Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: November 6, 2020.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA amends 40 CFR chapter I as follows:

PART 180— TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.940 amend the table in paragraph (a) by adding alphabetically the entry ''Adipic acid'' to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide chemical	CAS Reg. No.	Limits
* * * * * * *		
Adipic acid	124–04–9	When ready for use, the end-use concentration is not to exceed 100 ppm.
* * * * * * *		

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[FR Doc. 2020–26005 Filed 12–2–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 19–250, RM–11849; FCC 20–153; FRS 17230]

Accelerating Wireless and Wireline Deployment by Streamlining Local Approval of Wireless Infrastructure Modifications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission revises portions of the Spectrum Act of 2012 to provide for streamlined state and local government review of modifications to existing wireless infrastructure that involve limited ground excavation or deployment of transmission equipment. The *Report and Order* promotes accelerated deployment of 5G and other advanced wireless services by facilitating the collocation of antennas and associated equipment on existing infrastructure while preserving the ability of state and local governments to manage and protect local land-use interests.

DATES: Effective January 4, 2021.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Georgios Leris, *Georgios.Leris@fcc.gov* or Belinda Nixon, *Belinda.Nixon@fcc.gov,* Competition & Infrastructure Policy Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in WT Docket No. 19–250, RM–11849; FCC 20–153, adopted on October 27, 2020, and released on November 3, 2020. The full text of this document is available for public inspection online at *https://www.fcc.gov/edocs.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format, etc.), and reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) may be requested by sending an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

1. In this *Report and Order,* the Commission revises its rule to provide for streamlined state and local review of modifications that involve limited ground excavation or deployment while preserving the ability of state and local governments to manage and protect local land-use interests. To facilitate the collocation of antennas and associated ground equipment, while recognizing the role of state and local governments in land use decisions, the Commission revises section 6409(a) rules to provide that excavation or deployment in a limited area beyond site boundaries would not disqualify the modification of an existing tower from streamlined state and local review on that basis.

2. This change is consistent with the recent amendment to the Nationwide Programmatic Agreement (NPA) for the Collocation of Wireless Antennas (Collocation NPA), which now provides that, in certain circumstances, excavation or deployment within the same limited area beyond a site boundary does not warrant federal historic preservation review of a collocation. In addition, we revise the definition of ''site'' in section 6409(a) rules in a manner that will ensure that the site boundaries from which limited expansion is measured appropriately

reflect prior state or local government review and approval. The Commission's actions in this document carefully balance the acceleration of the deployment of advanced wireless services, particularly through the use of existing infrastructure where efficient to do so, with the preservation of states' and localities' ability to manage and protect local land-use interests.

3. To advance ''Congress's goal of facilitating rapid deployment [of wireless broadband service]'' and to provide clarity to the industry, the Commission in 2014 adopted rules to implement section 6409(a) of the Spectrum Act of 2012 (80 FR 1237, January 8, 2015). Section 6409(a) provides, in relevant part, that ''[n]otwithstanding [47 U.S.C. 332(c)(7)] or any other provision of law, a state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.'' Among other matters, the 2014 Infrastructure Order established a 60-day period in which a state or local government must approve an ''eligible facilities request.'' (80 FR 1267, January 8, 2015). The Commission's rules define ''eligible facilities request'' as ''any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) Collocation of new transmission equipment; (ii) Removal of transmission equipment; or (iii) Replacement of transmission equipment.'' (80 FR 1252).

4. The 2014 Infrastructure Order adopted objective standards for determining when a proposed modification would ''substantially change the physical dimensions'' of an existing tower or base station. Among other standards, the Commission determined ''that a modification is a substantial change if it entails any excavation or deployment outside the current site of the tower or base station.'' (80 FR 1254). The Commission defined ''site'' for towers not located in the public rights-of-way as ''the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site,'' (80 FR 1255) and it defined ''site'' for other eligible support structures as being ''further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.'' (Ibid).

5. In adopting the standard for excavation and deployment that would be considered a substantial change under section 6409(a), the Commission looked to analogous concerns about impacts on historic properties reflected in implementation of the National Historic Preservation Act and primarily relied on similar language in the Collocation NPA. At that time, the Commission considered, but declined to adopt, a proposal to exclude from the scope of ''substantial change'' any excavation or deployment of up to 30 feet in any direction of a site, a proposal that was consistent with an exclusion from section 106 review for replacement towers in the Wireless Facilities NPA. In reconciling different standards for potentially analogous deployments in the NPAs, the Commission reasoned that the activities covered under section 6409(a) ''are more nearly analogous to those covered under the Collocation [NPA] than under the replacement towers exclusion in the [Wireless Facilities] NPA,'' but the Commission did not explore the reasoning for the discrepancy between the NPAs, nor did it further explain why it chose to borrow from the older NPA instead of the more modern one. In addition, the Commission did not make a determination that it would be unreasonable to use 30 feet as a touchstone for defining what types of excavations would ''substantially change the physical dimensions of [an existing] tower or base station.'' Rather, the Commission established a reasonable, objective, and concrete set of criteria to eliminate the need for protracted local zoning review, in furtherance of the goals of the statute, by drawing guidance from the consensus represented by the approach taken in the Collocation NPA. That same Collocation NPA, however, was recently amended to reflect an updated consensus on what might be best regarded as a substantial increase in the size of an existing tower, as it excludes a collocation from section 106 review if it involves excavation within 30 feet outside the boundaries of the tower site.

6. On August 27, 2019, the Wireless Infrastructure Association (WIA) filed a Petition for Declaratory Ruling (84 FR 50810, September 26, 2019) requesting that the Commission clarify that, for towers other than towers in the public rights-of-way, the ''current site'' for purposes of § 1.6100(b)(7)(iv) is the property leased or owned by the applicant at the time it submits a section 6409(a) application and not the initial site boundaries. On the same day, WIA also filed a Petition for Rulemaking (Ibid) requesting that the Commission amend its rules to establish that a modification would not cause a ''substantial change'' if it entails excavation or deployments at locations of up to 30 feet in any direction outside the boundaries of a tower compound.

7. On June 10, 2020, the Commission adopted a *Notice of Proposed Rulemaking (NPRM)* that sought comment on two issues regarding the scope of the streamlined application process under section 6409(a): (i) The definition of ''site'' under § 1.6100(b)(6); and (ii) the scope of modifications under § 1.6100(b)(7)(iv). (85 FR 39859, July 2, 2020). The Commission proposed to revise the definition of site ''to make clear that 'site' refers to the boundary of the leased or owned property surrounding the tower and any access or utility easements currently related to the site as of the date that the facility was last reviewed and approved by a locality.'' The Commission also proposed ''to amend § 1.6100(b)(7)(iv) so that modification of an existing facility that entails ground excavation or deployment of up to 30 feet in any direction outside the facility's site will be eligible for streamlined processing under section 6409(a).'' The *NPRM* asked, in the alternative, whether the Commission ''should revise the definition of site in § 1.6100(b)(6), as proposed above, without making the proposed change to § 1.6100(b)(7)(iv) for excavation or deployment of up to 30 feet outside the site.'' In addition, the *NPRM* asked ''whether to define site in § 1.6100(b)(6) as the boundary of the leased or owned property surrounding the tower and any access or utility easements related to the site *as of the date an applicant submits a modification request.*'' Finally, the *NPRM* asked about alternatives to the proposals, costs, and benefits.

