

requirements necessary to qualify for final program approval. Consequently, EPA intends to grant final approval to Connecticut to operate its UST program in lieu of the Federal UST program.

Based on a detailed review of Connecticut's application for UST program approval, EPA has determined that the Connecticut Department of Environmental Protection has developed standards and criteria for the design, installation, operation, maintenance, and monitoring of underground storage tanks to prevent UST related ground and surface water contamination, under the authority of the Connecticut General Statute Section 22a-449(d) and Regulations of Connecticut State Agency ("R.C.S.A.") Sections 22a-449(d)-101 through 113.

Connecticut General Law provides:

(1) Authority to promulgate UST regulations for controlling underground storage facilities containing petroleum and hazardous substances;

(2) Authority to impose civil penalties for violations of any statutory or regulatory requirement;

(3) Authority to conduct compliance monitoring inspections and other enforcement activities;

(4) Authority to promulgate UST notification requirements for owners and operators of underground storage tanks; and

(5) Authority for the response to, clean up, and corrective actions of petroleum or hazardous substance releases.

### C. Public Hearing and Comments

In accordance with Section 9004 of RCRA, 42 U.S.C. 6991c and 40 CFR 281.50(e), if sufficient public interest is received by June 14, 1995, EPA will hold a public hearing on its tentative decision on June 21, 1995 from 10:00 a.m.-1:00 p.m. in the State Capitol Building, Old Judiciary Room, 210 Capitol Ave., Hartford, Connecticut.

The public may also submit written comments on EPA's tentative determination. Written comments must be postmarked by May 31, 1995 as to allow EPA and the state a reasonable opportunity to research and prepare responses. Copies of Connecticut's application are available for inspection and copying at the locations indicated in the ADDRESSES section of this notice.

EPA will consider all public comments on its tentative determination received during the public comment period and at the hearing. Issues raised by those comments may be the basis for a decision to deny final approval to Connecticut. EPA expects to make a final decision on whether or not to approve Connecticut's program within

sixty (60) days after the date of the public hearing and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all significant comments.

### Compliance With Executive Order 122866

The Office of Management and Budget has exempted this rule from the requirement of Section 6 of Executive Order 122866.

### Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. The approval of Connecticut's UST program effectively suspends the applicability of the Federal UST regulations, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in the State of Connecticut. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

### List of Subjects in 40 CFR Part 281

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

**Authority:** This notice is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6991c.

Dated: May 6, 1995.

**John P. DeVillars,**

*Regional Administrator.*

[FR Doc. 95-12302 Filed 5-18-95; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WT Docket No. 95-69, FCC 95-202]

### Auctionable Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Notice of Proposed Rulemaking contains proposed rules pertaining to fees for certain services and products provided to specific persons and entities participating in future Federal Communications Commission auctions. In particular, the proposal establishes fees for

Commission proprietary remote software packages, on-line communications service charges, and bidder's information packages in connection with auctionable services. The Commission, in establishing the proposed fees, implements the Independent Offices Appropriations Act. The Commission's proposal would receiver the Federal Government's cost from any bidders utilizing Commission-provided services.

**DATES:** Written comments must be submitted by May 31, 1995, and written reply comments must be submitted by June 6, 1995.

**ADDRESSES:** Send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Interested parties who do not wish to participate formally in this proceeding may file informal comments at the same address.

**FOR FURTHER INFORMATION CONTACT:** Bert Weintraub, Wireless Telecommunications Bureau, (202) 418-1316.

**SUPPLEMENTARY INFORMATION:** In previous Federal Communications Commission (hereafter, "Commission" or "FCC") auctions, bidders have paid auction contractors of the Commission fees consisting of the contractors' costs and a reasonable profit for remote bidding software and an on-line access charge. The Independent Offices Appropriations Act ("IOAA"), codified at 31 U.S.C. §9701, permit fees and charges for Government services and things of value and authorizes agencies to prescribe regulations establishing charges for products and services provided by the agency. The Office of Management and Budget ("OMB") has issued policy guidance on fees via Circular A-25 for agencies to recover expenses. The OMB published a revised revision of the Circular in the **Federal Register**, 58 FR 38142 (July 15, 1993), which provided updated policy guidance on user fees. Pursuant to this revision, the imposition of fees for Government-provided products and services conferring benefits on identifiable recipients over and above those benefits received by the general public are encouraged. Under the OMB Circular, agencies, in establishing fees, are to select between "full cost" or "market price."

On August 10, 1993, the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312, added a new section 309(j) to the Communications Act of 1934, 47 U.S.C. §309(j). This amendment to the Communications Act authorized the Commission to use competitive bidding

procedures to choose from among two or more mutually exclusive applications for initial licenses for use of the radio spectrum. Pursuant to this authority, the Commission has conducted three simultaneous multiple round auctions for Personal Communications Service ("PCS") licenses (*i.e.*, the Nationwide Narrowband PCS auction, held from July 25 through July 29, 1994; the Regional Narrowband PCS auction, held October 26, through November 8, 1994; and the Broadband A and B block PCS auction, held December 5, 1994, through March 13, 1995). In each PCS auction, bids were placed electronically using a computer bidding system designed and developed by the FCC in conjunction with its auction contractors.

The Commission and its auction contractors incurred significant costs in developing the on-site electronic bidding systems used in the PCS auctions and the remote electronic bidding system used in two of the PCS auctions. The Commission recovered its development costs for the electronic bidding system for the first three auctions from the proceeds of those auctions. Additionally, the FCC's auction contractor was allowed to charge bidders electing to use on-line remote bidding system a \$200.00 fee for the proprietary remote bidding software package and an on-line access charge. The FCC has determined, based on its auction experience, that remote electronic bidding provides bidders with an important and valuable service as it enables them to place and withdraw bids, access auction round results and other FCC announcements during the auction from their offices using their personal computer. Thus, bidders are not required to be physically present at the auction site for the duration of the auction. Because the Commission will provide these services directly to bidders, the Commission proposes to recover the Federal Government's costs by charging bidders a fee for the remote electronic bidding software and an on-line access charge via a 900 telephone service ("900 service"). Bidders will continue to have the option of placing their bids telephonically from remote locations via an 800 telephone service at no charge. Round results information is also available to remote access bidders over the Internet and the Commission's Bulletin Board at no charge.

The significant costs and expenses incurred by the Federal Government in developing the remote electronic auction system have included infrastructure design and implementation, software development, software testing, and administrative and

personnel costs associated with this process. The Commission has developed its own remote on-line bidding system to be offered as a convenience to bidders in future auctions, enabling bidders to participate in auctions from their offices using their personal computers, submit and review applications, and access auction round results information from remote locations using a 900 service. The Notice of Proposed Rulemaking ("NPRM") proposes to recover the costs to the Government by charging bidders who elect to bid electronically from remote locations a fee for the remote bidding software and for remote access to the bidding system via the 900 service. The Commission's remote electronic bidding system will enable bidders to participate in Commission auctions, review applications, and access auction round results information from remote locations using a Wide Area Network to connect with the bidding system via a 900 telephone service. The proposed rule would recover future costs from bidders who directly benefit from the services and products offered by the Commission in conjunction with holding the auctions. Imposing such fees on bidders who actually use the remote electronic bidding system is the fairest and most equitable manner for the Government to recover its costs in developing, maintaining, enhancing, and upgrading the remote bidding system.

In proposing the fees, the Commission has followed OMB guidance and relevant court cases in calculating the costs of the 900 service, remote access bidding software, and bidder's information packages, utilizing "market price" instead of "full cost" because it is simpler, more practical, more efficient, and more readily ascertainable. As a result, based upon market surveys for 900 service, remote access bidding software, and bidder's information packages, the NPRM proposes the following fees: \$4.00 per minute for 900 service; \$200.00 per package for remote bidding software, one free bidder's information package and \$16.00 for each additional bidder's information package requested by that same person or entity.

The proposed fee of \$4.00 per minute for 900 service is based on the FCC's survey of the charges for similar on-line services. The services surveyed were mainly on-line reference and research services operating in the open market with sufficient competition to establish a market-based price. FCC sampling revealed that prices currently range from \$4.05 per minute to \$4.42 per minute (plus monthly account maintenance fees). Even though the

average price for this type of services \$4.23 per minute, \$4.00 per minute is proposed. The proposed \$200.00 fee for the remote access bidding software packages was based upon the open market prices for similar software packages. FCC research indicated that the most comparable software package currently available is \$200.00 per package and offered by only one supplier. Due to highly specialized nature of the remote access software, the Commission could not identify other comparable software packages for which it could obtain additional market price information. The proposed \$16.00 fee for each additional bidder's information package was developed by comparing the average cost of producing bidder's information packages in the open market amount commercial printing firms. The previous prices ranged from \$13.50 to \$18.50 (both figures include postage), and \$16.00 is the average of this range. Payment procedures to collect the fees are proposed as follows: the fee for the 900 service will appear as a charge on the user's monthly telephone bill; the fees for the software packages and bidder's information packages will be collected by the Commission's auction contractor. Funds received from the sale of auction materials, software, or services, pursuant to the IOAA, must go directly to the U.S. Treasury.

This action is taken pursuant to Sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r).

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

Administrative practice and procedure.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95-12462 Filed 5-18-95; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 20

[GN Docket No. 93-252, FCC 95-156]

#### Regulatory Treatment of Mobile Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Further notice of proposed rulemaking.

**SUMMARY:** The Commission adopted a *Third Further Notice of Proposed Rulemaking* proposing to amend its 45