 and their descriptions is included as Attachment A of the *Auction No. 43 Comment Public Notice*.

2. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed \* \* \* before issuance of bidding rules, to permit notice and comment on proposed auction procedures \* \* \*." Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. The Bureau therefore seeks comment on the following issues relating to Auction No. 43.

## II. Auction Structure

### A. Simultaneous Multiple Round Auction Design

3. The Bureau proposes to award the licenses in a single, simultaneous multiple-round auction. As described further, this methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids. The Bureau seeks comment on this proposal.

### B. Upfront Payments and Initial Maximum Eligibility

4. The Bureau has been delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area, and the value of similar spectrum. As described further, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 43, the Bureau proposes to calculate upfront payments on a license-by-license basis using the following formulas:

- 220 MHz  
EAG Licenses— $\$0.01 * 0.15 \text{ MHz} * \text{License Area Population}$   
EA Licenses—\$500 per license
- 800—MHz  $\$0.005 * \text{License Area Population with a minimum of } \$2,500 \text{ per license.}$
- LMS  
Block A:— $\$0.0004 * \text{MHz} * \text{License Area Population with a minimum of}$

\$500 per license.  
Block B:— $\$0.0005 * \text{MHz} * \text{License Area Population with a minimum of } \$500 \text{ per license.}$   
Block C:— $\$0.0005 * \text{MHz} * \text{License Area Population with a minimum of } \$500 \text{ per license.}$

5. Accordingly, the Bureau lists all licenses, including the related license area population and proposed upfront payment for each, in Attachment A of the *Auction No. 43 Comment Public Notice*. The Bureau seeks comment on this proposal.

6. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the number of bidding units on which a bidder may place bids. This limit is a bidder's "maximum initial eligibility." Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 43 Comment Public Notice*, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its maximum initial eligibility. Eligibility cannot be increased during the auction. Thus, in calculating its upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Bureau seeks comment on this proposal.

### C. Activity Rules

7. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or must use an activity rule waiver (if any remain).

8. The Bureau proposes to divide the auction into two stages, each characterized by an increased activity requirement. The auction will start in Stage One. The Bureau proposes that the auction generally will advance to the next stage (i.e., from Stage One to Stage Two) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately twenty percent or below for three consecutive rounds of bidding. However, the Bureau further proposes

that it retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau seeks comment on these proposals.

9. For Auction No. 43, the Bureau proposes the following activity requirements:

*Stage One:* In each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

*Stage Two:* In each round of the second stage, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty/forty-ninths (50/49).

10. The Bureau seeks comment on these proposals. If commenters believe that these activity rules should be changed, they should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

#### *D. Activity Rule Waivers and Reducing Eligibility*

11. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

12. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a

waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

13. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the Reduce Eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

14. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the Proactive Waiver function in the bidding system) during a bidding period in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

15. The Bureau proposes that each bidder in Auction No. 43 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth. The Bureau seeks comment on this proposal.

#### **E. Information Relating to Auction Delay, Suspension, or Cancellation**

16. For Auction No. 43, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for

situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

## **II. Bidding Procedures**

### *A. Round Structure*

17. The Commission will use its Automated Auction System to conduct the electronic simultaneous multiple round auction format for Auction No. 43. Auction No. 43 will be conducted over the Internet. However, as in prior auctions, the Bureau's wide area network will be available at the standard charge, and telephonic bidding will also be available. Prospective bidders concerned about their access to the Internet may want to establish a connection to the Bureau's wide area network as a backup. Full information regarding how to establish such a connection, and related charges, will be provided in the public notice announcing details of auction procedures.

18. In past auctions, the Bureau has used the timing of bids to select a high bidder when multiple bidders submit identical high bids on a license in a given round. Given that bidders will access the Internet at differing speeds, the Bureau will not use this procedure in Auction No. 43. For Auction No. 43, the Bureau proposes to use a random number generator to select a high bidder from among such bidders. As with prior auctions, remaining bidders will be able to submit higher bids in subsequent rounds. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The simultaneous multiple round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

19. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. The Bureau seeks comment on this proposal.

### *B. Reserve Price or Minimum Opening Bid*

20. The Balanced Budget Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid

when FCC licenses are subject to auction unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

21. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

22. In light of the Balanced Budget Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 43. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool.