8. After reviewing the record in this proceeding, the Commission makes targeted revisions to § 1.6100(b)(7)(iv) and (b)(6) of its rules to broaden the scope of wireless facility modifications that are eligible for streamlined review under section 6409(a). The Commission has considered collocation a tool for advancing wireless services' deployment for over three decades. As the Commission noted in the 2014 Infrastructure Order, collocation ''is often the most efficient and economical solution for mobile wireless service providers that need new cell sites to expand their existing coverage area, increase their capacity, or deploy new advanced services.'' The actions the Commission takes in this document will further streamline the approval process for using existing infrastructure to expedite wireless connectivity efforts nationwide while preserving localities' ability to manage local zoning.

9. First, the Commission amends § 1.6100(b)(7)(iv) to provide that, for towers not located in the public rights-of-way, a modification of an existing site that entails ground excavation or deployment of transmission equipment of up to 30 feet in any direction outside a tower's site will not be disqualified from streamlined processing under section 6409(a) on that basis. In general, § 1.6100(b)(7) describes when an eligible facilities request will ''substantially change the physical dimensions'' of a facility under section 6409(a). Because the statutory term ''substantially change'' is ambiguous, § 1.6100(b)(7) elaborates on the phrase by providing numerical and objective criteria for determining when a proposed expansion will ''substantially change'' the dimensions of a facility. For the reasons explained more fully below, the Commission concludes that proposed ground excavation or deployment of up to 30 feet in any direction outside a tower's site is sufficiently modest so as not to ''substantially change the physical dimensions'' of a tower or base station, and that this amendment to the Commission's rules thus represents a permissible construction of section 6409(a).

10. In promulgating the initial rules to implement section 6409(a), the Commission determined that ''an objective definition'' of what constitutes a substantial change ''will provide an appropriate balance between municipal flexibility and the rapid deployment of covered facilities.'' With respect to excavation and deployment in association with modifications to existing structures, the Commission found that the appropriate standard for what constitutes a substantial change was any excavation or deployment outside of the site boundaries. Here, the Commission concludes that a revision to this standard is warranted by certain changes since its initial determination: The recent recognition by the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers of 30 feet as an appropriate threshold in the context of federal historic preservation review of collocations; and the ongoing evolution of wireless networks that rely on an increasing number of collocations, where they are an efficient alternative to new tower construction, to meet the rising demand for advanced wireless services. In light of these changes, the Commission concludes that it is reasonable to adjust the line drawn by the Commission in 2014 for streamlined treatment of excavations or deployments associated with collocations, and in doing so the Commission continues to believe that it is appropriate to consider in this context the analogous line drawn in the federal historic preservation context as a relevant benchmark.

11. As an initial matter, the Commission recognizes that it relied on the Wireless Facilities NPA and Collocation NPA to inform its adoption of initial rules implementing section 6409(a). In particular, the Commission stated that ''the objective test for 'substantial increase in size' under the Collocation [NPA] should inform its consideration of the factors to consider when assessing a 'substantial change in physical dimensions,'" and that this approach ''reflects the Commission's general determination that definitions in the Collocation [NPA] and [Wireless Facilities] NPA should inform the Commission's interpretation of similar terms in [s]ection 6409(a).'' With respect to excavation and deployment associated with a modification of an existing structure, the Commission relied on a provision in the Collocation NPA and determined that ''a modification is a substantial change if it entails any excavation or deployment outside the current site of the tower or base station.'' Further, the Commission considered, but declined to adopt, a proposal to exclude from the scope of ''substantial change'' any excavation or deployment of up to 30 feet in any direction from a site's boundaries, which would have been consistent with an exclusion from section 106 review for replacement towers in the Wireless Facilities NPA. Importantly, the Commission did not characterize the 30-foot standard in the Wireless Facilities NPA to be an unreasonable choice. The Commission elected to follow the language in the Collocation NPA given commonalities between the types of deployments referred to in section 6409 and the types of deployments covered under the Collocation NPA, as well as input from industry and localities.

12. The Collocation NPA was recently amended, however, to align with the Wireless Facilities NPA, reflecting a recognition that, in the context of federal historic preservation review, permitting a limited expansion beyond the site boundaries to proceed without substantial review encourages collocations without significantly affecting historic preservation interests. Specifically, on July 10, 2020, the Wireless Telecommunications Bureau Chief (on delegated authority from the Commission), the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers executed the Amended Collocation NPA to eliminate an inconsistency between the Collocation NPA and the Wireless Facilities NPA (85 FR 51357, August 20, 2020).

13. The Amended Collocation NPA now provides that, for the purpose of determining whether a collocation may be excluded from section 106 review, a collocation is a substantial increase in the size of the tower if it ''would expand the boundaries of the current tower site by more than 30 feet in any direction or involve excavation outside these expanded boundaries.'' In adopting that change, the Amended Collocation NPA stated that, among other reasons, the parties ''developed this second amendment to the Collocation Agreement to allow project proponents the same review efficiency [applicable to tower replacements in the Wireless Facilities NPA] in regard to limited excavation beyond the tower site boundaries for collocation, thereby encouraging project proponents to conduct more collocation activities instead of constructing new towers . . . .'' The parties therefore recognized the limited effect that an up to 30-foot compound expansion would impose on the site, which is also consistent with the Commission's rationale in adopting the replacement tower exclusion in the Wireless Facilities NPA. Indeed, in the 2004 Report and Order (70 FR 556, January 4, 2005) implementing the Wireless Facilities NPA, the Commission concluded that a 30-foot standard was ''reasonable and appropriate,'' and reasoned that ''construction and excavation to within 30 feet of the existing leased or owned property means that only a minimal amount of previously undisturbed ground, if any, would be turned, and that would be very close to the existing construction.'' The Commission's decision to permit an eligible facilities request to include limited excavation and deployment of up to 30 feet in any direction harmonizes its rules under section 6409(a) with permitted compound expansions for exclusion from section 106 review for replacement towers under the Wireless Facilities NPA and collocations under the Collocation NPA.

14. In that regard, the Commission disagrees with the localities' argument that the Collocation NPA ''has no bearing on [this] matter.'' The definition of ''substantial increase in size of the tower'' in the Collocation NPA was a primary basis for the Commission's decision in the 2014 Infrastructure Order to define a substantial change as any excavation or deployment outside the boundaries of a tower site. Accordingly, the amendment to the

Collocation NPA to provide that excavations of up to 30 feet of the boundaries of a site is not a substantial increase in size provides support for the Commission's decision in this *Report and Order* to once again make the section 6409(a) rules consistent with the Collocation NPA. Retaining the existing definition despite the amendment to the Collocation NPA could create confusion and invite uncertainty.

15. In addition, the Commission finds that the revised 30-foot standard is supported by the current trends toward collocations and technological changes that the record evidences while preserving localities' zoning authority. Collocations necessarily include installing transmission equipment that supports the tower antenna on a site. Industry commenters claim that ''[t]he majority of existing towers were built many years ago and were intended to support the operations of a single carrier.'' Following the 2014 Infrastructure Order's promotion of collocations, more towers now house several operators' antennas and other transmission equipment, and industry commenters assert that, in many cases, any space that was once available at those tower sites has been used. As a result, there is less space at tower sites for additional collocations without minor modifications to sites to accommodate the expansion of equipment serving existing operators at the sites and the addition of new equipment serving new operators at the sites. As NTCA states, ''[l]ike other wireless providers, NTCA members often find that colocations on towers require the additional installation of . . . facilities necessary to support transmission equipment. This has become increasingly difficult as towers built to hold one carrier's facilities may be used to support those utilized by multiple wireless providers.'' Further, additional space is generally necessary to add the latest technologies enabling 5G services, such as multi-access edge computing, which requires more space than other collocation infrastructure. Given the need for more space on the ground to accommodate a growing number of facility modifications, the Commission finds that streamlined treatment of limited compound expansions is essential to achieve the degree of accelerated advanced wireless network deployment that will best serve the public interest. Indeed, WIA states that the 30-foot standard ''appropriately provides a reasonable and realistic degree of flexibility.'' Further, in light of these developments and the recognition of a new compound expansion standard in the context of historic preservation review of collocations, the Commission finds it reasonable to adjust the line drawn by the Commission in 2014 for determining whether limited compound expansion is a substantial change that disqualifies a modification from eligibility for streamlined treatment.

16. The Commission also finds that streamlined treatment of limited compound expansions will promote public safety and network resiliency. For example, the Commission notes that Crown Castle states that more than 40 percent of its site expansions in the past 18 months were solely for ''adding backup emergency generators to add resiliency to the network.'' And WIA states that, ''in many cases, the need for a limited expansion of the compound is being driven by public safety demands and the desire to improve network resiliency.'' The Commission's rule change will also promote public safety in another context—industry commenters state that the proposed rule changes will ensure expeditious and effective deployment of FirstNet's network, which Congress directed to leverage collocation on existing infrastructure ''to the maximum extent economically desirable.'' AT&T, for example, states that ''many collocations on existing towers being performed to build a public safety broadband network for [FirstNet] entail site expansions to add generators as well as Band 14 equipment.'' The Commission therefore agrees with commenters that these changes will promote public safety.

17. The Commission concludes that 30 feet is an appropriate threshold. The objective standard the Commission adopts in this document is consistent with the current collocation marketplace and with the threshold adopted in the Wireless Facilities NPA and recently included in the Amended Collocation NPA. In affirming the 2014 Infrastructure Order, the Fourth Circuit stated that the order ''provide[d] objective and numerical standards to establish when an eligible facilities request would 'substantially change the physical dimensions' '' of a site. (*Montgomery County, Md.* v. *FCC,* 811 F.3d at 130; *see also id.* at 131 n.8). Here, the Commission extends those objective and numerical standards in a manner that reflects the recent recognition of 30 feet as an appropriate standard in the federal historic preservation context and the changes in the collocation marketplace, which is lacking space for collocations.

18. The Commission believes that its actions in this document, which reflect the Amended Collocation NPA and collocation marketplace changes since the Commission's determination in 2014, ''will provide an appropriate balance between municipal flexibility and the rapid deployment of covered facilities.'' Indeed, the record reflects that the deployment of transmission equipment within the expanded 30-foot area will be limited, buttressing the Commission's view that 30 feet is a reasonable limit to expansion that does not constitute a substantial change and therefore should be subject to streamlined review under section 6409 and the Commission's implementing regulations. Crown Castle states that the 30-foot standard ''will be sufficient to accommodate the types of minor equipment additions that Crown Castle must often make as part of a collocation or other site modification.'' Crown Castle presents several representative examples of proposed minor site expansions, which include ''additional equipment, equipment upgrades, new collocations, and back-up generator installations.'' These examples demonstrate that compound expansions occur as close to the tower as possible, as ''customers typically require their equipment to be in close proximity to the tower, their other equipment, power sources, available fiber, and any back-up power supply.'' These examples also demonstrate that construction within a 30-foot perimeter of an existing site would not result in what could be considered substantial changes to the physical footprint of existing sites, especially when considered in conjunction with other limitations in the Commission's rules that it is not altering.

19. Localities generally oppose any revision to the Commission's existing ''substantial change'' definition that would enable streamlined treatment of modifications involving compound expansion outside of a site,[1] but request

[1] To the extent that the localities' opposition to our decision rests on the notion that an expansion is only permitted if it involves deployment on the existing tower as opposed to within the site around the tower, we reject that argument. The 2014 rules already permit streamlined treatment of deployments around the tower as long as such deployments stay within the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. *See, e.g.,* 2014 Infrastructure Order, 29 FCC Rcd at 12949, para. 198; 47 CFR 1.6100(b)(6). As discussed below, the permissible modifications under our new rules would relate only to equipment that ''facilitates transmission for any Commission-licensed or authorized wireless communication service'' from the existing tower, consistent with the statute and definitions in § 1.6100. *See* 47 CFR 1.6100(b)(8) (defining ''transmission equipment''). Accordingly, the deployment of such equipment would clearly impact the equipment touching that structure. It is thus more than reasonable for the Commission to rely on its statutory authority to classify such

that, if such changes nonetheless are made, they should be limited in certain ways. First, the National Association of Telecommunication Officers and Advisors (NATOA) and Local Governments express concern that the rule change with respect to compound expansion could be interpreted to permit the deployment of new towers within the expanded area, and they request that the Commission limit the permissible deployment within the expanded area to transmission equipment. The Commission agrees that the deployments referenced in § 1.6100(b)(7)(iv) are deployments of transmission equipment. Under the Commission's current rules, any eligible facilities request—a request that is eligible for section 6409(a) treatment—must involve the collocation, replacement, or removal of transmission equipment. Accordingly, any deployment outside the site boundary that is eligible for section 6409(a) treatment under § 1.6100(b)(7)(iv), including deployments within 30 feet of the site boundary for a tower outside the public rights-of-way, would be limited to the deployment of transmission equipment, not new towers.

20. Second, NATOA and Local Governments propose that the site boundary from which a compound expansion will be measured should exclude easements related to that site. The Commission agrees. The definition of ''site'' in the Commission's current rules, for towers other than towers in the public rights-of-way, is ''the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.'' The Commission finds, though, that providing a 30-foot expansion for excavation or deployment along an easement related to the site is not necessary to meet the goal of facilitating wireless infrastructure deployment, because it is more likely that additional equipment will need to be placed in a limited area outside the leased or owned property rather than outside the easement related to the site. Further, excavation or deployment in an area 30 feet outside an easement, which could be miles in length, could result in a substantial change that would not be entitled to streamlined treatment under section 6409(a).

21. Third, NATOA and Local Governments request that the Commission restrict the size of transmission equipment deployed outside the site. The Commission finds that, given the limited types of transmission equipment deployed for collocations, such a restriction is not necessary to consider excavation or deployment within the 30-foot expansion area to be outside the scope of a substantial change. Additionally, size restrictions based on current equipment may unnecessarily restrict the deployment of future technology, which may include larger transmission equipment than currently deployed or available. Finally, the other substantial change limitations in § 1.6100(b)(7) continue to apply to modifications under section 6409(a).

22. Fourth, NATOA and Local Governments assert that setting a 30-foot limit on excavation or deployment outside site boundaries, without regard to the size of the existing tower site, could permit substantial changes to qualify for streamlined treatment. In particular, NATOA and Local Governments propose that, to the extent the Commission revises its ''substantial change'' definition, the compound expansion standard should be ''the lesser of the following distance[s] from the current site (not including easements related to the site): a. 20% of the length or width of the current site measured as a longitudinal or latitudinal line from the current site to the excavation or deployment; or b. 30 feet.'' The Commission declines to adopt this proposal because, on balance, the potential problems it could create outweigh the potential benefits it could achieve. A standard of ''20% of the length or width of the current site'' would be difficult to administer, given that a site boundary is not necessarily a symmetrical shape. In addition, while the record supports the determination that a 30-foot expansion would be sufficient to accommodate minor equipment additions, the record does not provide support for the determination that the ''20%'' standard would accomplish this goal. Moreover, adopting the ''20%'' proposal would provide limited additional benefit in addressing the concern raised by NATOA and Local Governments. Because a small tower site typically is associated with a small tower that has limited space for additional antennas, it is unlikely that operators would need to place a significant amount of additional qualifying transmission equipment in an area outside the site boundaries. In addition, any modification to an existing tower that involves excavation or deployment within the 30-foot expanded area will be subject to the other criteria in the Commission's rules for determining whether there is a substantial change that does not warrant streamlined treatment under section 6409(a). Those criteria, which the Commission does not alter in this document, provide further limitation on the size or scope of a modification that involves excavation or deployment within 30 feet of the site boundaries. For example, those criteria limit the modifications that would qualify for streamlined treatment by the number of additional equipment cabinets and by the increase in height and girth of the tower.

23. The Commission's limited adjustment to the definition of substantial change in the context of excavations or deployments is further supported by land-use laws in several states. In particular, the Commission observes that at least ''eight states have passed laws that expressly permit compound expansion within certain limits . . . under an exempt or expedited review process.'' Most of these laws allow expansion beyond 30 feet from the approved site. As Crown Castle states, ''these state laws are a benefit to both the wireless industry and local officials. They permit the wireless industry to meet the burgeoning network demands while also providing certainty and clarity to all involved.''

24. The Commission finds that the standard it adopted in this document continues to be a reasonable line drawing exercise in defining ''substantial change,'' and it reflects a more appropriate balancing of the promotion of ''rapid wireless facility deployment and preserving states' and localities' ability to manage and protect local land-use interests'' than the Commission articulated in 2014. In that regard, the Commission finds that it is in the public interest to modify its prior decision on what constitutes substantial change within the context of excavation or deployment.

25. In addition to amending § 1.6100(b)(7)(iv), the Commission revises § 1.6100(b)(6) of the Commission's rules to define the current boundaries of the ''site'' of a tower outside of public rights-of-way in a manner relative to the prior approval required by the state or local government. In conjunction with § 1.6100(b)(7), § 1.6100(b)(6) informs when excavation or deployment associated with a modification will ''substantially change the physical dimensions'' of a facility under section 6409(a). While the word ''site'' does not itself appear in section 6409, § 1.6100(b)(7)(iv) uses the term in describing when excavation or deployment might be so distant from an existing structure that such

deployment as a modification of that tower and to expand the surrounding area to accommodate such deployment.

modifications would ''substantially change the physical dimensions'' of the facility. In amending its current definition, the Commission supplies a temporal baseline against which to measure whether a proposed modification would ''substantially'' change the facility. For the reasons explained more fully below, the Commission thinks that this amendment represents a reasonable construction of the ambiguous statutory language; ascertaining whether a modification ''substantially changes'' an existing structure requires establishing a baseline against which to measure the proposed change. Here, because the statutory language involves streamlined approval of modifications to existing facilities, it is reasonable, based on the statutory language, to measure the boundaries of a site by reference to when a state or local government last had the opportunity to review or approve the structure that the applicant seeks to modify, if such approval occurred prior to section 6409 or otherwise outside of the section 6409(a) process. After all, the objective of the statute is to streamline approval of additions to structures that were already approved.

26. Because the Commission's actions in this document permit streamlined processing for modifications that entail ground excavation or deployment up to 30 feet outside a current site, it finds it necessary to clarify and provide greater certainty to applicants and localities about the appropriate temporal baseline for evaluating changes to a site. While the Commission did not have reason to elaborate on the meaning of a current site in the 2014 Infrastructure Order, because it defined any excavation or deployment outside a site as a substantial change, the Commission did establish other temporal reference points for evaluating other substantial change criteria, including height increases and concealment elements. The Commission therefore bases its revision to the definition of ''site'' on the terminology and reasoning articulated by the Commission in those related contexts, which have been upheld as a permissible construction of an ambiguous statutory provision.

27. Specifically, in the 2014 Infrastructure Order, the Commission found that, in the context of height increases, ''whether a modification constitutes a substantial change must be determined by measuring the change in height from the dimensions of the 'tower or base station' as originally approved or as of the most recent modification that received local zoning or similar regulatory approval prior to the passage of the Spectrum Act, whichever is greater.'' In adopting that standard, the Commission noted that ''since the Spectrum Act became law, approval of covered requests has been mandatory and therefore, approved changes after that time may not establish an appropriate baseline because they may not reflect a siting authority's judgment that the modified structure is consistent with local land use values.'' Similarly, in the Commission's recent Declaratory Ruling (85 FR 45126, July 27, 2020), it clarified that ''existing'' concealment elements ''must have been part of the facility that was considered by the locality at the original approval of the tower or at the modification to the original tower, if the approval of the modification occurred prior to the Spectrum Act or lawfully outside of the section 6409(a) process (for instance, an approval for a modification that did not qualify for streamlined section 6409(a) treatment).''

28. The Commission finds that it is in the public interest to use similar text and reasoning in adopting the revised definition of ''site'' in this *Report and Order.* Here, the Commission similarly defines what would constitute a substantial change to infrastructure that was previously approved by localities under applicable local law—in this case, in the context of excavation or deployment relative to the boundaries of a site. The Commission revises the definition of ''site'' to provide that the current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the section 6409(a) process. Localities assert that the definition of ''site'' should ensure that the ''facility was last reviewed and approved by a locality with full discretion'' and not as an eligible facilities request. The Commission agrees with commenters that a site's boundaries should not be measured—for purposes of setting the 30-foot distance in a request for modification under section 6409(a)—from the expanded boundary points that were established by any approvals granted or deemed granted pursuant to an ''eligible facilities request'' under section 6409(a). The Commission does not agree, however, with localities' framing of the definition of ''site'' in terms of the broad concept of discretion. First, a standard that relies on whether the locality has ''full discretion'' to make a decision would create uncertainty in determining whether a particular approval meets that standard. Second, non-discretionary approvals could include instances where a locality's review is limited by state law rather than by section 6409(a), and the Commission does not find it appropriate for it to engage in line drawing under section 6409(a) based on potential interaction between state and local law.

29. The Commission declines to adopt the industry's ''hybrid'' definition of ''site.'' Specifically, Crown Castle claims that the industry has interpreted and relied on the definition of ''site'' to mean the boundaries of the leased or owned property as of the date an applicant files an application with the locality. The industry therefore proposes a hybrid approach, which urges us to define site as of ''the later of (a) [the date that the Commission issues a new rule under the [*NPRM*]]; or (b) the date of the last review and approval related to said tower by a state or local government issued outside of the framework of 47 U.S.C. 1455(a) and these regulations promulgated thereunder.'' Adopting that proposal would risk permitting a tower owner to file an eligible facilities request even if it may have substantially increased the size of a tower site prior to the adoption of this *Report and Order* and without any necessary approval from a locality. Indeed, several localities caution against the industry's proposal. They raise concerns that adopting the industry's proposed definition would create ''unending accretion of [a] site by repeated applications for expansion.'' The Commission shares those concerns, and finds that its revision addresses them by ensuring that a locality has reviewed and approved the eligible support structure that is the subject of the eligible facilities request outside of the section 6409(a) process, while recognizing that the boundaries may have changed since the locality initially approved the eligible support structure. Further, the Commission maintains the 2014 Infrastructure Order's approach that a locality ''is not obligated to grant a collocation application under [s]ection 6409(a)'' if ''a tower or base station was constructed or deployed without proper review, was not required to undergo siting review, or does not support transmission equipment that received another form of affirmative State or local regulatory approval[.]''

30. Crown Castle also proposes that, to the extent that the Commission revises the definition of ''site'' as proposed in the *NPRM,* it should revise the language to provide that the site boundaries are determined as of the date a locality ''last reviewed and issued a

permit,'' rather than as of the date the locality last reviewed and approved the site. Crown Castle claims that, contrary to an approval, a ''permit . . . applies to a wide variety of processes, and represents a tangible and unambiguous event[.]'' The Commission declines to adopt Crown Castle's proposal, as the mere issuance of a permit (*e.g.,* an electrical permit) does not necessarily involve a locality's review of the eligible support structure, and thus would not necessarily provide an opportunity for the locality to take into account an increase in the size of the site associated with that structure.[2]

31. Accordingly, the Commission revises § 1.6100(b)(6) to read as set out in the regulatory text below.

32. The Commission emphasizes that its revisions to the compound expansion provision in § 1.6100(b)(7)(iv) and to the definition of ''site'' in § 1.6100(b)(6) do not apply to towers in the public rights-of-way. The 2014 Infrastructure Order provided for streamlined review in more narrowly targeted circumstances with respect to towers in the public rights-of-way, and the Commission leaves those distinctions unchanged. The Commission has recognized that activities in public rights-of-way ''are more likely to raise aesthetic, safety, and other issues,'' and that ''towers in the public rights-of-way should be subject to the more restrictive . . . criteria applicable to non-tower structures rather than the criteria applicable to other towers.'' The record reflects agreement by both industry and locality commenters that the Commission's rule change to provide for compound expansion should not apply to towers in the public rights-of-way. The Commission's revised compound expansion rule also does not apply to non-tower structures (*e.g.,* base stations), which ''use very different support structures and equipment configurations'' than towers.

33. The Commission also emphasizes that its actions here are not intended to affect any setback requirements that may apply to a site, and that it preserves localities' authority to impose requirements on local-government property. Further, the expansion of up to 30 feet in any direction is subject to any land-use requirements or permissions that a local authority may have imposed or granted within the allowed expansion (*e.g.,* storm drain easement) at the time of the last review by a locality. The Commission also clarifies that the revised definition of ''site'' does not restrict a locality from issuing building permits (*e.g.,* electrical) or approving easements within the expanded boundaries (*e.g.,* a sewer or storm drain easement; a road; or a bike path). The Commission further clarifies, however, that changes in zoning regulations since the last local government review would not disqualify from section 6409(a) treatment those compound expansions that otherwise would be permitted under its revisions.

34. While localities raise health and safety concerns with modifying the scope of substantial change, the Commission observes that the modifications it makes in this document do not affect localities' ability to address those concerns. The Commission previously has clarified that neither the statute nor its rules preempt localities' health and safety requirements or their procedures for reviewing and enforcing compliance with such requirements, and the Commission reaffirms this conclusion in this document. The Commission emphasizes that section 6409(a) ''does not preclude States and localities from continuing to require compliance with generally applicable health and safety requirements on the placement and operation of backup power sources, including noise control ordinances if any.'' The Commission finds that its revision strikes the appropriate balance between promoting rapid wireless facility deployment while preserving localities' local-use authority.

35. Finally, the Commission disagrees with the contentions of some localities that it lacks the legal authority to adopt some or all of the rule changes that it promulgates in this document, or that the Administrative Procedure Act otherwise precludes such action. Localities allege several infirmities. First, Virginia Localities argue that Congress limited the Commission's authority to changes to the dimensions of towers and base stations only, and not to the underlying site. The Commission disagrees with that artificial distinction. A tower cannot exist without a site. And ''[t]here is no question that [certain] terms of the Spectrum Act . . . are ambiguous,'' including what constitutes substantial change to a site. (*Montgomery County, Md.* v. *FCC,* 811 F.3d at 129; *id.* at 130). The Fourth Circuit determined that the Commission can ''establish[] objective criteria for determining when a proposed modification 'substantially changes the physical dimensions' '' of an eligible support structure. (*Id.* at 129 n.5). The *Report and Order*'s revisions to the terms ''site'' and ''substantial change'' ensure that wireless deployments will continue while preserving localities' site review and approval process.

36. Second, some localities argue that the Commission failed to provide the specific rule language in the *NPRM* and that the *NPRM* contains several ambiguities. Virginia Localities claim that it would be ''very difficult to assess the potential practical effects of the proposed amendment to the EFR Rule without language to evaluate.'' Local Governments claim that, among other issues, the *NPRM* is ambiguous on the operative date of the approval, the operative boundaries of the proposed expansion, and whether the definition of ''site'' will provide for other eligible support structures. Western Communities Coalition claims that the *NPRM* ''appears to suggest that various rule changes might be limited to 'macro tower compounds.' ''

37. These arguments lack merit. The APA requires that an agency's notice of proposed rulemaking must include ''either the terms *or substance of the proposed rule or a description of the subjects and issues involved.*'' The D.C. Circuit has held that a notice of proposed rulemaking meets the requirements of administrative law if it ''provide[s] sufficient factual detail and rationale for the rule to permit interested parties to comment meaningfully.'' (*Honeywell International, Inc.* v. *EPA,* 372 F.3d 441, 445 (D.C. Cir. 2004) (internal quotation marks omitted)). The *NPRM* in this proceeding did just that. Not only did the Commission include the substance of the proposed rule and describe the subjects and issues involved, it also clearly proposed specific language for the definition of ''site'' and the revision to ''substantial change,'' and it offered specific alternatives and sought comment on other possible options. The actions the Commission takes in this document reflect commenters' responses to the *NPRM.* For example, in response to the Commission's proposed definition of ''site,'' it establishes site boundaries as those that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the section 6409(a) process. Furthermore, various changes the Commission is making to the

[2] Crown Castle's proposal would also introduce more uncertainty than it purports to cure. A locality may issue building, electrical, or other permits for a site without reviewing the eligible support structure on that site. A permit may therefore not constitute a ''proper review'' of a site. Review and approval of the eligible support structure, on the other hand, provides an opportunity for the locality to take into account an increase in the size of the site.

proposed language are reasonably foreseeable modifications designed to prevent any confusion that the proposed language might have caused based on concerns that commenters raised. For example, in defining ''site,'' the Commission substitutes the term ''eligible support structure,'' a defined term, for the proposed use of the word ''facility,'' which is not defined in § 1.6100 of its rules. Further, the *NPRM* also proposed specific alternatives. All localities that allege ambiguities raised meaningful comments and opined on the specific rule changes that the Commission adopts in this document.

38. Third, Local Governments claim that any collocation policy modification should be achieved through 47 U.S.C. 332. The Commission disagrees. Congress has directed the Commission to ''encourage the rapid deployment of telecommunications services,'' including with section 6409(a), in which Congress specifically addressed modifications of an existing tower or base station ''[n]otwithstanding'' Section 332. And the Commission has relied on section 6409(a) to require a streamlined review process for modifications of existing towers or base stations. Similar to the Commission's actions in the 2014 Infrastructure Order, the rules it promulgates in this document ''will serve the public interest by providing guidance to all stakeholders on their rights and responsibilities under the provision, reducing delays in the review process for wireless infrastructure modifications, and facilitating the rapid deployment of wireless infrastructure, thereby promoting advanced wireless broadband services.''

39. Finally, Western Communities Coalition argues that the comment cycle is unusually short. The Administrative Procedure Act and the Commission's rules require only that commenters be afforded reasonable notice of the proposed rulemaking. Western Communities Coalition provides no basis for its view that more than the 30-day time period following **Federal Register** publication (20 days for comments and 10 days for reply comments), was inadequate here, given that the *NPRM* raised a narrow set of issues that had been subject to prior public input in response to WIA's petition for declaratory ruling and petition for rulemaking. And no commenter argues that it was prejudiced by the comment cycle's length. Indeed, several commenters, including the Western Communities Coalition, have been considering these issues on the record since at least October 2019. Claims that the *NPRM* is vague or that commenters have had insufficient time to comment are therefore contradicted by the record.

40. Accordingly, the Commission revises the compound expansion provision in § 1.6100(b)(7)(iv) and the definition of ''site'' in § 1.6100(b)(6). The Commission finds that the revisions it adopts in this document will streamline the use of existing infrastructure for the deployment of 5G and other advanced wireless networks while preserving localities' ability to review and approve an eligible support structure.

41. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this *Report and Order* on small entities. Pursuant to the RFA, a Final Regulatory Flexibility Analysis is set forth in the *Report and Order.*

42. *Paperwork Reduction Act.* This *Report and Order* does not contain information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

43. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Final Regulatory Flexibility Analysis

A. Need for, and Objectives of, the Report and Order

44. In the *Report and Order,* the Commission continues its efforts to reduce regulatory barriers to infrastructure deployment by further streamlining the state and local government review process for modifications to existing wireless towers or base stations under section 6409(a) of the Spectrum Act of 2012. The Commission's decision will encourage the use of existing infrastructure, where efficient, to accelerate deployment of 5G and other advanced networks, which will enable economic opportunities across the nation. More specifically, the *Report and Order* revises the Commission's rules to provide that the modification of an existing tower outside the public rights-of-way that entails ground excavation or deployment of transmission equipment up to 30 feet in any direction outside the site will be eligible for streamlined processing under section 6409(a) review. The *Report and Order* clarifies that the site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site. It also revises the Commission's rules to clarify that a site's current boundaries are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a state or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the section 6409(a) process.

45. Our rule revisions reflect the recent recognition of 30 feet as an appropriate standard in the federal historic preservation context and the changes in the collocation marketplace, which is lacking space for collocations. This standard is consistent with the current collocation marketplace and with the threshold adopted in the Wireless Facilities NPA and recently included in the Amended Collocation NPA. Further, at least ''eight states have passed laws that expressly permit compound expansion within certain limits . . . under an exempt or expedited review process.'' Most of these laws allow expansion beyond 30 feet from the approved site.

B. Summary of Significant Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA)

46. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

47. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

48. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

49. 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 and 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) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

50. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.

51. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

52. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

53. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

54. The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018 there are 265 Cellular licensees that will be affected by our actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

55. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications'', which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

56. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Upper Microwave Flexible Use Service, Millimeter Wave Service, Local Multipoint Distribution Service (LMDS), the Digital Electronic Message Service (DEMS), and the 24 GHz Service, where licensees can choose between common carrier and non-common carrier status. There are approximately 66,680 common carrier fixed licensees, 69,360 private and public safety operational-fixed licensees, 20,150 broadcast auxiliary radio licensees, 411 LMDS licenses, 33 24 GHz DEMS licenses, 777 39 GHz licenses, and five 24 GHz licenses, and 467 Millimeter Wave licenses in the microwave services. The Commission has not yet defined a small business with respect to microwave services. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this SBA category and the associated size standard, the Commission estimates that a majority of

fixed microwave service licensees can be considered small.

57. 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 up to 36,708 common carrier fixed licensees and up to 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies discussed herein. We note, however, that the microwave fixed licensee category includes some large entities.

58. *FM Translator Stations and Low Power FM Stations.* FM translators and Low Power FM Stations are classified in the category of Radio Stations and are assigned the same NAICs Code as licensees of radio stations. This U.S. industry, Radio Stations, comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has established a small business size standard which consists of all radio stations whose annual receipts are $41.5 million dollars or less. U.S. Census Bureau data for 2012 indicate that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard we conclude that the majority of FM Translator Stations and Low Power FM Stations are small.

59. *Location and Monitoring Service (LMS).* 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 a ''small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not to exceed $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 to exceed $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.

60. *Multichannel Video Distribution and Data Service (MVDDS).* MVDDS is a terrestrial fixed microwave service operating in the 12.2–12.7 GHz band. The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. It defined a very small business as an entity with average annual gross revenues not exceeding $3 million for the preceding three years; a small business as an entity with average annual gross revenues not exceeding $15 million for the preceding three years; and an entrepreneur as an entity with average annual gross revenues not exceeding $40 million for the preceding three years. These definitions were approved by the SBA. On January 27, 2004, the Commission completed an auction of 214 MVDDS licenses (Auction No. 53). In this auction, ten winning bidders won a total of 192 MVDDS licenses. Eight of the ten winning bidders claimed small business status and won 144 of the licenses. The Commission also held an auction of MVDDS licenses on December 7, 2005 (Auction 63). Of the three winning bidders who won 22 licenses, two winning bidders, winning 21 of the licenses, claimed small business status.

61. *Multiple Address Systems.* Entities using Multiple Address Systems (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, Profit-based Spectrum use, the size standards established by the Commission define ''small entity'' for MAS licensees as an entity that has average annual gross revenues of less than $15 million over the three previous calendar years. A ''Very small business'' is defined as an entity that, together with its affiliates, has average annual gross revenues of not more than $3 million over the preceding three calendar years. The SBA has approved these definitions. The majority of MAS operators are licensed in bands where the Commission has implemented a geographic area licensing approach that requires the use of competitive bidding procedures to resolve mutually exclusive applications.

62. The Commission's licensing database indicates that, as of April 16, 2010, there were a total of 11,653 site-based MAS station authorizations. Of these, 58 authorizations were associated with common carrier service. In addition, the Commission's licensing database indicates that, as of April 16, 2010, there were a total of 3,330 Economic Area market area MAS authorizations. The Commission's licensing database also indicates that, as of April 16, 2010, of the 11,653 total MAS station authorizations, 10,773 authorizations were for private radio service. In 2001, an auction for 5,104 MAS licenses in 176 EAs was conducted. Seven winning bidders claimed status as small or very small businesses and won 611 licenses. In 2005, the Commission completed an auction (Auction 59) of 4,226 MAS licenses in the Fixed Microwave Services from the 928/959 and 932/941 MHz bands. Twenty-six winning bidders won a total of 2,323 licenses. Of the 26 winning bidders in this auction, five claimed small business status and won 1,891 licenses.

63. With respect to the second category, Internal Private Spectrum use consists of entities that use, or seek to use, MAS spectrum to accommodate their own internal communications needs, 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 definition developed by the SBA would be more appropriate than the Commission's definition. The closest applicable definition of a small entity is the ''Wireless Telecommunications Carriers (except Satellite)'' definition under the SBA size standards. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this category, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated small business size standard, the Commission estimates that the majority of firms that may be affected by our action can be considered small.

64. *Non-Licensee Owners of Towers and Other Infrastructure.* Although at one time most communications towers were owned by the licensee using the tower to provide communications service, many towers are now owned by third-party businesses that do not provide communications services themselves but lease space on their towers to other companies that provide communications services. The Commission's rules require that any entity, including a non-licensee, proposing to construct a tower over 200

feet in height or within the glide slope of an airport must register the tower with the Commission's Antenna Structure Registration (''ASR'') system and comply with applicable rules regarding review for impact on the environment and historic properties.

65. As of March 1, 2017, the ASR database includes approximately 122,157 registration records reflecting a ''Constructed'' status and 13,987 registration records reflecting a ''Granted, Not Constructed'' status. These figures include both towers registered to licensees and towers registered to non-licensee tower owners. The Commission does not keep information from which we can easily determine how many of these towers are registered to non-licensees or how many non-licensees have registered towers. Regarding towers that do not require ASR registration, we do not collect information as to the number of such towers in use and therefore cannot estimate the number of tower owners that would be subject to the rules on which we seek comment. Moreover, the SBA has not developed a size standard for small businesses in the category ''Tower Owners.'' Therefore, we are unable to determine the number of non-licensee tower owners that are small entities. We believe, however, that when all entities owning 10 or fewer towers and leasing space for collocation are included, non-licensee tower owners number in the thousands. In addition, there may be other non-licensee owners of other wireless infrastructure, including Distributed Antenna Systems (DAS) and small cells that might be affected by the measures on which we seek comment. We do not have any basis for estimating the number of such non-licensee owners that are small entities.

66. The closest applicable SBA category is All Other Telecommunications, and the appropriate size standard consists of all such firms with gross annual receipts of $38 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999. Thus, under this SBA size standard a majority of the firms potentially affected by our action can be considered small.

67. *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. Personal radio services include services operating in spectrum licensed under Part 95 of our rules. These services include Citizen Band Radio Service, General Mobile Radio Service, Radio Control Radio Service, Family Radio Service, Wireless Medical Telemetry Service, Medical Implant Communications Service, Low Power Radio Service, and Multi-Use Radio Service. There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. All such entities in this category are wireless, therefore we apply the definition of Wireless Telecommunications Carriers (except Satellite), pursuant to which the SBA's small entity size standard is defined as those entities employing 1,500 or fewer persons. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of firms can be considered small. We note however, that many of the licensees in this category are individuals and not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base an estimation of the number of small entities that may be affected by our actions in this proceeding.

68. *Private Land Mobile Radio Licensees.* Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. Because of the vast array of PLMR users, the Commission has not developed a small business size standard specifically applicable to PLMR users. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engag*ed in radiotelephone communications.* The appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of PLMR Licensees are small entities.

69. According to the Commission's records, a total of approximately 400,622 licenses comprise PLMR users. There are a total of approximately 3,577 PLMR licenses in the 4.9 GHz band; 19,359 PLMR licenses in the 800 MHz band; and 3,374 licenses in the frequencies range 173.225 MHz to 173.375 MHz. The Commission does not require PLMR licensees to disclose information about number of employees, and does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. The Commission however believes that a substantial number of PLMR licensees may be small entities despite the lack of specific information.

70. *Public Safety Radio Licensees.* As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Because of the vast array of public safety licensees, the Commission has not developed a small business size standard specifically applicable to public safety licensees. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications. The appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of firms can be considered small. With respect to local governments, in particular, since many governmental entities comprise the licensees for these services, we include under public safety services the number of government entities affected. According to Commission records, there are a total of approximately 133,870 licenses within these services. There are 3,577 licenses in the 4.9 GHz band, based on an FCC Universal Licensing System search of September 18, 2020. We estimate that fewer than 2,442 public safety radio licensees hold these licenses because certain entities may have multiple licenses.

71. *Radio Stations.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $41.5 million or less in annual receipts. U.S. Census Bureau data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than $25 million per year and 17 with annual receipts between $25 million and $49,999,999 million. Therefore, based on the SBA's size standard the majority of such entities are small entities.

72. According to Commission staff review of the BIA/Kelsey, LLC's Media Access Pro Radio Database as of January 2018, about 11,261 (or about 99.9 percent) of 11,383 commercial radio stations had revenues of $38.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed commercial AM radio stations to be 4,580 stations and the number of commercial FM radio stations to be 6,726, for a total number of 11,306. We note the Commission has also estimated the number of licensed noncommercial (NCE) FM radio stations to be 4,172. Nevertheless, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

73. We also note, that in assessing whether a business entity 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. In addition, to be determined a ''small business,'' an entity may not be dominant in its field of operation. We further note, that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these basis, thus our estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

74. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

75. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25,000,000 or less, and 25 had annual receipts between $25,000,000 and $49,999,999. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

76. The Commission has estimated the number of licensed commercial television stations to be 1,377. Of this total, 1,258 stations (or about 91 percent) had revenues of $38.5 million or less, according to Commission staff review of the BIA/Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 384. Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,300 low power television stations, including Class A stations (LPTV) and 3,681 TV translator stations. Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

77. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

78. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).

79. *BRS*—In connection with the 1996 BRS auction, the Commission established a small business size

standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 86 incumbent BRS licensees that are considered small entities (18 incumbent BRS licensees do not meet the small business size standard). After adding the number of small business auction licensees to the number of incumbent licensees not already counted, there are currently approximately 133 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

80. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

81. *EBS*—Educational Broadband Service has been included within the broad economic census category and SBA size standard for Wired Telecommunications Carriers since 2007. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA's small business size standard for this category is all such firms having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. In addition to U.S. Census Bureau data, the Commission's Universal Licensing System indicates that as of October 2014, there are 2,206 active EBS licenses. The Commission estimates that of these 2,206 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

82. The excavation or deployment boundaries of an eligible facilities request pose significant policy implications associated with the Commission's rules implementing section 6409(a) of the Spectrum Act of 2012. The Commission believes that the rule changes in the *Report and Order* provide certainty for providers, state and local governments (collectively, localities), and other entities interpreting these rules. We do not believe that our resolution of these matters will create any new reporting, recordkeeping, or other compliance requirements for small entities that will be impacted by our decision.

83. More specifically, the amendment of § 1.6100(b)(7)(iv) to allow a modification of an existing site that entails ground excavation or deployment of up to 30 feet in any direction outside a tower's site does not create any new reporting, recordkeeping, or other compliance requirements for small entities. Rather, it permits an entity submitting an eligible facilities request to undertake limited excavation and deployment of up to 30 feet in any direction. While the Commission cannot quantify the cost of compliance with the changes adopted in the *Report and Order,* small entities should not have to hire attorneys, engineers, consultants, or other professionals to in order to comply. Similarly, the revised definition of ''site'' adopted in the *Report and Order* addresses localities' concerns of ''unending accretion of [a] site by repeated applications for expansion'' by ensuring that a locality has reviewed and approved the site that is the subject of the eligible facilities request, and recognizes that the site may have changed since the locality initially approved it. This action does not create any new reporting, recordkeeping, or other compliance requirements for small entities. Instead, it prevents entities from having to file, and localities from having to receive and review, repeated applications for site excavation or deployments. Further, our actions providing clarity on the definitions of site and substantial change pursuant to the Commission's rules implementing section 6409(a) requirements should benefit all entities involved in the wireless facility modification process.

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

84. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching 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 or 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.

85. In the *Report and Order,* the Commission clarifies and amends its rules associated with wireless infrastructure deployment to provide more certainty to relevant parties and enable small entities and others to more effectively navigate state and local application processes for eligible facilities requests. These changes, which broaden the scope wireless facility modifications that are eligible for streamlined review by localities under the Commission's rules implementing section 6409(a), should reduce the economic impact on small entities that deploy wireless infrastructure by reducing the costs and delay associated with the deployment of such infrastructure. The Commission's efforts to reduce regulatory barriers to infrastructure deployment by further streamlining the review process by localities for modifications to existing wireless towers or base stations under section 6409(a) should also reduce the economic impact on small localities by reducing the administrative costs associated with the review process.

86. The Commission considered but declined to adopt the industry's ''hybrid'' definition of ''site.'' Adopting that proposal would risk permitting a tower owner to file an eligible facilities request even if it may have substantially increased the size of a tower site prior to the adoption of this *Report and Order* and without any necessary approval from a locality. It agreed with localities' concerns on the industry's proposed definition, and found that our revision addresses them by ensuring that a locality has reviewed and approved the eligible support structure that is the subject of the eligible facilities request outside of the section 6409(a) process, while recognizing that the boundaries may have changed since the locality initially approved the eligible support structure. It also considered and rejected a proposal that would risk creating a loophole whereby a tower owner could use the issuance of a permit—which does not necessarily involve a locality's review of the eligible support structure, and thus would not necessarily provide an opportunity for the locality to take into account an increase in the size of the site associated with that structure—to justify expansion of the site without proper local approval. On balance, the Commission believes the revisions adopted in the *Report and Order* best achieve the Commission's goals while at the same time minimize or further reduce the economic impact on small entities, including small state and local government jurisdictions.

87. The Commission also considered, but declined to adopt, NATOA and Local Governments proposal that, to the extent the Commission revises it ''substantial change'' definition, the compound expansion standard should be ''the lesser of the following distance[s] from the current site (not including easements related to the site): a. 20% of the length or width of the current site measured as a longitudinal or latitudinal line from the current site to the excavation or deployment; or b. 30 feet.'' The Commission declined to adopt this proposal because it concluded that, on balance, the potential problems it could create outweigh the potential benefits it could achieve. The Commission reasoned that the standard of ''20% of the length or width of the current site'' would be difficult to administer, given that a site boundary is not necessarily a symmetrical shape. In addition, while the record supports the determination that a 30-foot expansion would be sufficient to accommodate minor equipment additions, the record does not provide support for the determination that the ''20%'' standard would accomplish this goal. Moreover, adopting the ''20%'' proposal would provide limited additional benefit in addressing the concern raised by NATOA and Local Governments. Because a small tower site typically is associated with a small tower that has limited space for additional antennas, it is unlikely that operators would need to place a significant amount of additional equipment in an area outside the site boundaries. In addition, any modification to an existing tower that involves excavation or deployment within the 30-foot expanded area will be subject to the other criteria in the Commission's rules for determining whether there is a substantial change that does not warrant streamlined treatment under section 6409(a). Those criteria, which the Commission does not alter in this document, provide further limitation on the size or scope of a modification that involves excavation or deployment within 30 feet of the site boundaries.

Ordering Clauses

88. Accordingly, *it is ordered,* pursuant to sections 1, 4(i)–(j), 7, 201, 253, 301, 303, 309, 319, and 332 of the Communications Act of 1934, as amended, and section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, as amended, 47 U.S.C. 151, 154(i)–(j), 157, 201, 253, 301, 303, 309, 319, 332, 1455, that this *Report and Order is* hereby *adopted.*

89. *It is further ordered* that this *Report and Order shall be effective* 30 days after publication in the **Federal Register**.

90. *It is further ordered* that the Commission's Consumer & 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.

91. *It is further ordered* that this *Report and Order shall be* sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Communications equipment, Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461, unless otherwise noted.

■ 2. Amend § 1.6100 by revising paragraphs (b)(6) and (b)(7)(iv) to read as follows:

§ 1.6100 Wireless Facility Modifications.

* * * * *

(b) * * *

(6) *Site.* For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the section 6409(a) process.

(7) * * *

(iv) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

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[FR Doc. 2020–25144 Filed 12–2–20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 9

[PS Docket No. 18–261 and 17–239, GN Docket No. 11–117; FCC 19–76; FRS 17201]

Implementing Kari's Law and RAY BAUM'S Act; Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems; Amending the Definition of Interconnected VoIP Service

AGENCY: Federal Communications Commission.