

the USPTO proposes to amend part 2 of title 37 as follows:

**PART 2—RULES OF PRACTICE IN TRADEMARK CASES**

1. The authority citation for part 2 continues to read as follows:

**Authority:** 35 U.S.C. 2.

2. Revise § 2.6(s) to read as follows:

**§ 2.6 Trademark fees.**

\* \* \* \* \*

(a) \* \* \*

Rule	Description of trademark processing fee	Electronic filing TEAS fee amount	Paper filing fee amount
(1)	Application for registration, per class	\$325	\$375
(2)	Filing an Amendment to Allege Use under § 1(c), per class	100	150
(3)	Filing a Statement of Use under § 1(d)(1), per class	100	150
(4)	Filing a request for a six-month Extension of Time to file a Statement of Use under § 1(d)(1), per class.	150	200
(5)	Application for renewal, per class	400	450
(6)	Additional fee for filing a renewal application during grace period, per class	100	150
(7)	Publication of mark under § 12(c), per class		100
(8)	Issuing a New Certificate of Registration		100
(9)	Certificate of Correction, per registration		100
(10)	Filing Disclaimer to Registration, per registration		100
(11)	Filing an Amendment to Registration, per registration		100
(12)	Filing a Section 8 Affidavit, per class	100	150
(13)	Filing a Section 15 Affidavit, per class	200	250
(14)	Additional fee for filing under § 8 during the six-month grace period, per class	100	150
(15)	Petition to Commissioner		100
(16)	Petition for Cancellation, per class		300
(17)	Notice of Opposition, per class		300
(18)	Ex Parte Appeal, per class		100
(19)	Request to Divide an Application, per new application file created		100
(20)	Correcting a deficiency in a § 8 affidavit, per registration		100
(21)	Correcting a deficiency in a renewal application, per registration		100
(22)	Filing a combined § 8 affidavit and renewal application, per class	500	550

\* \* \* \* \*

Dated: May 10, 2002.

**Nicholas P. Godici,**

*Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.*

[FR Doc. 02-12156 Filed 5-16-02; 8:45 am]

**BILLING CODE 3510-16-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 21 and 74**

[WT Docket No. 02-68; RM-9718; FCC 02-101]

**Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS")**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission has before it an amended petition for rulemaking filed by PetroCom License Corporation ("Petitioner"), requesting that the Commission amend its rules to permit licensing of the MDS and ITFS spectrum in the Gulf of Mexico. The Commission proposes to establish a Basic Trading Area ("BTA")-like area in the Gulf of

Mexico. The Commission's goal in instituting this proceeding is to encourage the most efficient utilization of spectrum.

**DATES:** Comments due June 17, 2002. Reply comments are due August 15, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Shellie Blakeney, (202) 418-1784, Public Safety Private Wireless Division, Wireless Telecommunications Bureau.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico*, WT Docket No. 02-68; RM-9718; FCC 02-101, adopted March 27, 2002 and released May 3, 2002.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 16, 2002. Reply comments are due August 15, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>.

[/www.fcc.gov/e-file/ecfs.html](http://www.fcc.gov/e-file/ecfs.html).

Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service

mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. The full text of this *Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY-A257, Portals II, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Vistrionix, Inc.

### Synopsis of Notice of Proposed Rulemaking

The Commission rejects arguments by the Wireless Communications Association ("WCA") against the creation of the Gulf Service Area based on the possibility that higher prices were paid for BTAs bordering the Gulf because of a guaranteed lack of interference on that side of those BTAs. Rather, in light of the Commission's actions over the last several years to encourage the most efficient use of spectrum by private users, WCA and other interested parties had no reason to expect that, absent substantial and compelling public interest reasons, we would leave a portion of the spectrum under our jurisdiction permanently fallow. The Commission proposes to exclude all ITFS channels from the proposed Gulf auction. ITFS licensees have not expressed interest in obtaining licenses in the Gulf, the area most likely has little need for educational service, and the requested commercial use does not require the full bandwidth available in the 2500–2690 MHz band.

Because of the potential for interference to land-based MDS and ITFS systems in the Gulf coast area, the Commission proposes that an offshore frequency allocation should be limited in size to no more than is absolutely essential for successful deployment and growth of the proposed service. Given the type of communications circuits

deployed in Petitioner's previously existing developmental system, and the circuits likely to be deployed if we authorize regular service in the Gulf, the Commission proposes to auction two blocks of spectrum, each consisting of two 6 MHz MDS channels.

The Commission proposes to conduct the auction for MDS licenses in the Gulf in conformity with the general competitive bidding rules set forth in Part 1, subpart Q of the Commission's rules, and substantially consistent with the bidding procedures that have been employed in previous Commission auctions. Specifically, the Commission proposes to employ the Part 1 rules governing designated entities, application issues, payment issues, competitive bidding design, procedure and timing issues, and anti-collusion.

### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking ("NPRM"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments as set forth in paragraph 47 of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. § 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**. *Id.*

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

Section 309(j) of the Communications Act directs the Commission to disseminate licenses among a wide variety of applicants, including small businesses and other designated entities.<sup>2</sup> Section 309(j) also requires that the Commission ensure the development and rapid deployment of new technologies, products, and services for the benefit of the public, and recover for the public a portion of the value of the public spectrum resource made available for commercial use.<sup>3</sup> On November 23, 1998, PetroCom License Corporation ("Petitioner") filed

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

<sup>2</sup> 47 U.S.C. 309(j)(3)(B).

<sup>3</sup> *Id.*, 309(j)(3)(A), (C).

an amended petition for rulemaking requesting that the Commission amend its rules to permit licensing of the Multipoint Distribution Service ("MDS") and Instructional Television Fixed Services ("ITFS") spectrum in the Gulf of Mexico. Petitioner asks that the Commission establish a Basic Trading Area like-service area in the Gulf similar to the 1995 MDS Report and Order.<sup>4</sup>

Upon consideration of these numerous requests, the Commission has tentatively concluded that it is in the public interest to permit licensing of the MDS spectrum in the Gulf of Mexico. The Commission believes that this NPRM will provide the Commission with an opportunity to develop a record on the specific proposals to open eligibility for this spectrum in the Gulf of Mexico and otherwise revise the MDS rules for the benefit of consumers and the economy. In addition, the Commission believes that the tentative conclusions and proposals set forth in this NPRM help meet the goals and objectives of section 309(j), and promote competition while maintaining the fair and efficient implementation of the auctions program. Accordingly, the Commission seeks comment on all proposals, alternatives, tentative conclusions, and other issues described in the NPRM; and the impact that such proposals, alternatives, tentative conclusions, and other issues may have on small entities.

### II. Legal Basis

This action is authorized under Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 309(j).

### III. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>5</sup> The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" under section 3 of the Small Business Act.<sup>6</sup> A small business concern is one which: (1) Is

<sup>4</sup> Report and Order on Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 10 FCC Rcd 9589, 9619 (1995) ("MDS Report and Order").

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

<sup>6</sup> *Id.* 601(3).

independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>7</sup>

A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>8</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>9</sup> The definition of “small governmental jurisdiction” is one with populations of fewer than 50,000.<sup>10</sup> There are 85,006 governmental jurisdictions in the nation.<sup>11</sup> This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or 96 percent, have populations of fewer than 50,000.<sup>12</sup> The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or about 81,600, are small entities that may be affected by our rules. Nationwide, there are 4.44 million small business firms, according to SBA reporting data.<sup>13</sup> The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.<sup>14</sup> According to the Bureau of the Census, only 12 radiotelephone firms from a total of 1,178 such firms that operated during 1992 had 1,000 or more employees;<sup>15</sup> therefore, at least 1,166 radiotelephone firms in 1992 had 1,500 or fewer employees. We are unable at this time to quantify the specific impact of our proposals on these firms, but invite comment on this issue.

MDS historically provided primarily point-to-multipoint, one-way video

<sup>7</sup> Id. 632.

<sup>8</sup> Id. 601(4).

<sup>9</sup> Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

<sup>10</sup> 5 U.S.C. 601(5).

<sup>11</sup> 1992 Census of Governments, U.S. Bureau of the Census, U.S. Department of Commerce.

<sup>12</sup> Id.

<sup>13</sup> See 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

<sup>14</sup> 14 CFR 121.201, NAICS codes 513321, 513322, and 513330.

<sup>15</sup> 1992 Census, Series UC92-S-1, at Table 5, NAICS codes 513321, 513322, and 513330.

services to subscribers.<sup>16</sup> The Commission later amended its rules to allow MDS licensees to provide a wide range of high-speed, two-way services to a variety of users.<sup>17</sup> In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of \$40 million.<sup>18</sup> The Commission established this small business definition in the context of this particular service and with the approval of the SBA.<sup>19</sup> The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs).<sup>20</sup> Of the 67 auction winners, 61 met the definition of a small business. At this time, we estimate 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 are considered small entities.<sup>21</sup> After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 MDS licensees that are defined as small businesses under either the SBA or the Commission's rules. Some of those 440 small business licensees may be affected by the proposals in this Order.

<sup>16</sup> For purposes of this item, MDS includes both the single channel Multipoint Distribution Service (MDS) includes Local Multipoint Distribution Service (LMDS), and the Multichannel Multipoint Distribution Service (MMDS).

<sup>17</sup> Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, 13 FCC Rcd 19112 (1998), recon., 14 FCC Rcd 12764 (1999), further recon., 15 FCC Rcd 14566 (2000).

<sup>18</sup> 47 CFR 21.961 and 1.2110.

<sup>19</sup> Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 10 FCC Rcd 9589, 9670 (1995), 60 FR 36524 (July 17, 1995).

<sup>20</sup> Basic Trading Areas (BTAs) were designed by Rand McNally and are the geographic areas by which MDS was auctioned and authorized. See Id. at 9608.

<sup>21</sup> 47 U.S.C. 309(j). (Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. Section 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard for “other telecommunications” (annual receipts of \$11 million or less). See 13 CFR 121.201, NAICS code 513220.

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

At this time, the Commission does not anticipate the imposition of new reporting, recordkeeping, or other compliance requirements as a result of this NPRM. We seek comment on this tentative conclusion.

