[Surety], By:

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■ 6. Add Appendix F to read as follows:

Appendix F to Subpart C of Part 515—Optional Rider for Additional NVOCC Financial Responsibility for Group Bonds [Optional Rider to Form FMC–69]

FMC–69A, OMB No. 3072–0018 (04/06/04)

Optional Rider for Additional NVOCC Financial Responsibility for Group Bonds [Optional Rider to Form FMC–69]

RIDER

The undersigned [_____], as Principal and [_____], as Surety do hereby agree that the existing Bond No. [_____] to the United States of America and filed with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 is modified as follows:

1. The following condition is added to this Bond:

a. An additional condition of this Bond is that $ [_____](payable in U.S. Dollars or Renminbi Yuan at the option of the Surety) shall be available to any NVOCC enumerated in an Appendix to this Rider to pay any fines and penalties for activities in the U.S.-China trades imposed by the Ministry of Communications of the People's Republic of China ("MOC'') or its authorized competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government or the State Administration of Industry and Commerce pursuant to the Regulations of the People's Republic of China on International Maritime Transportation and the Implementing Rules of the Regulations of the PRC on International Maritime Transportation promulgated by MOC Decree No. 1, January 20, 2003. Such amount is separate and distinct from the bond amount set forth in the first paragraph of this Bond. Payment under this Rider shall not reduce the bond amount in the first paragraph of this Bond or affect its availability. The Surety shall indicate that $21,000 is available to pay such fines and penalties for each NVOCC listed on appendix A to this Rider wishing to exercise this option.

b. The liability of the Surety shall not be discharged by any payment or succession of payments pursuant to section 1 of this Rider, unless and until the payment or payments shall aggregate the amount set forth in section 1a of this Rider. In no event shall the Surety's obligation under this Rider exceed the amount set forth in section 1a regardless of the number of claims.

c. This Rider is effective the [_____] day of [_____], 200[_____], and shall continue in effect until discharged, terminated as herein provided, or upon termination of the Bond in accordance with the sixth paragraph of the Bond. The Principal or the Surety may at any time terminate this Rider by written notice to the Federal Maritime Commission at its offices in Washington, DC., accompanied by proof of transmission of notice to MOC. Such termination shall become effective thirty (30) days after receipt of said notice and proof of transmission by the Federal Maritime Commission. The Surety shall not be liable for fines or penalties imposed on the Principal after the expiration of the 30-day period but such termination shall not affect the liability of the Principal and Surety for any fine or penalty imposed prior to the date when said termination becomes effective.

2. This Bond remains in full force and effect according to its terms except as modified above.

In witness whereof we have hereunto set our hands and seals on this [_____] day of [_____], 200 [_____], [Principal], :By
[Surety], By:

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By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 04–7782 Filed 4–5–04; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 27, 74, 90 and 101

[WT Docket No. 01–319; FCC 04–23]

Practice and Procedure, Miscellaneous Wireless Communications Services, Experimental Radio, Auxiliary, Special Broadcast and Other Program Distributional Services, Private Land Mobile Radio Services, Fixed Microwave Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its rules to provide for immediate processing of applications that may implicate Quiet Zones, in the event that the applicant indicates that it has obtained consent of the Quiet Zone entity. The document also clarifies that applicants may provide notification to and begin coordination with Quiet Zone entities, where required, in advance of filing an application with the Commission. Further, the Commission permits part 101 applicants to initiate conditional operation, provided they have obtained prior consent of the Quiet Zone entity to the extent required, and are otherwise eligible to initiate conditional operations over the proposed facility. Further, the Commission clarifies that either the applicant or the applicant's frequency coordinator may notify and initiate any required coordination proceedings with the Quiet Zone entity.

DATES: Effective June 7, 2004, except for 47 CFR 1.924(a)(2) and 1.924(d)(2) which contain information collection modifications that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of that section.

FOR FURTHER INFORMATION CONTACT: Roger Noel or Linda Chang, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal

Communications Commission's *Report and Order,* FCC 04–23, adopted February 4, 2004, and released February 12, 2004. The full text of the *Report and Order* is available for public inspection during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Qualex International, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail at *qualexint@aol.com.*

Synopsis of Report and Order

I. Background

1. Section 1.924 of the Commission's rules sets forth procedures regarding coordination of Wireless Telecommunications Services applications and operations within areas known as "Quiet Zones.'' Such zones are areas where "it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference.'' *See* 47 CFR 1.924(a). The facilities covered by § 1.924 are: (i) The National Radio Astronomy Observatory (NRAO) site in Green Bank, Pocahontas County, West Virginia, and the Naval Radio Research Observatory (NRRO) site in Sugar Grove, Pendleton County, West Virginia; (ii) the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce (Table Mountain) in Boulder County, Colorado; (iii) FCC field offices used for monitoring activities; and (iv) the Arecibo Observatory (Arecibo) in Puerto Rico. Commenters have noted that the emissions that radio astronomy facilities are designed to receive are extremely weak; a typical radio telescope receives approximately one-trillionth of a watt from even the strongest cosmic source and can receive sources one million times weaker still. Because radio astronomy receivers are designed to pick up such weak signals, these facilities are extremely vulnerable to interference from spurious and out-of-band emissions.

2. In order to protect Quiet Zones from harmful interference, § 1.924 sets forth a variety of required or recommended procedures for notifications to and/or coordination of proposed frequency use with an affected site. The facilities affected can be separated into two categories: areas in which applicants are required to provide notification of any proposed operations prior to authorization, and areas for which the Commission recommends advanced consultation. For facilities requiring notification, specifically NRAO, NRRO and Arecibo, § 1.924 provides that notification must occur concurrently with the filing of the application, and that the affected facility must be given an opportunity to comment on the application. *See* 47 CFR 1.924(a)(2), (d)(2). For example, § 1.924(a) provides that an entity filing an application to operate a new or modified station in the NRAO or NRRO Quiet Zone areas must simultaneously provide notification to the applicable entity along with technical details of its proposed operation. The filing of the application triggers a 20-day comment period during which the applicable Quiet Zone is given an opportunity to file comments or objections in response to the notifications. For other facilities, such as Table Mountain and FCC Field Monitoring Facilities, the Commission's rules do not require that notification and opportunity to object be afforded to the affected facility prior to grant of the application. *See* 47 CFR 1.924 (b), (c). Rather than require notification and a 20-day comment period for the latter areas, the Commission urges that advance consultation be made with the applicable entity in order to avoid interference.

3. In the *2000 Biennial Regulatory Review Updated Staff Report (2000 Biennial Review Report*), the Commission determined that it should initiate a rulemaking to review the application procedures for Quiet Zone areas and determine whether the Commission could make these procedures more efficient. In November 2001, the Commission issued a *Notice of Proposed Rulemaking,* 16 FR 20690, December 21, 2001 (*NPRM*) seeking to identify and address ways of streamlining the processing of such applications, while simultaneously ensuring the continued protection of these sensitive areas. Review of Quiet Zones Application Procedures, *Notice of Proposed Rulemaking.*

II. Discussion

A. Streamlining Quiet Zone Application Processing

4. *Background.* In the *NPRM,* the Commission inquired whether, in situations in which Quiet Zone issues are implicated, it is appropriate to expedite application processing if the application provides written consent, where required, from the applicable Quiet Zone entity. As noted, §§ 1.924(a) and 1.924(d) set out a 20-day period during which the NRAO, NRRO or Arecibo may lodge a comment or objection in response to a notification regarding proposed operation. The Commission suggested that in such situations, if a wireless operator obtains written consent as necessary from the applicable entity following consultation, the Commission could process the application without awaiting the end of the 20-day period.

5. *Discussion.* The Commission concludes that, in situations where notification is required, it is appropriate to amend its rules to provide for the immediate processing of applications where the applicant has obtained the prior written consent of the relevant Quiet Zone entity. Waiting for the expiration of the 20-day waiting period in cases in which the applicant has consulted with, and obtained approval from, the Quiet Zone entity, unduly delays the processing of applications. The underlying basis of the waiting period was to provide affected Quiet Zone entities an interval within which to lodge comments or objections regarding interference concerns with the Commission. Delaying the processing of applications until the expiration of the waiting period serves no purpose in situations in which the Quiet Zone entity has indicated that it has no objections to the technical details of the proposed operation. Where prior written consent is not obtained, Quiet Zone entities retain the full 20-day period to file comments or objections regarding a proposed operation. Further, in order to avoid any confusion as to the scope of a Quiet Zone entity's consent, the written consent from the Quiet Zone entity must include the same technical parameters specified in the application.

B. Coordination in Advance of Application Filing

6. *Background.* In the *NPRM,* the Commission requested comment on whether to allow parties to provide notification to and begin coordination with affected entities, where required, in advance of filing an application with the Commission. As noted, §§ 1.924(a)(2) and 1.924(d)(2) require an applicant to notify NRAO, NRRO or the Arecibo Observatory at the same time it makes a filing with the Commission. In the *NPRM,* the Commission tentatively concluded that advance coordination with these Quiet Zone entities would help to expedite application processing and the initiation of operations, while also ensuring that Quiet Zones are protected.

7. *Discussion.* The Commission concludes that applicants and Quiet Zone entities alike will benefit from advance notification and coordination. The Commission finds that prior

notification and coordination between applicants and Quiet Zone entities should be encouraged because such coordination would allow parties to directly address any interference concerns prior to filing, thereby avoiding the possibility that a Quiet Zone entity will object after an application has been filed. This in turn would facilitate the expeditious processing of applications by the Commission. The commenters strongly support the idea of prior coordination, noting that advance notification and coordination has already been occurring on an informal basis, and emphasizing that, based on previous experience, the earlier that coordination occurs between carriers and Quiet Zone entities, the better the result for all parties. Accordingly, §§ 1.924(a)(2) and 1.924(d)(2) are modified to provide that notice may be provided to the affected Quiet Zone entity prior to, or simultaneously with, a Commission filing.

8. The Commission also sought comment on the appropriate length of time that should be prescribed for such notification and coordination. The Commission concludes that the timing of advance coordination should be left to the parties. To the extent that prior coordination has been occurring informally between applicants and Quiet Zone entities, it appears that applicants have successfully coordinated with Quiet Zone entities and subsequently filed applications without formal direction from or involvement of the Commission. Given this success, the Commission concludes that it is unnecessary to prescribe a specific timeline for advance notification and coordination. Applicants must continue to serve notice to the relevant Quiet Zone entity that the application has actually been filed and that such notification include technical details of the proposed operation as set out in §§ 1.924(a)(1) and 1.924(d). Continuing to require applicants to provide notice when an application is filed is reasonable to ensure consistency between technical specifications agreed upon pursuant to the advance coordination and what is actually filed in the application. Moreover, for situations in which an applicant has given advance notice but does not reach agreement with the Quiet Zone entity regarding proposed operations, such notice signals the Quiet Zone entity that the 20-day waiting/comment period has begun.

C. Conditional Operation of Stations

9. *Background.* Section 101.31(b) permits applicants for certain point-to-point microwave stations to operate on a conditional basis during the pendency of an associated application under certain conditions. 47 CFR 101.31(b)(v). However, subsection (v) of that rule forbids conditional operation of facilities located in areas identified in § 1.924 in general. *See* 47 CFR 101.31(b)(v). The Commission sought comment on whether to allow part 101 applicants to initiate conditional operation under § 101.31(b), notwithstanding the limitation contained in subsection (v), if they submit written consent from the applicable Quiet Zone entity, and otherwise are eligible to initiate conditional operations over the proposed facility.

10. *Discussion.* The Commission concludes that it is in the public interest to allow part 101 applicants to operate on a conditional basis in the Quiet Zones pending application processing if they obtain prior consent from the applicable Quiet Zone entity. Section 101.31(b)(1)(v)'s ban on conditional operation in Quiet Zones was established to ensure that such areas are adequately protected from interference. However, the underlying goal of the ban against conditional operation in Quiet Zones would be served where, prior to submitting an application, an applicant has resolved interference and other coordination issues with an affected entity and has obtained consent. The Commission has previously recognized that permitting conditional operation pending the approval of an application provides greater flexibility to part 101 entities and enables them to operate more efficiently. Reorganization and Revision of parts 1, 2, 21, and 94 of the Rules to Establish a New part 101 Governing Terrestrial Microwave Fixed Radio Services, *Report and Order,* 61 FR 26670, May 28, 1996. In instances where applicants have obtained consent from the relevant entities and have satisfied other applicable conditions, precluding such part 101 entities from operating on a conditional basis would unduly delay the construction and deployment of microwave networks. Accordingly, § 101.31(b)(1)(v) is modified to permit conditional operation in Quiet Zones if the applicant has obtained written consent from the applicable entity and otherwise satisfies the criteria for conditional authorization found in § 101.31(b).

11. Similarly, the Commission concludes that, for other wireless services in which applicants are permitted to operate on a conditional basis prior to authorization, there is little basis to distinguish applicants of such services from part 101 applicants so long as an applicant has coordinated with the applicable Quiet Zone entity and all other requirements for conditional operation have been met. However, the Commission will not extend this to wireless services, such as cellular, which do not permit operation prior to authorization by the Commission.

E. Rules Cross-Referencing § 1.924

12. *Background.* There are a number of Commission rules that cross-reference § 1.924 or specify procedures that are contingent upon § 1.924. In the *NPRM,* the Commission referenced §§ 90.655, 95.45(b), 101.1009, and 101.1329 as examples of rules that point out that certain sites may require individual station licenses or are the subject to other restrictions if they are located in Quiet Zones. The Commission requested comments on any possible modifications of these or other rules that implement the Commission's goals regarding protection of Quiet Zones from unacceptable interference.