23. Specifically, for Auction No. 43, the Commission proposes the following license-by-license formula for calculating minimum opening bids:

- 220 MHz  
EAG Licenses— $\$0.0125 * 0.15 \text{ MHz} * \text{License Area Population}$   
EA Licenses—\$500 per license
- 800 MHz— $\$0.005 * \text{License Area Population with a minimum of } \$2,500 \text{ per license.}$
- LMS  
Block A:— $\$0.0004 * \text{MHz} * \text{License Area Population with a minimum of } \$500 \text{ per license.}$   
Block B:— $\$0.0005 * \text{MHz} * \text{License Area Population with a minimum of } \$500 \text{ per license.}$   
Block C:— $\$0.0005 * \text{MHz} * \text{License Area Population with a minimum of } \$500 \text{ per license.}$

24. The specific minimum opening bid for each license available in Auction No. 43 is set forth in Attachment A of the *Auction No. 43 Comment Public Notice*. Comment is sought on this proposal. If commenters believe that these minimum opening bids will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested

reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the 220 MHz, 800 MHz and LMS spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

#### C. Minimum Acceptable Bids and Bid Increments

25. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. The Automated Auction System interface will list the nine acceptable bid amounts for each license. Once there is a standing high bid on a license, the Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described. The difference between the minimum acceptable bid and the standing high bid for each license will define the *bid increment*. The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (i.e., the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

26. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts for licenses that have not yet received a bid will be calculated differently, as explained.

27. For Auction No. 43, the Bureau proposes to calculate minimum acceptable bids by using a smoothing methodology, as the Bureau has done in several other auctions. The smoothing formula calculates minimum acceptable bids by first calculating a *percentage increment*, not to be confused with the *bid increment*, for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology tailors the percentage increment for each license based on activity, rather than setting a global increment for all licenses.

28. In a given round, the calculation of the percentage increment for each

license is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%).

#### Equations

$$A_i = (C * B_i) + ((1-C) * A_{i-1})$$

$$I_{i+1} = \text{smaller of } ((1 + A_i) * N) \text{ and } M$$

$$X_{i+1} = I_{i+1} * Y_i$$

where,

$A_i$  = activity index for the current round (round  $i$ )

$C$  = activity weight factor

$B_i$  = number of bids in the current round (round  $i$ )

$A_{i-1}$  = activity index from previous round (round  $i-1$ ),  $A_0$  is 0

$I_{i+1}$  = percentage increment for the next round (round  $i+1$ )

$N$  = minimum percentage increment or percentage increment floor

$M$  = maximum percentage increment or percentage increment ceiling

$X_{i+1}$  = dollar amount associated with the percentage increment

$Y_i$  = high bid from the current round

29. Under the smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the high bid from the current round plus the dollar amount associated with the percentage increment, with the result rounded to the nearest thousand if it is over \$10,000, to the nearest hundred if it is under \$10,000 but over \$1,000, or to the nearest ten if it is below \$1,000.

#### Examples

License 1

$C=0.5$ ,  $N = 0.1$ ,  $M = 0.2$

Round 1 (2 New Bids, High Bid = \$1,000,000)

i. Calculation of percentage increment for round 2 using the smoothing formula:

$$A_1 = (0.5 * 2) + (0.5 * 0) = 1$$

$I_2 =$  The smaller of  $((1 + 1) * 0.1) = 0.2$  or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 2 (using  $I_2$ ):

$$X_2 = 0.2 * \$1,000,000 = \$200,000.$$

iii. Minimum acceptable bid for round 2 = \$1,200,000.

*Round 2 (3 New Bids, High Bid = \$2,000,000)*

i. Calculation of percentage increment for round 3 using the smoothing formula:

$$A_2 = (0.5 * 3) + (0.5 * 1) = 2$$

$I_3 =$  The smaller of  $((1 + 2) * 0.1) = 0.3$  or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 3 (using  $I_3$ ):

$$X_3 = 0.2 * \$2,000,000 = \$400,000$$

iii. Minimum acceptable bid for round 3 = \$2,400,000.

*Round 3 (1 New Bid, High Bid = \$2,400,000)*

i. Calculation of percentage increment for round 4 using the smoothing formula:

$$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$$

$I_4 =$  The smaller of  $((1 + 1.5) * 0.1) = 0.25$  or 0.2 (the maximum percentage increment)

ii. Calculation of dollar amount associated with the percentage increment for round 4 (using  $I_4$ ):

$$X_4 = 0.2 * \$2,400,000 = \$480,000$$

iii. Minimum acceptable bid for round 4 = \$2,880,000

30. As stated, until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded as described, and the minimum opening bid. That is,  $I = (\text{minimum opening bid})(1 + N)\{\text{rounded}\} - (\text{minimum opening bid})$ . Therefore, when  $N$  equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

31. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum

percentage increment, rounded, and the second highest bid.

32. The Bureau retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. The Bureau seeks comment on these proposals.

#### **D. Information Regarding Bid Withdrawal and Bid Removal**

33. For Auction No. 43, the Bureau proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By using the Remove Selected Bids function in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment.

34. Once a round closes, a bidder may no longer remove a bid. However, in any subsequent round, a high bidder may withdraw its standing high bids from previous rounds using the Withdraw function in the bidding system. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions, of the Commission rules. The Bureau seeks comment on these bid removal and bid withdrawal procedures.

35. In the *Part 1 Third Report and Order*, 63 FR 2315 (January 15, 1998) the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

36. Applying this reasoning, the Bureau proposes to limit each bidder in Auction No. 43 to withdrawing standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The two rounds in which

withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureau seeks comment on this proposal.

#### **E. Stopping Rule**

37. For Auction No. 43, the Bureau proposes to employ a simultaneous stopping rule approach. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." A simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers, or withdrawals are received. After the first such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

38. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 43:

i. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage two of the auction.

ii. Keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

iii. Declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) only for licenses on

which the high bid increased in at least one of the preceding specified number of rounds.

39. The Bureau proposes to exercise these options only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Bureau seeks comment on these proposals.

#### IV. Conclusion

40. Comments are due on or before September 21, 2001, and reply comments are due on or before September 28, 2001. An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 Twelfth Street, SW., Washington, DC 20554, in accordance with § 1.51(c) of the Commission's rules. In addition, one copy of each pleading must be delivered to each of the following locations: (i) The Commission's duplicating contractor, Qualex International, Portals II, 445 Twelfth Street, SW., Room CY-B402, Washington, DC 20554; (ii) Office of Media Relations, Public Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554; (iii) Rana Shuler, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Room 4-A628, 445 Twelfth Street, SW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

41. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 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. Other rules pertaining to oral and written *ex parte* presentations in

permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

**Margaret Wiener,**

*Chief, Auctions and Industry Analysis Division, WTB.*

[FR Doc. 01-23360 Filed 9-19-01; 8:45 am]

BILLING CODE 6712-01-P

#### FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-01-37-H (Auction No. 37); DA 01-2148]

#### Auction for FM Non-Reserved Band FM Allotments

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the postponement of Broadcast Auction No. 37 for vacant non-reserved band FM allotments.

**FOR FURTHER INFORMATION:** Kathy Garland, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (717) 338-2888; Kenneth Burnley, Legal Branch, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau at (202) 418-0660; or Lisa Scanlan, Audio Services Division, Mass Media Bureau at (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a summary of a Public Notice released September 14, 2001. The complete text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 863-2898. It is also available on the Commission's Web site at <http://www.fcc.gov>.

#### General Information

The Wireless Telecommunications Bureau and the Mass Media Bureau (collectively, the "Bureaus") announce the postponement of Auction No. 37 for vacant non-reserved band FM allotments, which was previously scheduled to begin on December 5, 2001.

On July 3, 2001, the United States Court of Appeals for the District of Columbia Circuit in *National Public Radio, Inc. et al., v. FCC, Nos. 00-1246, 00-1255* (decided July 3, 2001) ("NPR") vacated the portion of the Commission's

Noncommercial Report and Order, 65 FR 36375 (June 8, 2000), that required noncommercial educational ("NCE") entities that applied for authorizations in the non-reserved spectrum to participate in auctions with mutually exclusive commercial applicants. Each of the vacant non-reserved FM band allotments included in Auction No. 37 is potentially impacted by NPR. The Bureaus announce that they will postpone Auction No. 37 while the Commission formulates its response to the NPR decision. Therefore, the previously announced filing window for FCC Form 175 submissions is cancelled, and Auction No. 37 FCC Form 175 applications will not be accepted as previously scheduled. Further information, including a revised FM Auction No. 37 schedule, will be announced in forthcoming Commission notices.

Federal Communications Commission.

**Lisa Scanlan,**

*Supervisory Attorney, Audio Services Division, Mass Media Bureau.*

[FR Doc. 01-23498 Filed 9-19-01; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2502]

#### Petitions for Reconsideration of Action in Rulemaking Proceedings

September 13, 2001.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room CY-A257, 445 12th Street, SW., Washington, DC, or may be purchased from the Commission's copy contractor, Qualex International (202) 863-2893. Oppositions to these petitions must be filed by October 5, 2001. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

*Subject:* Amendment of FM Table of Allotments (MM Docket No. 98-162).

*Number of Petitions Filed:* 1.

*Subject:* Amendment of FM Table of Allotments (MM Docket No. 97-178).

*Number of Petitions Filed:* 1.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01-23496 Filed 9-19-01; 8:45 am]

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