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

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any party thereof, for small entities.

In this action, we tentatively reject Petitioner's suggestion that we set aside one or more licenses for small businesses. Because we are only proposing to auction two blocks of spectrum, each consisting of two 6 MHz MDS channels, we believe that a set-aside would prevent the timely and efficient use of such spectrum. We seek comment on our rejection of Petitioner's request to set aside one or more licenses for small businesses. In lieu of setting aside a license in the Gulf, we note that Section 309(j)(4)(A) of the Communications Act provides that to promote small businesses, we shall consider alternative payment schedules, including lump sums or guaranteed installment payments.<sup>22</sup> However we note that previous Commission actions, the Commission has upheld its prior determination that installment payments should not be used in the immediate future as a means of financing small business participation in our auction program. Moreover, in recent legislation, Congress dictated that certain future auctions effectively be conducted without installment payments.<sup>23</sup>

The Commission expects that the creation of a Gulf Service Area will have

<sup>22</sup> 47 U.S.C. 309(j)(4)(A).

<sup>23</sup> See Section 3001 of the Omnibus Consolidated Appropriations Act for 1997, Public Law 104-208, 110 Stat. 3009 (1996). See also the Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251 (1997).

a minimal impact on small entities. Moreover, the NPRM does not propose any reporting requirements applicable to small entities. We tentatively conclude that our proposals in the NPRM would impose minimum burdens on small entities. We encourage comment on this tentative conclusion.

#### VI. Federal Rules That May Duplicate, Overlap, or Conflict With Proposed Rules

None.

#### Ordering Clauses

56. Pursuant to the authority contained in sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 309(j), this Notice of Proposed Rulemaking is hereby *Adopted*.

57. The Commission's Office of Consumer and Governmental Affairs, Reference Information Center, *Shall send* a copy of this Notice of Proposed Rulemaking including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

##### 47 CFR Parts 21 and 74

Communications common carriers, Education.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

[FR Doc. 02-12429 Filed 5-16-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 80

[WT Docket No. 00-48; FCC 02-102; RM-9499]

#### Maritime Communications

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document the Commission solicits comment on the Commission's Rules regarding Maritime Communications. These comments will aid the Commission in establishing rules to further the implementation of the Global Maritime Distress and Safety System (GMDSS) and continue the process of streamlining, consolidating and revising domestic maritime radio regulations. In addition, the comments will aid the Commission in understanding the impact the proposed

changes may have on the maritime community, including vessel operators, manufacturers of marine radio equipment, and commercial radio operator licensees. The comments will provide the Commission with feedback that will allow it to better craft rules that will enhance safety while at the same time avoiding the imposition of unnecessary or unwarranted burdens on regulated entities.

**DATES:** Written comments are due on or before August 15, 2002 and reply comments are due on or before September 16, 2002.

**ADDRESSES:** Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Filings can be sent first class by the US Postal Service, by an overnight courier or hand and messenger-delivered. Hand and message-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

#### FOR FURTHER INFORMATION CONTACT:

Jeffrey Tobias, [jtobias@fcc.gov](mailto:jtobias@fcc.gov), or Ghassan Khalek, [gkhalek@fcc.gov](mailto:gkhalek@fcc.gov), Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680, or TTY (202) 418-7233.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's Further Notice of Proposed Rule Making, FCC 02-102, adopted on March 27, 2002, and released on April 9, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: [www.fcc.gov](http://www.fcc.gov). Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365 or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

1. In this *Further Notice of Proposed Rule Making*, we solicit comment on whether we should: (1) Establish a voluntary restricted GMDSS license or take other measures to address the needs of recreational vessel operators; (2) clarify or change the safety watch obligations of public coast stations; (3) permit unattended operation of non-

DSC equipment; (4) prohibit ship stations from including any device capable of transmitting on a distress frequency without regulatory authorization; (5) delete any existing emission classes; (6) permit the use of Channels 75 and 76 for navigation-related port operations, subject to specified power limits, and also require that transmitters operating on such channels be limited to the specified power limits, with no manual override capability; (7) codify in the Rules the RTCM's Recommended Practices for DSC equipment; (8) revise our radiotelephone and radiotelegraph distress call and message transmission procedures to incorporate DSC and GMDSS procedures; (9) authorize the use of INMARSAT-E EPIRBs by U.S. vessels operating solely within the INMARSAT coverage footprint; (10) require that small passenger vessels be outfitted with DSC equipment; (11) mandate that, on passenger ships, at least one qualified person be assigned to perform only radio communications duties during distress situations; and (12) incorporate additional SOLAS requirements for equipment in Subpart W. We also seek comment on issues pertaining to e-mail requests, Part 80 tables of frequencies, GMDSS radio operator examination requirements, and Part 80 cross-references to Part 2 of the Rules.

#### I. Procedural Matters

##### A. Ex Parte Rules—Permit-But-Disclose Proceeding

2. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in our Rules.

##### B. Comment Dates

3. Pursuant to §§ 1.415 and 1.419 of our Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before August 15, 2002 and reply comments on or before September 16, 2002. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies.

4. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen,