

III. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

**I. General Information**

*A. Does This Action Apply to Me?*

This action only applies to specific SO<sub>2</sub> sources located in Dearborn County, Indiana.

*B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit CBI to EPA through RME, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

**II. What Action Is EPA Taking Today?**

EPA is proposing to approve revisions to Indiana's SO<sub>2</sub> SIP for specified existing stationary sources located in Dearborn County, Indiana. The SIP revisions amend 326 IAC 7-4-13, by

removing obsolete rule language for the Indiana Michigan Power Tanners Creek Station. The SIP revision also updates information for other companies listed in 326 IAC 7-4-13, including adding source identification numbers. The amendments to this rule are minor, and will not result in an increase in SO<sub>2</sub> emissions in Dearborn County because no emission limits were increased.

**III. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?**

For additional information, see the Direct Final Rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available electronically at RME or in hard copy at the above address. (Please telephone Charles Hatten at (312) 886-6031 before visiting the Region 5 Office.)

Dated: November 10, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 11**

[**EB Docket No. 04-296; FCC 05-191**]

**Review of the Emergency Alert System**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) examines the reach of Emergency Alert System (EAS), as currently constituted, to cover digital communications technologies that are increasingly being used by the American public to receive news and entertainment—digital television and radio, digital cable, and satellite television and radio. The Further Notice of Proposed Rulemaking is the most recent in a series of proceedings in which the Commission has sought to contribute to an efficient and technologically current public alert and warning system.

**DATES:** Comments are due on or before January 24, 2006, and reply comments are due on or before February 23, 2006. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted to the public, Office of Management and Budget (OMB), and

other interested parties on or before January 24, 2006.

**ADDRESSES:** Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. You may submit comments, identified by EB Docket No. 04-296, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Federal Communications Commission's Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. You may submit your Paperwork Reduction Act (PRA) comments by electronic mail or U.S. mail. To submit your PRA comments by electronic mail, send comments to: [PRA@fcc.gov](mailto:PRA@fcc.gov). To submit your PRA comments by U.S. mail, mark them to the attention of Judith B. Herman and address them to the Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jean Ann Collins, Senior Counsel, Office of Homeland Security, Enforcement Bureau, at (202) 418-1199. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) or contact Judith B. Herman at (202) 418-0214.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in EB Docket No. 04-296, FCC 05-191, adopted November 3, 2005, and released November 10, 2005. The complete text of this document is available for inspection and copying during normal business hours in 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, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile

(202) 863-2898, or via e-mail at [www.bcpiweb.com](http://www.bcpiweb.com). It is also available on the Commission's website at <http://www.fcc.gov>.

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due January 24, 2006. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), The Commission seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

*OMB Control Number:* 3060-0207.

*Title:* Part 11—Emergency Alert System (EAS).

*Form No.:* Not applicable.

*Type of Review:* Revision of currently approved collection.

*Respondents:* Businesses or other for-profit; not-for-profit institutions; and/or state, local or tribal governments.

*Estimated Number of Respondents:* 22,008.

*Estimated Time Per Response:* Range from 0.017-40 hours.

*Frequency of Response:* On occasion reporting requirement and recordkeeping requirement.

*Estimated Total Annual Burden:* 22,100 hours.

*Estimated Total Annual Costs:* None.

*Privacy Act Impact Assessment:* Not applicable.

*Needs and Uses:* As currently approved by OMB and reflected in the information above, Part 11 contains rules and regulations providing for an emergency alert system. The EAS provides the President with the capability to provide immediate communications and information to the general public during periods of

national emergency. The EAS also provides state and local governments, as well as the National Weather Service with the capability to provide immediate communications and information to the general public concerning emergency situations posing a threat to life and property. With the adoption of the FNPRM, the Commission seeks comment on what actions the Commission, along with its Federal, State and industry partners, should take to help expedite the development of a robust, state-of-the-art, digitally based public alert and warning system. The Commission also seeks comment on how to amend the EAS rules to ensure that EAS messages more effectively reach individuals with hearing and vision disabilities, as well as speakers of languages other than English.