13. *Discussion.* The Commission finds that augmenting its service-specific rules to ensure that applicants and licensees are aware of their § 1.924 obligations is not warranted. Applicants and licensees are required to be aware of and to comply with all applicable Commission rules. In the *ULS Report and Order,* the Commission consolidated all wireless procedural rules, including service-specific Quiet Zone rules, into part 1 in order to provide consistent standards for all wireless services, eliminate unnecessary or redundant rules, and retain service-specific rules only where such rules are necessary due to technical, operational or policy considerations of the particular wireless service. *See* Amendment of parts 0, 1, 12, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Report and Order,* 63 FR 68904, December 14, 1998 (*ULS Report and Order*). In consolidating all of the procedural rules in part 1, the Commission established a single point of reference regarding its wireless licensing procedures. The Commission finds the argument that applicants are unlikely to read applicable part 1 rules unpersuasive to undo the harmony and consistency achieved by the *ULS Report and Order.* Moreover, the Commission is not aware that there is a current problem with carriers not complying with § 1.924 requirements specifically because they are not aware of the obligation to do so. Therefore, the Commission will not

place additional references to § 1.924 in its service-specific rules.

F. Matters Raised by Commenters in Response to the NPRM

14. In the *NPRM*, the Commission requested comment on ways to improve the current procedures prescribed by § 1.924 that would streamline the applicable processes while continuing to ensure that areas are fully and adequately protected. In response, the Commission received a number of proposals to modify the processes set out in § 1.924.

1. Proposals To Institute 30-day Automatic Consent Period

15. *Background.* Two commenters advocate an advance 30-day notification period during which the failure of the Quiet Zone entity to comment or object will constitute approval of the terms of the proposed operation. One commenter suggests that the consent process regarding conditional authority for microwave services in Quiet Zones be combined with current frequency coordination procedures. Part 101 applicants are required to provide notification to other part 101 licensees and applicants of proposed frequency use prior to filing an application with the Commission. *See* 47 CFR 101.103(d). If no comment or objection is received within 30 days, the applicant is deemed to have made reasonable efforts to coordinate and may file its application without a response. *See* 47 CFR 101.103(d)(2)(iv). The commenter proposes that this rule be extended to Quiet Zone situations so that the Quiet Zone entity would be required to respond in writing to an applicant's proposed operation within the same 30-day period. In this proposal, an applicant can satisfy the consent requirement by providing a statement that the Quiet Zone entity has been notified and no responses were received within 30 days of notification.

16. Another commenter also proposes a 30-day notification period, but seeks to apply the 30-day notification period across services. The commenter proposes that, for situations in which notification is required prior to authorization, if a Quiet Zone entity does not respond to pre-application coordination efforts made by an applicant within 30 days of notification, then concurrence will be implied. No comment period would occur after filing. Further, the Commission would require that applicants file an application within 60 days of the end of the 30-day period to prevent the application from getting stale.

17. *Discussion.* The Commission declines to adopt the proposals advanced by commenters to establish a process in which consent by a Quiet Zone entity is assumed if no objections are raised by the end of a 30-day period. As emphasized in the *NPRM*, the Commission considers protection of the Quiet Zone areas from radio frequency interference to be critically important and that in instituting this proceeding, it did not intend to reduce or eliminate applicant requirements to coordinate with Quiet Zones. The Commission believes that the protections set out in § 1.924 will be undercut if carriers may assume that failure by a Quiet Zone entity to respond to a notification within 30 days may automatically be construed as consent. The Commission continues to believe that actual coordination between applicants and Quiet Zone entities remains the most effective means for parties to ensure that Quiet Zone areas are protected from interference in the least burdensome manner to applicants.

18. While commenters argue that allowing a 30-day automatic consent period is more desirable than the current coordination process, the Commission does not believe that a departure from its current coordination processes is warranted. The Commission cannot know what is occurring with respect to interactions between applicants and Quiet Zone entities, for example, whether notification was adequate or whether applicants are taking appropriate measures to avoid interference to Quiet Zone areas. Without explicit prior approval by the Quiet Zone entity or a time period during which a Quiet Zone entity may lodge objections to operational parameters set out in an application, the Commission cannot assume consent. Further, the record makes apparent that applicants and Quiet Zone entities have been largely successful in resolving notification and coordination issues under current rules. To the extent that there have been delays, the Commission is confident that the rule changes that the Commission is adopting in this proceeding will make the Quiet Zone application processes more efficient and will facilitate the rapid deployment of service.

2. Proposal Requesting Greater Commission Oversight of Guidelines and Processes Used by Quiet Zone Entities

19. *Background.* RCC Consultants (RCC) requests that the Commission set out specific Quiet Zone interference standards that must be followed by Quiet Zone entities, specifically NRAO and NRRO. RCC states that, although pre-coordination with Quiet Zone facilities has been helpful in the past, pre-coordination is a trial and error process that is unnecessary and burdensome for applicants. Instead, RCC argues that the interference protection criteria used by these facilities should be set out in the Commission's rules, and a clear process for appeals regarding interference objections raised by NRAO and NRRO should be established to determine the reasonableness of existing criteria and any future changes. RCC asserts that these facilities can and have changed their interference parameters at will with no opportunity for public comment or appeal, and that the present method of determining acceptable effective radiated power (ERP) with respect to the NRAO and NRRO facilities is subject to error.

20. *Discussion.* In the *Arecibo Report and Order,* 62 FR 55525, October 27, 1997, the Commission established coordination procedures that would apply to operations potentially affecting the Arecibo Radio Astronomy Observatory. In establishing these procedures, the Commission explained its rationale for not adopting specific interference criteria. The Commission concluded that the large number of services—each operating at differing power levels and frequencies—as well as other variables such as terrain and propagation characteristics made it prohibitively difficult and time-consuming to establish interference standards that would apply to all applicants. Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico, ET Docket No. 96–2, RM–8165, *Report and Order.* Given these considerations, the Commission did not establish interference limits, and instead directed Arecibo to establish technical guidelines to be used during coordination. Although that order was specific to the Arecibo facility, the same rationale holds true for NRAO and NRRO as well. The factors that caused the Commission to find in the *Arecibo Report and Order* that establishing specific interference criteria would be inordinately difficult and time-consuming remain valid.

21. Similarly, the Commission does not find that it is desirable for the Commission to mandate a method of performing interference studies. The Commission believes that specifying the precise method of conducting interference studies could actually run counter to the interests of applicants by taking flexibility out of the coordination

process. Instead, the Commission continues to believe that applicants and Quiet Zone entities should be given the flexibility to work out a solution as to how best to safeguard the affected entity's operations while minimizing burdens on the applicant.

22. The Commission also finds it unnecessary to establish a process for applicants to appeal interference objections raised by Quiet Zone entities. Although Quiet Zone entities are tasked with establishing technical guidelines regarding operations in Quiet Zone areas and are permitted to object to an applicant's proposed operations, the Commission remains the sole entity with authority to resolve service licensing issues. The Commission emphasizes that the interference guidelines set by Quiet Zone entities are starting points from which the applicant and the applicable entity can begin discussions. If an applicant believes that a Quiet Zone entity's guidelines are incorrect or overly stringent, it has the ability to raise the issue with the Commission for final resolution.

3. Proposal to Allow Applicants to Avoid Coordination Process if They Provide Self-certification Regarding Operational Parameters

23. *Background.* Spanish Broadcasting System (SBS) seeks specific interference criteria as part of a safe harbor approach by which applicants could self-certify that they are operating below established interference limits. SBS's proposal provides that no Quiet Zone coordination would be necessary for applicants that certify that their proposed facility produces a predicted field strength that is less than those established by the Commission. Further, SBS suggests that, in the event that the applicant's proposed operation produces a predicted field strength that exceeds the established limit, the applicant can still self-certify and avoid the coordination process if it submits a showing of terrain shadowing or other local propagation anomaly which results in a diminished field strength at the Quiet Zone location. Alternatively, SBS proposes that, if the Commission determines that there must be actual coordination between applicants and Quiet Zone entities, the Commission should find that no Quiet Zone consent is required where the applicant proposes a modified facility which is technically equivalent to an existing facility.

24. *Discussion.* The Commission finds that SBS's proposals to permit self-certification would increase the risk of harmful interference to Quiet Zone operations. Even if the Commission concludes that it is feasible and desirable for it to establish appropriate interference criteria, there is still a risk that applicants may make errors in calculation or that the established criteria is not appropriate for a given facility. The likelihood that interference may occur is further enhanced if the Commission was to adopt SBS's proposal to allow an applicant to avoid actual coordination even where its proposed operation produces a predicted field strength greater than the established limit. Under SBS's proposal, an applicant would be allowed to demonstrate that terrain shadowing results in a diminished field strength in a Quiet Zone area. Current terrain shadowing programs may be of use in calculating the reduction of interference to broadcast facilities, but are not designed to predict the impact on the extremely sensitive receivers used by radio astronomy observatories. Rather than streamlining the application process, it appears that this proposal would in actuality impose an extra level of complexity by requiring the Commission to determine whether or not such a showing is accurate and a proposed facility is indeed operating below interference limits.

25. SBS's proposal that coordination need not be required for modifications that are technically equivalent to current facilities is equally problematic. This proposal poses the problem of how to define technical equivalency. The Commission concludes that the technical difficulties that SBS's proposals create far outweigh any benefits that would be gained. While SBS argues that its proposals will streamline the application process, the Commission finds that implementation of its proposals would bring complexities to the process that would delay application processing or increase the risk of harmful interference in Quiet Zone areas. While the Commission has a general goal of streamlining its rules and processes, it will not do so if the potential for harmful interference to Quiet Zones is increased. Moreover, because it appears that, for the most part, applicants and Quiet Zone entities have been successful in timely resolving interference issues, the Commission finds little reason to allow applicants to bypass actual coordination with Quiet Zone entities.

4. Clarification of Coordination Obligations

26. *Background.* Certain wireless services require frequency coordination prior to the filing of an application. A few of the commenters request that for applications in these services, the Commission identify the entity that is responsible for Quiet Zone coordination, *i.e.*, the applicant or the applicant's frequency coordinator. The commenters state that, although they believe that frequency coordinators are better qualified to deal with coordination issues, they primarily wish to have certainty as to which entity is obligated.

27. *Discussion.* Because the Commission seeks to provide for flexibility in the coordination process, the Commission declines to specify an entity to perform the notifications required in § 1.924. The Commission clarifies that an applicant has the option of notifying/coordinating with a Quiet Zone entity itself or satisfying the requirement through the use of a frequency coordinator. In the event that a frequency coordinator is used and the Quiet Zone entity has interference concerns, the frequency coordinator may continue to act on behalf of the applicant in order to resolve interference issues. However, the applicant retains the ultimate responsibility of ensuring that coordination has occurred and that the concerns of the Quiet Zone entity are addressed.

F. Administrative Corrections

28. The *NPRM* provided that the Commission's rules would be amended to correct certain ministerial errors. First, the Commission reinstates a limitation on the Arecibo Observatory coordination obligations that was inadvertently omitted when the Commission consolidated many of its wireless rules into part 1 in the ULS proceeding. To correct this omission, the Commission adds a new § 1.924(d)(4) that states: "The provisions of this paragraph do not apply to operations that transmit on frequencies above 15 GHz.'' Similarly, the version of § 1.924(e) contained in the current volume of the Code of Federal Regulations includes two typographical errors from the rule adopted in 1997. Specifically, in § 1.924(e)(1), the first set of coordinates listed under Denver, CO Area, Rectangle 1 should be 41°30′ 00″ North Latitude instead of 1°31′00″ North. In § 1.924(e)(2), the longitude coordinates should read 76°52′00″ instead of 78°52′00″. Further, the Commission changes the Quiet Zones reference in §§ 27.601(c)(iii) and 90.159(b)(5) § 90.177 to § 1.924, to reflect the consolidation of wireless rules the Commission adopted in the ULS proceeding.

29. In addition to the errors identified in the *NPRM,* further review of the

Quiet Zones rules reveals that other corrections are necessary. First, some of the power flux density values identified in the table entitled "Field Strength Limits for Table Mountain'' in § 1.924(b)(1) are not listed correctly. All power flux density limits specified in the table and its accompanying footnote should have negative values. For example, the power flux density value for signals in the 470 to 890 MHz range should read "−56.2'' rather than the "56.2'' currently listed in the table. Further, the coordinates in rule § 1.924(f)(1)(i) should be 41°45′00.2″ North, 70°30′58.3″ West, and coordinates in § 1.924(f)(4)(iii) should read 34°08′59.6″ North, 119°11′03.8″ West. Finally, § 1.924 currently lists both the former and current versions of § 1.924(g), and should be corrected to remove the former version. The Commission therefore revises § 1.924 to reflect these corrections.

III. Procedural Matters

A. Final Regulatory Flexibility Act

30. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM.* The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. *See* 5 U.S.C. 604.

Need for, and Objectives of, the Report and Order

31.In the *Report and Order,* the Commission adopts changes to its rules governing Quiet Zone areas. The amendments serve the dual purposes of streamlining requirements for applications affecting Quiet Zones, while protecting these sensitive areas from harmful interference. While the Commission believes that the record in this proceeding demonstrates that its rules have been largely successful in protecting Quiet Zones while facilitating the deployment of wireless services, the Commission believes there are certain modifications that will expedite the application process, reduce unnecessary or redundant requirements from Commission regulations, and promote the efficient use of spectrum within these protected areas. Accordingly, in this *Report and Order,* the Commission: (1) Amends its rules to provide for immediate processing of applications that may implicate Quiet Zones, in the event that the applicant indicates that it has obtained the prior consent of the Quiet Zone entity; (2) amend its rules to clarify that applicants may provide notification to and begin coordination with Quiet Zone entities (where required) in advance of filing an application with the Commission; (3) amend § 101.31(b)(1)(v) to permit part 101 applicants as well as applicants for other services that allow operation prior to authorization, to initiate conditional operation, provided they have obtained the prior consent of the Quiet Zone entity and are otherwise eligible to initiate conditional operations over the proposed facility; (4) clarify that either the applicant or the applicant's frequency coordinator may notify and initiate coordination proceedings with the Quiet Zone entity.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

32. Only one commenter submitted comments in response to the IRFA. RCC argues that local governments and non-profit agencies that are located in the NRQZ pay more to install and operate radio communications systems. RCC asserts that more antenna sites are needed to provide satisfactory radio coverage due to the NRQZ restrictions, and in the worst case, public safety agencies are forced to accept diminished radio system performance due to impractical limits on ERP that are required by NRAO. In order to satisfy NRAO and NRRO guidelines, RCC states that licensees are forced to: (1) Reduce operating power; (2) use directional antennas; and, (3) place their transmitters in less than optimal locations. RCC argues that these steps generally result in diminished radio system performance in the area where coverage is required. RCC also argues that the Quiet Zone requirements are, in effect, a de facto unfunded federal mandate because local governments and small entities receive no reimbursement or federal funds to compensate them for the additional expense that they incur in the process of meeting the NRAO and NRRO criteria. RCC argues that the federal government should compensate local governments and radio communications systems operators for the costs associated with complying with Quiet Zones requirements.

33. RCC's IRFA comments appear to challenge the Commission's existing notification and coordination procedures regarding Quiet Zone areas rather than any issues or proposals raised in the *NPRM* or in the IRFA. In the Final Regulatory Flexibility Analysis in the *Arecibo Report and Order,* the Commission noted that, while some parties argued that the coordination requirements were an unnecessary burden that would delay the provision of service and increase the costs of operation, the Commission determined that complying with the coordination procedures would be a minimal burden, and that the public benefit in protecting the Arecibo Observatory's operations from harmful interference justifies the minimal burden that may be created. Although the proceeding related to the Arecibo Observatory, the same considerations are true for Quiet Zones in general. Further, the Commission believes that the rule changes adopted in this *Report and Order* will benefit all carriers, including small businesses, by expediting the application process, reducing unnecessary or redundant requirements from Commission regulations, and promoting the efficient use of spectrum within Quiet Zone areas.

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

34. 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 proposed rules. *See* 5 U.S.C. 604(a)(3). The RFA generally defines the term "small entity'' as having the same meaning as the terms "small business,'' "small organization,'' and "small governmental jurisdiction.'' *See* 5 U.S.C. 601(6). In addition, the term "small business'' has the same meaning as the term "small business concern'' under the Small Business Act. *See* 5 U.S.C. 601(3). A "small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). *See* 15 U.S.C. 632.

35. In the following paragraphs, the Commission further describes and estimates the number of small entity licensees that may be affected by the rules adopted in the *Report and Order.* Since this rulemaking proceeding applies to multiple services, the Commission will analyze the number of small entities affected on a service-by-service basis.

36. *Cellular Licensees.* The SBA has developed a small business size standard for small businesses in the category "Cellular and Other Wireless Telecommunications.'' Under that SBA category, a business is small if it has 1,500 or fewer employees. According to the Bureau of the Census, only twelve firms out of a total of 1,238 cellular and other wireless telecommunications firms operating during 1997 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular

carriers are small businesses under the SBA's definition.

37. *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, the Commission applies the small business size standard under the SBA rules applicable to "Cellular and Other Wireless Telecommunications'' companies. This category provides that a small business is a wireless company employing no more than 1,500 persons. According to the Census Bureau data for 1997, only twelve firms out of a total of 1,238 such firms that operated for the entire year, had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business standard.

38. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is subject to spectrum auctions. In the *220 MHz Third Report and Order,* the Commission adopted a small business size standard for defining "small'' and "very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. Amendment of Part 90 of the Commission's Rules to Provide For the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, *Third Report and Order,* 62 FR 15978, April 3, 1997. This small business standard indicates that a "small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A "very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in Three different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won 373 licenses in the first 220 MHz auction. A second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses. A third auction included four licenses: 2 BEA licenses and 2 EAG licenses in the 220 MHz Service. No small or very small business won any of these licenses.

39. *Lower 700 MHz Band Licenses.* The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission has defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. 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 $15 million for the preceding three years. Additionally, the lower 700 MHz Service has a third category of small business status that may be claimed for Metropolitan/Rural Service Area (MSA/RSA) licenses. The third category is entrepreneur, which 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. The SBA has approved these small size standards. An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, and closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 CMA licenses. Seventeen winning bidders claimed small or very small business status and won sixty licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.

40. *Upper 700 MHz Band Licenses.* The Commission released a *Report and Order,* authorizing service in the upper 700 MHz band. Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to part 27 of the Commission's Rules, WT Docket No. 99–168, *Report and Order,* 65 FR 3139, January 20, 2000. In that proceeding, the Commission defined a small business as any entity with average annual gross revenues for the three preceding years not in excess of $40 million, and a very small business as an entity with average annual gross revenues for the three preceding years not in excess of $15 million. The auction for Upper 700 MHz licenses, previously scheduled for January 13, 2003, was postponed.

41. *700 MHz Guard Band Licenses.* In the *700 MHz Guard Band Order,* 65 FR 17599, April 4, 2000, the Commission adopted a small business size standard for "small businesses'' and "very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. Service Rules for the 746–764 MHz Bands, and Revisions to part 27 of the Commission's Rules, WT Docket No. 99–168, *Second Report and Order.* A "small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years.

42. Additionally, a "very small business'' is 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. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

43. *Paging.* In the *Paging Second Report and Order,* 62 FR 11616, March 12, 1997, the Commission adopted a size standard for "small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The SBA has approved this definition. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. An auction of Metropolitan Economic

Area (MEA) and Economic Area (EA) licenses commenced on October 30, 2001, and closed on December 5, 2001. Of the 15,514 licenses auctioned, 5,323 were sold. 132 companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs commenced on May 13, 2003, and closed on May 28, 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses. Currently, there are approximately 24,000 Private Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service,* 608 private and common carriers reported that they were engaged in the provision of either paging or ''other mobile'' services. Of these, the Commission estimates that 589 are small, under the SBA-approved small business size standard. The Commission estimated that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

44. *Broadband Personal Communications Service (PCS).* 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 has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. *See* 47 CFR 24.720(b). For Block F, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards 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 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission reauctioned 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.

45. *Narrowband PCS.* The Commission held an auction for Narrowband PCS licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of forty-one licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order,* 65 FR 35843, June 6, 2000. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (MTA and nationwide) licenses. Three of these claimed status as a small or very small entity and won 311 licenses.

46. *Rural Radiotelephone Service.* The Commission uses the SBA definition applicable to cellular and other wireless telecommunication 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 there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

47. *Air-Ground Radiotelephone Service.* The Commission uses the SBA definition applicable to cellular and other wireless telecommunication 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.

48. *Specialized Mobile Radio (SMR).* The Commission awards ''small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards ''very small entity'' bidding credits to firms that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 900 MHz Service. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses. The auction of the 1,050 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed ''small business'' status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

49. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR 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 analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is established by the SBA.

50. *Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and Instructional Television Fixed Service.* Multichannel Multipoint Distribution Service (MMDS) systems, often referred to as ''wireless cable,'' transmit video programming to subscribers using the microwave

frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). In connection with the 1996 MDS auction, the Commission defined ''small business'' as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. The SBA has approved of this standard. The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds that there are currently approximately 440 MDS licensees that are defined as small businesses under either the SBA's or the Commission's rules.

51. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million, and an additional 52 firms had receipts of $10 million or more but less than $25 million.

52. Finally, while SBA approval for a Commission-defined small business size standard applicable to ITFS is pending, educational institutions are included in this analysis as small entities. There are currently 2,032 ITFS licensees, and all but 100 of these licenses are held by educational institutions. Thus, the Commission tentatively concludes that at least 1,932 ITFS licensees are small businesses.

53. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, the Commission could use the definition for ''Cellular and Other Wireless Telecommunications.'' This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. Moreover, because PLMR licensees generally are not in the business of providing cellular or other wireless telecommunications services but instead use the licensed facilities in support of other business activities, the Commission is not certain that the Cellular and Other Wireless Telecommunications category is appropriate for determining how many PLMR licensees are small entities for this analysis. Rather, it may be more appropriate to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

54. 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. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the revised rules in this context could potentially impact every small business in the United States.

55. *Amateur Radio Service.* All Amateur Radio Service licenses are presumed to be individuals. Accordingly, no small business definition applies for this service.

56. *Aviation and Marine Radio Service.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter. 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 for radiotelephone wireless communications.

57. Most applicants for 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 its evaluations and conclusions in this IRFA, the Commission estimates that there may be at least 712,000 potential licensees that are individuals or small entities, as that term is defined by the SBA.

58. *Fixed Microwave Services.* Fixed microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. Currently, 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 FRFA, the Commission will use the SBA's definition applicable to ''Cellular and Other Wireless Telecommunications'' companies ''that is, an entity with no more than 1,500 persons. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are 22,015 or fewer small common carrier fixed licensees and 61,670 or fewer small private operational-fixed licensees and small broadcast auxiliary radio licensees in the microwave services that may be affected by the rules and policies adopted herein. The Commission notes, however, that the common carrier microwave fixed licensee category includes some large entities.

59. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, 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. As indicated *supra* in paragraph four of this IRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

60. *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. The services include the citizen's 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 other licensees that would qualify as small under the SBA's definition.

61. *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 uses the SBA definition applicable to cellular and other wireless telecommunication companies, i.e., an entity employing no more than 1,500 persons. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition. The Commission assumes, for purposes of this FRFA, that all of the 55 licensees are small entities, as that term is defined by the SBA.

62. *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 SBA has approved these definitions. The FCC auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity. An auction for one license in the 1670–1674 MHz band commenced on April 30, 2003 and closed the same day. One license was awarded. The winning bidder was not a small entity.

63. *Local Multipoint Distribution Service.* An auction of the 986 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998, and closed on March 25, 1998. The Commission defined ''small entity'' for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of LMDS auctions have been approved by the SBA. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 32 small and very small business winning bidders that won 119 licenses.

64. *Incumbent 24 GHz Licensees.* The rules that the Commission adopts could affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission did not develop a definition of small entities applicable to existing licensees in the 24 GHz band. Therefore, the applicable definition of small entity is the definition under the SBA rules for ''Cellular and Other Wireless Telecommunications.'' This definition provides that a small entity is any entity employing no more than 1,500 persons. The 1992 Census of Transportation, Communications and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone (now Wireless) firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. This information notwithstanding, the Commission believes that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is the Commission's understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

65. *Future 24 GHz Licensees.* With respect to new applicants in the 24 GHz band, the Commission has defined ''small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not exceeding $15 million. ''Very small business'' in the 24 GHz band is defined as an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these definitions. The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held.

66. *39 GHz Service.* The Commission defines ''small entity'' for 39 GHz licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. ''Very small business'' is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these definitions. The auction of the 2,173 39 GHz licenses began on April 12, 2000, and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

67. *218–219 MHz Service.* The first auction of 218–219 MHz (previously referred to as the Interactive and Video Data Service or IVDS) spectrum resulted in 178 entities winning licenses for 594 Metropolitan Statistical Areas (MSAs). Of the 594 licenses, 567 were won by 167 entities qualifying as a small business. For that auction, the Commission defined a small business as an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order,* 64 FR 59656, November 3, 1999, the Commission defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not exceeding $15 million for the preceding three years. Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, *Report and Order and Memorandum Opinion and Order.* A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not exceeding $3 million for the preceding three years. The SBA has approved of these definitions. At this time, the Commission cannot estimate the number of licenses that will be won by entities qualifying as small or very small businesses under the Commission's rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the prevalence of small businesses in the subscription television services and message communications industries, the Commission assumes for purposes of this FRFA that in future auctions, many, and perhaps all, of the licenses may be awarded to small businesses.

68. *Location and Monitoring Service (LMS).* Multilateration LMS systems use non-voice radio techniques to determine the location and status of mobile radio units. For purposes of auctioning LMS licenses, the Commission has defined

"small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $15 million. A "very small business'' is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $3 million. These definitions have been approved by the SBA. An auction for LMS licenses commenced on February 23, 1999, and closed on March 5, 1999. Of the 528 licenses auctioned, 289 licenses were sold to four small businesses. The Commission cannot accurately predict the number of remaining licenses that could be awarded to small entities in future LMS auctions.

69. *Multiple Address Systems (MAS).* Entities using MAS spectrum, in general, fall into two categories: (1) Those using the spectrum for profit-based uses, and (2) those using the spectrum for private internal uses. With respect to the first category, the Commission defines "small entity'' for MAS licenses as an entity that has average gross revenues of less than $15 million in the three previous calendar years. "Very small business'' is defined as an entity that, together with its affiliates, has average gross revenues of not more than $3 million for the preceding three calendar years. The SBA has approved of these definitions. The majority of these entities will most likely be licensed in bands where the Commission has implemented a geographic area licensing approach that would require the use of competitive bidding procedures to resolve mutually exclusive applications. The Commission's licensing database indicates that, as of January 20, 1999, there were a total of 8,670 MAS station authorizations. Of these, 260 authorizations were associated with common carrier service. In addition, an auction for 5,104 MAS licenses in 176 EAs began November 14, 2001, and closed on November 27, 2001. Seven winning bidders claimed status as small or very small businesses and won 611 licenses.

With respect to the second category, which consists of entities that use, or seek to use, MAS spectrum to accommodate their own internal communications needs, the Commission notes that MAS serves an essential role in a range of industrial, safety, business, and land transportation activities. MAS radios are used by companies of all sizes, operating in virtually all U.S. business categories, and by all types of public safety entities. For the majority of private internal users, the definitions developed by the SBA would be more appropriate. The applicable definition of small entity in this instance appears to be the "Cellular and Other Wireless Telecommunications'' definition under the SBA rules. This definition provides that a small entity is any entity employing no more than 1,500 persons. The Commission's licensing database indicates that, as of January 20, 1999, of the 8,670 total MAS station authorizations, 8,410 authorizations were for private radio service, and of these, 1,433 were for private land mobile radio service.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

70. In the *Report and Order,* the Commission concluded that advance coordination between applicants and Quiet Zone entities would streamline the processing of applications by allowing the Commission to begin processing prior to the end of the 20-day waiting period set out in § 1.924 of the Commission's rules.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

71. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small Entities. *See* 5 U.S.C. 603(c).

In the *Report and Order,* the Commission adopts changes to its rules governing Quiet Zone areas that will streamline requirements for applications affecting Quiet Zones, while protecting these sensitive areas from harmful interference. In the *Report and Order,* the Commission: (1) Provides for immediate processing of applications that may implicate Quiet Zones, in the event that the applicant indicates that it has obtained the prior consent of the Quiet Zone entity; (2) clarifies that applicants may provide notification to and begin coordination with Quiet Zone entities (where required) in advance of filing an application with the Commission; (3) amends § 101.31(b)(1)(v) to permit applicants of part 101 and other services that permit operation prior to authorization to initiate conditional operation, provided they have obtained the prior consent of the Quiet Zone entity and are otherwise eligible to initiate conditional operations over the proposed facility; and (4) clarifies that either the applicant or the applicant's frequency coordinator may notify and initiate coordination proceedings with the Quiet Zone entity.

72. While the Commission does not implement alternatives specific to small entities, the purpose behind the rule modifications in the *Report and Order* is to expedite the application process, reduce unnecessary or redundant requirements from Commission regulations, and promote the efficient use of spectrum within Quiet Zones by all carriers, including small businesses.

73. *Report to Congress:* The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the *Congressional Review Act. See* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Act Analysis

74. The actions taken in the *Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the PRA, and will go into effect upon announcement in the **Federal Register** of OMB approval.

IV. Ordering Clauses

75. Pursuant to the authority contained in §§ 1, 4(i), 303(c), 303(f), 303(g), 303(r), 309(j), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(c), 303(f), 303(g), 303(r), 309(j), and 332, this *Report and Order* is adopted, and parts 1, 27, 74, 90, and 101 of the Commission's rules, 47 CFR parts 1, 27, 74, 90, and 101, are amended to establish policies and procedures directed at streamlining the filing of applications in Quiet Zone areas. The rules will become effective June 7, 2004, except for §§ 1.924(a)(2) and 1.924(d)(2), which contain information collection requirements that are not effective until approved by the Office of Management

and Budget (OMB). The agency will publish a document in the **Federal Register** announcing the effective date of the rules that require information collection.

76. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

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

47 CFR Part 27

Communications common carriers, Radio.

47 CFR Part 74

Radio, Reporting and recordkeeping requirements.

47 CFR Part 90

Communications equipment, Reporting and recordkeeping equipment.

47 CFR Part 101

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons set forth in the preamble, amend parts 1, 27, 74, 90 and 101 of title 47 of the Code of Federal Regulations as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 continues to read:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

■ 2. Section 1.924 is amended by revising Quiet zones, the introductory paragraph, paragraphs (a)(2), (b)(1) table, (b)(3), (d)(2), the Denver, CO, and Washington, DC, entries following (e)(1) introductory text, (e)(2), (f)(1)(i), (f)(4)(iii) and (g) and by adding paragraph (d)(4) to read as follows:

§ 1.924 Notifications concerning interference to quiet zones, radio astronomy, research and receiving installations.

Areas implicated by this paragraph are those in which it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference. Consent throughout this paragraph means written consent from the quiet zone, radio astronomy, research, and receiving installation entity. The areas involved and procedures required are as follows:

(a) * * *

(2) When an application for authority to operate a station is filed with the FCC, the notification required in paragraph (a)(1) of this section may be made prior to, or simultaneously with the application. The application must state the date that notification in accordance with paragraph (a)(1) of this section was made. After receipt of such applications, the FCC will allow a period of 20 days for comments or objections in response to the notifications indicated. If an applicant submits written consent from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the FCC will process the application without awaiting the conclusion of the 20-day period. For services that do not require individual station authorization, entities that have obtained written consent from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory may begin to operate new or modified facilities prior to the end of the 20-day period. In instances in which notification has been made to the National Radio Astronomy Observatory prior to application filing, the applicant must also provide notice to the quiet zone entity upon actual filing of the application with the FCC. Such notice will be made simultaneous with the filing of the application and shall comply with the requirements of paragraph (a)(1) of this section.

* * * * *

(b) * * *

(1) * * *

FIELD STRENGTH LIMITS FOR TABLE MOUNTAIN [1]

Frequency range	Field strength (mV/m)	Power flux density (dBW/m^2)
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	−65.8
470 to 890 MHz	30	−56.2
890 MHz and above	1	−85.8

[1] **Note:** Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7Ω (120πΩ).

* * * * *

(3) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, NOAA R/OM62, 325 Broadway, Boulder, CO 80305; telephone 303–497–6548, in advance of filing their applications with the Commission.

* * * * *

(d) * * *

(2) In services in which individual station licenses are issued by the FCC, the notification required in paragraph (d) of this section may be made prior to, or simultaneously with, the filing of the application with the FCC, and at least 20 days in advance of the applicant's planned operation. The application must state the date that notification in accordance with paragraph (d) of this section was made. In services in which individual station licenses are not issued by the FCC, the notification required in paragraph (d) of this section should be sent at least 45 days in advance of the applicant's planned operation. In the latter services, the Interference Office must inform the FCC of a notification by an applicant within 20 days if the Office plans to file comments or objections to the notification. After the FCC receives an application from a service applicant or is informed by the Interference Office of a notification from a service applicant, the FCC will allow the Interference Office a period of 20 days for comments or objections in response to the

application or notification. If an applicant submits written consent from the Interference Office, the FCC will process the application without awaiting the conclusion of the 20-day period. For services that do not require individual station authorization, entities that have obtained written consent from the Interference Office may begin to operate new or modified facilities prior to the end of the 20-day period. In instances in which notification has been made to the Interference Office prior to application filing, the applicant must also provide notice to the Interference Office upon actual filing of the application with the FCC. Such notice will be made simultaneous with the filing of the application and shall comply with the requirements of paragraph (d) of this section.

* * * * *

(4) The provisions of paragraph (d) of this section do not apply to operations that transmit on frequencies above 15 GHz.

(e) * * *

(1) * * *

Denver, CO Area

Rectangle 1:

41°30′ 00″ N. Lat. on the north
103° 10′ 00″ W. Long. on the east
38° 30′ 00″ N. Lat. on the south
106° 30′ 00″ W. Long. on the west

Rectangle 2:

38° 30′ 00″ N. Lat. on the north
105° 00′ 00″ W. Long. on the east
37° 30′ 00″ N. Lat. on the south
105° 50′ 00″ W. Long. on the west

Rectangle 3:

40° 08′ 00″ N. Lat. on the north
107° 00′ 00″ W. Long. on the east
39° 56′ 00″ N. Lat. on the south
07° 15′ 00″ W. Long. on the west

Washington, DC Area

Rectangle

38°40′00″ N. Lat. on the north
78°50′00″ W. Long. on the east
38°10′00″ N. Lat. on the south
79°20′00″ W. Long. on the west; or

(2) Within a radius of 178 km of 38°48′00″ N. Lat./76°52′00″ W. Long.

* * * * *

(f) * * *

(1) * * *

(i) 41°45′ 00.2″ N, 70°30′ 58.3″ W.,

* * * * *

(4) * * *

(iii) 34°08′59.6″ N, 119°11′03.8″ W;

* * * * *

(g) *GOES.* The requirements of this paragraph are intended to minimize harmful interference to Geostationary Operational Environmental Satellite earth stations receiving in the band 1670–1675 MHz, which are located at Wallops Island, Virginia; Fairbanks, Alaska; and Greenbelt, Maryland. (1) Applicants and licensees planning to construct and operate a new or modified station within the area bounded by a circle with a radius of 100 kilometers (62.1 miles) that is centered on 37E56′47″ N, 75E27′37″ W (Wallops Island) or 64E58′36″ N, 147E31′03″ W (Fairbanks) or within the area bounded by a circle with a radius of 65 kilometers (40.4 miles) that is centered on 39E00′02″ N, 76E50′31″ W (Greenbelt) must notify the National Oceanic and Atmospheric Administration (NOAA) of the proposed operation. For this purpose, NOAA maintains the GOES coordination web page at *http://www.osd.noaa.gov/radio/frequency.htm,* which provides the technical parameters of the earth stations and the point-of-contact for the notification. The notification shall include the following information: requested frequency, geographical coordinates of the antenna location, antenna height above mean sea level, antenna directivity, emission type, equivalent isotropically radiated power, antenna make and model, and transmitter make and model.

(2) *Protection.* (i) Wallops Island and Fairbanks. Licensees are required to protect the Wallops Island and Fairbanks sites at all times.

(ii) *Greenbelt.* Licensees are required to protect the Greenbelt site only when it is active. Licensees should coordinate appropriate procedures directly with NOAA for receiving notification of times when this site is active.

(3) When an application for authority to operate a station is filed with the FCC, the notification required in paragraph (f)(1) of this section should be sent at the same time. The application must state the date that notification in accordance with paragraph (f)(1) of this section was made. After receipt of such an application, the FCC will allow a period of 20 days for comments or objections in response to the notification.

(4) If an objection is received during the 20-day period from NOAA, the FCC will, after consideration of the record, take whatever action is deemed appropriate.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 3. The authority citation for part 27 continues to read:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

■ 4. Section 27.601 is amended by revising paragraph (c)(1)(iii) to read as follows:

§ 27.601 Guard Band Manager authority and coordination requirements.

* * * * *

(c) * * *

(1) * * *

(iii) Would affect areas described in § 1.924 of this chapter.

* * * * *

■ 5. Section 27.803 is amended by revising paragraph (b)(3) to read as follows:

§ 27.803 Coordination requirements.

* * * * *

(b) * * *

(3) That operates in areas listed in part 1, § 1.924 of this chapter; or

* * * * *

■ 5. Section 27.903 is amended by revising paragraph (b)(3) to read as follows:

§ 27.903 Coordination requirements.

* * * * *

(b) * * *

(3) That operates in areas listed under part 1, § 1.924 of this chapter.

* * * * *

■ 6. Section 27.1003 is amended by revising paragraph (b)(3) to read as follows:

§ 27.1003 Coordination requirements.

* * * * *

(b) * * *

(3) That operates in areas listed in part 1, § 1.924 of this chapter;

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 7. The authority citation for part 74 continues to read:

Authority: 47 U.S.C. 154, 303, 307, 336(f), 336(h) and 554.

■ 8. Section 74.25 is amended by revising paragraph (a)(5) to read as follows:

§ 74.25 Temporary conditional operating authority.

* * * * *

(a) * * *

(5) The station site does not lie within an area identified in § 1.924 of this chapter.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 10. Section 90.159 is amended by revising paragraph (b)(5) to read as follows:

§ 90.159 Temporary and conditional permits.

* * * * *

(b) * * *

* * * * *

(5) The applicant has determined that the proposed station affords the level of protection to radio quiet zones and radio receiving facilities as specified in § 1.924 of this chapter.

* * * * *

■ 11. Section 90.1207 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 90.1207 Licensing.

* * * * *

(b) * * *

(1) * * *

(iii) The station would affect areas identified in § 1.924 of this chapter.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

■ 12. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

■ 13. Section 101.31 is amended by revising paragraph (b)(1)(v) to read as follows:

§ 101.31 Temporary and conditional authorizations.

* * * * *

(b) * * *

(1) * * *

(v) The station site does not lie within 56.3 kilometers of any international border, within areas identified in §§ 1.924(a) through (d) of this chapter unless the affected entity consents in writing to conditional operation or, if operated on frequencies in the 17.8–19.7 GHz band, within any of the areas identified in § 1.924 of this chapter;

* * * * *

■ 14. Section 101.525 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 101.525 24 GHz system operations.

* * * * *

(a) * * *

(1) * * *

(iii) The station would affect areas identified in § 1.924 of this chapter.

* * * * *

■ 15. Section 101.1009 is amended by revising paragraph (a)(1)(iii) to read as follows:

§ 101.1009 System operations.

* * * * *

(a) * * *

(1) * * *

(iii) The station would affect areas identified in § 1.924 of this chapter.

* * * * *

■ 16. Section 101.1329 is amended by revising paragraph (c) to read as follows:

§ 101.1329 EA Station license, location, modifications.

* * * * *

(c) The station would affect areas identified in § 1.924 of this chapter.

[FR Doc. 04–7799 Filed 4–5–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 99–87; FCC 03–306]

Suspension of Effective Date in 47 CFR 90.209(b)(6)

AGENCY: Federal Communications Commission.

ACTION: Final rule; suspension of effectiveness.

SUMMARY: In this document, the Commission grants four petitions for stay of the *Second Report and Order*, released on February 25, 2003, in this proceeding. Specifically, the FCC stays the effectiveness of 47 CFR 90.209(b)(6), which provides that no new applications for the 150–174 MHz and/or 421–512 MHz bands will be acceptable for filing if the applicant utilizes channels with a bandwidth exceeding 11.25 kHz beginning January 13, 2004, and no modification applications for stations in the 150–174 MHz and/or 421–512 MHz bands that increase the station's authorized interference contour will be acceptable for filing if the applicant utilizes channels with a bandwidth exceeding 11.25 kHz, beginning January 13, 2004. Consequently, the FCC will continue to accept and process such applications.

DATES: Effective April 6, 2004, 47 CFR 90.209(b)(6) is stayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the date on which the stay expires.

FOR FURTHER INFORMATION CONTACT: Scot Stone, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, at (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the *Order,* released on December 3, 2003. The full text of this document 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. This document 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.* The full text may also be downloaded at: *http://www.fcc.gov/Wireless/Orders/2003/fcc03306.txt.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

In the *Order*, the Commission stayed the effectiveness of 47 CFR 90.209(b)(6), which provides that no new applications for the 150–174 MHz and/or 421–512 MHz bands will be acceptable for filing if the applicant utilizes channels with a bandwidth exceeding 11.25 kHz beginning January 13, 2004, and no modification applications for stations in the 150–174 MHz and/or 421–512 MHz bands that increase the station's authorized interference contour will be acceptable for filing if the applicant utilizes channels with a bandwidth exceeding 11.25 kHz, beginning January 13, 2004. The stay will remain in effect until resolution of the petitions for reconsideration of the *Second Report and Order*, 68 FR 42296, July 17, 2003, released on February 25, 2003, in this proceeding.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–7366 Filed 4–5–04; 8:45 am]

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