In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

### Synopsis of the Further Notice of Proposed Rulemaking

1. *Background.* In the Notice of Proposed Rulemaking (NPRM) (69 FR 52843, August 30, 2004), the Commission sought comment on whether the EAS in its present form is the most efficient mechanism for warning the American public of an emergency and, if not, on how the Emergency Alert System (EAS) can be improved. The main objective of the NPRM was to seek comment on whether the EAS as currently constituted is the most effective and efficient public warning system that best takes advantage of appropriate technological advances and best responds to the public's need to obtain timely emergency information. The NPRM sought comment on the current efficacy of EAS in an age when the communications landscape has evolved from what it was when EAS predecessors, and EAS itself, were originally conceived.

2. *Introduction.* The Commission realizes the immediate objective of ensuring that the large and growing segments of the population who rely on digital radio and television technologies are not left without access to alerts in the event of an emergency. While the current EAS performs a critical function, the Commission believes it could be improved. In this Further

Notice of Proposed Rulemaking (FNPRM), the Commission seeks specific comments on what actions the Commission should take to help expedite the development of a more comprehensive system.

3. An accurate, wide-reaching public alert and warning system is critical to the public's safety and a vital part of the Commission's core mission to promote the safety of life and property through a robust communications system. Such a system should enable officials at the national, state and local levels to reach affected citizens in the most effective and efficient manner possible. It should have built-in redundancy features and use a variety of communications media so that officials can reach large numbers of people simultaneously. In response to the NPRM, commenters identified a number of approaches to digital alert and warning. The Commission seeks further comment on these approaches and asks what the Commission can do to facilitate the development of a more effective, comprehensive digital public alert and warning system. Specifically, comment is sought on the appropriate role for the Commission among the various government and industry entities that are involved in the creation of this system. In addition, the Commission seeks further comment on how to amend the EAS rules to ensure that EAS messages more effectively reach individuals with hearing and vision disabilities, and speakers of languages other than English.

4. The comments filed in response to the NPRM reveal a multitude of technical approaches to a digital alert and warning system, from specific approaches to individual technologies to broad approaches to architecture and protocol design. The FNPRM includes a representative sample of issues for parties to address. The issues we include are representative, and do not constitute an exclusive list. Parties can—and should—comment on any next generation issues, and should consider what role the Commission should play in facilitating choice among these options.

5. It is the Commission's intention in this proceeding to seek comment on these and an array of other questions and potential rule changes. The Commission has already begun—and will continue throughout this proceeding—to coordinate carefully with the Department of Homeland Security (DHS), its component, FEMA, and the Department of Commerce and its component, the National Oceanic and Atmospheric Administration's (NOAA's) National Weather Service (NWS). The Commission anticipates

these federal partners will be active participants in the proceeding. In addition to seeking comments from all interested individuals and federal entities on the issues raised in this FNPRM, the Commission also specifically seeks the participation of state and local emergency planning organizations and solicit their views. Finally, the Commission seeks input from all telecommunications industries concerned about developing a more effective EAS.

#### **Initial Regulatory Flexibility Analysis**

6. With respect to this FNPRM, an Initial Regulatory Flexibility Analysis (IRFA) is contained in Appendix A. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an IRFA of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this FNPRM. 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 described above. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

#### **Need for, and Objectives of, the Proposed Rules**

7. The EAS First Report and Order, which accompanies the FNPRM, is the Commission's first step to ensure that digital media is capable of receiving and disseminating EAS messages. In the Order, the Commission realized the immediate objective of ensuring that the large and growing segments of the population who rely on digital radio and television technologies are not left without access to alerts in the event of an emergency. Although the current EAS performs a critical function, the Commission believes it could be improved. An accurate, wide-reaching public alert and warning system is critical to the public safety and a vital part of the Commission's core mission to promote the safety of life and property through a robust communications system. The Commission believes that such a system should be technologically up-to-date, should have built-in redundancy features, and should use a variety of communications media to allow officials at the national, state and local levels to send messages to reach the greatest number of citizens in the affected areas in the most effective and efficient manner possible.

8. Accordingly, the Commission is initiating this FNPRM to seek additional comment on what actions the Commission, along with its Federal, State and industry partners, should take to help expedite the development of a robust, state-of-the-art, digitally based public alert and warning system. The Commission also seeks comment on the appropriate role for the Commission among the various government and industry entities that are involved in the creation of this system. In their comments, parties should also comment on the Commission's statutory authority to regulate such a system.

9. The comments filed in response to the NPRM reveal a multitude of technical approaches to a digital alert and warning system, from specific approaches to individual technologies to broad approaches to architecture and protocol design. The Commission does not seek to duplicate that significant effort, but rather seeks comment on a representative group of issues. The issues on which comment is sought do not constitute an exclusive list. Parties can—and should—comment on any issues relevant to specific technologies that can aid the development of a next-generation alert and warning system.

10. Specifically, the Commission seeks comment on the appropriate role for the Commission in developing system architecture and common protocols that could be used for message distribution across different platforms. The Commission also asks questions specific to particular technologies, such as how DTH and SDARS could deliver local alerts; how best to involve wireless providers; and whether traditional wireline telephone companies that become content providers should have an obligation to provide alerts. To ensure that the American public receives public alert and warning in an accurate and timely fashion from this next-generation system, the Commission seeks comment whether it will need to adopt performance standards and reporting requirements.

11. The Commission also seeks comment regarding how it may, consistent with the EAS First Report and Order, make EAS alerts more accessible to people with disabilities. The Commission is committed to ensuring that persons with disabilities have equal access to public warnings and are considered in emergency preparedness planning. Thus, it seeks comment on how any next-generation, digitally based alert and warning system can be developed in a manner that assures that persons with disabilities will be given equal access to alert and warning as other Americans. The

Commission also seeks comment on whether there are disparities in or conflicts between the EAS rules and the Commission's other disability access rules contained in section 79.2, and if so, the manner in which such disparities or conflicts could be resolved in subsequent rules.

12. The Commission recognizes the historic and important role of states and localities in public safety matters, and the essential role of states and localities in public safety matters, and the essential role that state and local governments play in delivering alert and warning. Accordingly, the Commission seeks comment on how it can best work with the states to help implement the EAS rules adopted in the Order as well as to develop the next generation of alert and warning systems. In particular, the Commission notes that there is a vital connection between state and local alert and warning and Federal efforts to mitigate disasters. The Commission seeks comment on whether its rules should be revised to require that states notify the Commission of any changes in EAS participants' state EAS Local Area and/or EAS designation (PEP, LP1, LP2, SR, LR, etc.) within thirty days of such change, and in the absence of a change, a yearly confirmation that all state EAS Local Area and EAS designations remain the same.

13. On September 22, 2005, the Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council filed a Petition for Immediate Relief with the Commission proposing changes to the Commission's EAS rules to require stations to air EAS messages in other languages in addition to English. The Commission seeks comment on the issues raised in the petition and, for that purpose, incorporates the petition as well as the other pleadings filed in response to the petition into the record of this proceeding. The Commission seeks comment on how this proposal would be implemented, and seeks comment on any other proposals regarding how to best alert non-English speakers.

#### **Legal Basis**

14. Authority for the actions proposed in this FNPRM may be found in sections 1, 4(i), 4(o), 303(r), 403, 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(o), 303(r), 544(g) and 606.

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

15. 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 rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) 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).

16. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term "small governmental jurisdiction" is defined as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." As of 1997, there were approximately 87,453 governmental jurisdictions in the United States. This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and of which 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.

17. *Television Broadcasting.* The SBA has developed a small business sized standard for television broadcasting, which consists of all such firms having \$12 million or less in annual receipts. Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound." According to Commission staff review of BIA Publications, Inc. Master Access Television Analyzer Database, as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States had revenues of \$12 million or less. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore,

likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. There are also 2,127 low power television stations (LPTV). Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA size standard.

18. *Radio Stations.* The proposed rules and policies potentially will apply to all AM and commercial FM radio broadcasting licensees and potential licensees. The SBA defines a radio broadcasting station that has \$6 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number. According to Commission staff review of BIA Publications, Inc. Master Access Radio Analyzer Database on March 31, 2005, about 10,840 (95%) of 11,410 commercial radio stations have revenue of \$6 million or less. The Commission notes, however, that many radio stations are affiliated with much larger corporations having much higher revenue. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by its action.

19. *Cable and Other Program Distribution.* The SBA has developed a small business size standard for cable and other program distribution, which consists of all such firms having \$12.5 million or less in annual receipts. According to Census Bureau data for 1997, in this category there was a total of 1,311 firms that 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 to \$24,999,999. Thus, under this size standard, the majority of firms can be considered small. In addition, limited preliminary census data for 2002 indicate that the total number of cable and other program distribution companies increased approximately 46 percent from 1997 to 2002.

20. *Cable System Operators (Rate Regulation Standard).* The Commission has developed its own small business

size standard for cable system operators, for purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide. The Commission estimates that there were 1,439 cable operators who qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, the Commission estimates that there are now fewer than 1,439 small entity cable system operators that may be affected by the rules and policies proposed herein.

21. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." The Commission has determined that there are 67,700,000 subscribers in the United States. Therefore, an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Based on available data, the Commission estimates that the number of cable operators serving 677,000 subscribers or fewer, totals 1,450. The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million, and therefore are unable, at this time, to estimate more accurately the number of cable system operators that would qualify as small cable operators under the size standard contained in the Communications Act of 1934.

22. *Multipoint Distribution Systems.* The established rules apply to Multipoint Distribution Systems (MDS) operated as part of a wireless cable system. The Commission has defined "small entity" for purposes of the auction of MDS frequencies 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. This definition of small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading

areas. Of 67 winning bidders, 61 qualified as small entities. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees.

23. MDS also includes licensees of stations authorized prior to the auction. As noted above, the SBA has developed a definition of small entities for pay television services, cable and other subscription programming, which includes all such companies generating \$12.5 million or less in annual receipts. This definition includes MDS and thus applies to MDS licensees that did not participate in the MDS auction. Information available to us indicates that there are approximately 392 incumbent MDS licensees that do not generate revenue in excess of \$11 million annually. Therefore, the Commission estimates that there are at least 440 (392 pre-auction plus 48 auction licensees) small MDS providers as defined by the SBA and the Commission's auction rules which may be affected by the rules adopted herein. In addition, limited preliminary census data for 2002 indicate that the total number of cable and other program distribution companies increased approximately 46 percent from 1997 to 2002.

24. *Instructional Television Fixed Service*. The established rules would also apply to Instructional Television Fixed Service facilities operated as part of a wireless cable system. The SBA definition of small entities for pay television services also appears to apply to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees, and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, the Commission tentatively concludes that at least 1,932 are small businesses and may be affected by the established rules.

25. *Wireless Service Providers*. The SBA has developed a small business size standard for wireless small businesses within the two separate categories of Paging and Cellular and Other Wireless Telecommunications. Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. According to Commission data, 1,012 companies reported that they were engaged in the provision of wireless service. Of these 1,012 companies, an estimated 829 have 1,500 or fewer employees and 183 have more than 1,500 employees. This SBA size

standard also applies to wireless telephony. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. According to the data, 437 carriers reported that they were engaged in the provision of wireless telephony. The Commission has estimated that 260 of these are small businesses under the SBA small business size standard.

26. *Broadband Personal Communications Service*. The broadband personal communications services (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. 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 reaucted 155 C, D, E, and F Block licenses; there were 113 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

27. *Incumbent Local Exchange Carriers (Incumbent LECs)*. The Commission has included small incumbent local exchange carriers in this present IRFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not

dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by its proposed rules.

28. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are "Shared-Tenant Service Providers," and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are "Other Local Service Providers." Of the 39, an estimated 38 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by its proposed rules.

29. *Satellite Telecommunications and Other Telecommunications*. The

Commission has not developed a small business size standard specifically for providers of satellite service. The appropriate size standards under SBA rules are for the two broad categories of Satellite Telecommunications and Other Telecommunications. Under both categories, such a business is small if it has \$12.5 or less in average annual receipts. For the first category of Satellite Telecommunications, Census Bureau data for 1997 show that there were a total of 324 firms that operated for the entire year. Of this total, 273 firms had annual receipts of under \$10 million, and an additional twenty-four firms had receipts of \$10 million to \$24,999,999. Thus, the majority of Satellite Telecommunications firms can be considered small.

30. The second category—*Other Telecommunications*—includes “establishments primarily engaged in \* \* \* providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.” Of this total, 424 firms had annual receipts of \$5 million to \$9,999,999 and an additional 6 firms had annual receipts of \$10 million to \$24,999,990. Thus, under this second size standard, the majority of firms can be considered small.

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

31. There are potential reporting or recordkeeping requirements proposed in this FNPRM, particularly with regard to state and local EAS participation and participation by digital broadcasters. For example, the Commission is considering whether to adopt performance standards and reporting obligations for EAS participants. The proposals set forth in this FNPRM are intended to advance the Commission’s public safety mission and enhance the performance of the EAS while reducing regulatory burdens wherever possible.

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

32. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): “(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 and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

33. The NPRM invited comments on a number of alternatives to the imposition of EAS obligations on the digital communications technologies. The Commission has considered each of those comments and in its Order imposes minimal regulation on small entities to the extent consistent with its goal of advancing the Commission’s public safety mission by adopting rules that expand the reach of EAS. The Commission believes that requiring DTV, DAB, digital cable, satellite DTH and SDARS providers to install and use EAS equipment will not impose undue regulatory or financial burdens.

34. This FNPRM seeks additional comment to help expedite the development of a robust, state-of-the-art, digitally based public alert and warning system, and to further minimize the impact on small entities. In particular, the Commission seeks comment on how DTH and SDARS could deliver local alerts; how best to involve wireless providers; and how the Commission can best work with the states to help implement the EAS rules adopted in the EAS First Report and Order as well as to develop the next generation of alert and warning systems. The Commission notes that it sought specific comment concerning possible alternatives in its approach toward small entities in the context of making EAS accessible to persons with disabilities.

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

35. None.

#### Ex Parte Rules

36. These matters shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission’s rules.

#### Ordering Clauses

37. Accordingly, pursuant to the authority contained in sections 1, 4(i) and (o), 303(r), 403, 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(o), 303(r), 403, 544(g), and 606, Notice is Hereby Given of the proposals described in the Further Notice of Proposed Rulemaking.

38. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05–23270 Filed 11–23–05; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 79

[CG Docket No. 05–231; DA 05–2974]

#### Closed Captioning of Video Programming, Telecommunications for the Deaf, Inc.; Petition for Rulemaking

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of reply comment period.

**SUMMARY:** In this document, the Consumer & Governmental Affairs Bureau grants a request for an extension of time to file reply comments in response to the Notice of Proposed Rulemaking (*NPRM*) adopted by the Commission in the “Closed Captioning of Video Programming” proceeding. The extension is granted to provide parties the necessary time to coordinate and file reply comments that will result in a more complete record.

**DATES:** Reply comments are due on or before December 16, 2005.

**ADDRESSES:** Interested parties may submit reply comments, identified by CG Docket No. 05–231, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission’s Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable