

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 25, and 27

[ET Docket No. 98–237 and WT Docket No. 00–32; FCC 00–363]

### Transfer of the 3650 Through 3700 MHz Band and the 4.9 GHz Band From Federal Government Use

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to establish licensing and service rules for the assignment of fixed and mobile services licenses in the 3650 through 3700 MHz band. This document also seeks comments on whether technical requirements or other reasons justify licensing the band and the 4940 through 4990 MHz band at the same time. This action is intended to facilitate the provision of a broad range of services, including traditional voice telephony and new broadband, high-speed, data and video services, and to help foster the introduction of such services to rural and underserved areas of the United States.

**DATES:** Submit comments on or before December 18, 2000, and submit reply comments on or before January 16, 2001. Written comments by the public on the proposed information collections are due January 16, 2001. Written comments on the proposed information collections must be submitted by the Office Management and Budget (OMB) on the proposed information collections on or before March 19, 2001.

**ADDRESSES:** Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, D.C. 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Ed Springer, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503 or via the Internet to [Edward.Springer@omb.eop.gov](mailto:Edward.Springer@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Eli Johnson, 202–418–1310. For additional information concerning the information collections contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second

Notice of Proposed Rule Making (Second NPRM) in ET Docket No. 98–237 and WT Docket No. 00–32, FCC 00–363, adopted October 12, 2000, and released October 24, 2000. The complete text of the Second NPRM and Initial Regulatory Flexibility Analysis is available on the Commission's Internet site, at [www.fcc.gov](http://www.fcc.gov). It is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, D.C., and may be purchased from the Commission's copy contractor, International Transcription Services, Inc., CY–B400, 445 12th Street S.W., Washington, D.C. Comments may be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>, or by e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov).

### Synopsis of the Second NPRM

1. In this Second NPRM, the Commission proposes licensing and service rules for the assignment of fixed and mobile services licenses in the 3650 through 3700 MHz band to fixed and mobile (base stations) terrestrial services by competitive bidding. The Second NPRM also seeks comment on whether technical requirements or other reasons justify licensing the 4940 through 4990 MHz (4.9 GHz) band at the same time.

2. The 3600 through 3700 MHz band has been allocated for use by the Federal Government on a primary basis for radiolocation services. The associated First Report and Order adopted with the Second NPRM, allocates the 50 megahertz of spectrum in the 3650 through 3700 MHz band to the fixed and mobile (base stations) terrestrial services on a primary basis. (See Notice of Proposed Rulemaking and Order in ET Docket No. 98–237, 64 FR 2462, January 14, 1999.)

3. The Commission is “grandfathering” existing fixed satellite service (FSS) earth stations in this band, and, for a limited time will accept new applications for FSS earth stations in the vicinity of these grandfathered sites to operate on a co-primary basis in the band. The Commission will also permit additional FSS earth station operations on a secondary basis. The Second NPRM proposes that both new and existing FSS earth stations be subject to part 25 of the Commission's Rules.

4. As discussed in paragraph 120 in the full text of the Second NPRM, the Commission proposes to assign terrestrial service licenses in this band pursuant to the Commission's part 1 competitive bidding rules. The Commission also proposes to license the 3650 through 3700 MHz band under part 27 of the Commission's Rules as

modified to reflect the particular characteristics and circumstances of services offered through the use of spectrum in the 3650 through 3700 band. (See the Proposed Rules portion of this FR Summary or Appendix E of the Second NPRM.) The Commission also seeks comment on the geographic area and spectrum blocks that should be used to license this spectrum. Further, as discussed in paragraphs 42 through 44 of the Second NPRM, the Commission seeks comment on whether technical requirements or other reasons justify licensing the 3650 through 3700 MHz and the 4.9 GHz bands at the same time. (See the Notice of Proposed Rulemaking in WT Docket 00–32, 65 FR 14230, March 16, 2000.)

5. The Commission, in paragraph 47 of the Second NPRM, proposes that licensees in the 3650 through 3700 MHz band be subject to the Universal Licensing System (ULS). ULS is the interactive licensing database developed by the Wireless Telecommunications Bureau to consolidate and replace eleven existing licensing systems used to process applications and grant licenses in the wireless services. License applications filed by part 27 licensees must be filed electronically via ULS.

6. The Commission, as indicated in paragraph 49 of the Second NPRM, seeks comment from the public in general concerning the proposals set forth in the Second NPRM. The Commission, however, specifically seeks comment from Indian Tribal governments on the proposals contained in the Second NPRM. The Commission believes that the proposals set forth in the Second NPRM have the potential to foster the development and, ultimately, the deployment of new technologies and services to many communities, including tribal communities. Thus, the Commission seeks comment both from Tribal governments and other interested parties on the potential for the spectrum proposals to serve the communications needs of tribal communities.

7. Paragraphs 50 through 56 of the Second NPRM consider regulatory status and flexible use of the 3650 through 3700 MHz band. In this section, the Commission proposes that applicants and licensees in this band not be required to describe their proposed services, but be required to indicate a regulatory status based on any services they choose to provide. Under this proposal, licensees who change the service they offer, such that it would change their regulatory status, must notify the Commission within 30 days of the change. Changes resulting in the discontinuance, reduction, or impairment of the existing service could

require a different time period for notification as governed by section 101.305 of the Commission's Rules. Paragraphs 57 through 60 of the Second NPRM address eligibility restrictions and spectrum aggregation limitations. Paragraphs 61 through 63 of the Second NPRM pertain to foreign ownership restrictions in the 3650 through 3700 MHz band.

8. Other issues discussed in the Second NPRM include geographic areas and spectrum blocks (paragraphs 64 through 71), license term and renewal expectancy (paragraphs 72 through 74), partitioning and disaggregation of licenses and the use of band managers (paragraphs 75 through 81), performance requirements (paragraphs 82 through 88), equal employment opportunity issues (paragraphs 89 through 90), technical rules (paragraphs 91 and 92), in-band interference control (paragraphs 93 through 109), adjacent band interference control (paragraphs 110 through 116), RF Safety (paragraphs 117 through 119), competitive bidding provisions for small businesses (paragraphs 120 through 127), and additional satellite issues (paragraphs 128 through 133).

#### Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the Second NPRM. The Commission requests written public comment on the analysis. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Initial Regulatory Flexibility Analysis, the Commission asks a number of questions in the IRFA regarding the prevalence of small businesses in the affected industries.

10. Comments regarding the IRFA must be filed in accordance with the same filing deadlines as comments filed in this Second NPRM, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this Second NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

#### Ex Parte Presentations

11. For purposes of this permit-but-disclose notice and comment rulemaking proceeding, members of the public are advised that *ex parte* presentations are permitted, except

during the Sunshine Agenda period, provided they are disclosed under the Commission's Rules. (*See generally* 47 CFR 1.1202, 1.1203, 1.1206((a).)

#### Pleading Dates

12. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before December 18, 2000, and reply comments on or before January 16, 2001. Comments and reply comments should be filed in ET Docket No. 98-237 and WT Docket No. 00-32. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 Twelfth Street, S.W., Washington, D.C. 20554, with a copy to Eli Johnson, Policy Division, Wireless Telecommunications Bureau, 445 Twelfth Street, S.W., Washington, D.C. 20554.

13. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet E-Mail. To obtain filing instructions for E-Mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your E-Mail address>." A sample form and directions will be sent in reply.

14. Comments and reply comments will be available for public inspection during regular business hours at the FCC Reference Center, Room CY-A257, at the Federal Communications Commission, 445 Twelfth Street, S.W., Washington, D.C. 20554. Copies of comments and reply comments are available through the Commission's duplicating contractor: International Transcription Service, Inc. (ITS, Inc.), CY-B400, 445 12th Street, S.W.,

Washington, D.C. 20054, (202) 857-3800.

#### Ordering Clauses

15. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Second Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat 1164, 5 U.S.C. 601 *et seq.* (1981).

16. Pursuant to sections 4, 4(i), 157, 303, 303(g), 303(r), 307, and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 154(i), 157, 303, 303(g), 303(r), 307, and 332 (c)(7) the Second Notice of Proposed Rule Making is adopted.

#### Initial Regulatory Flexibility Analysis

17. This is a synopsis of the Initial Regulatory Flexibility Act Statement in this Second Notice of Proposed Rule Making (Second NPRM). The full text of the Initial Regulatory Flexibility Act Statement may be found in Appendix C of the full Second NPRM.

18. As required by the Regulatory Flexibility Act (RFA) the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Second NPRM. 5 U.S.C. 603 The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Second NPRM. The Commission will send a copy of the Second NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

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

19. The actions taken in this Second NPRM are intended to facilitate the provision of a broad range of services. The Commission believes the 3650 through 3700 MHz band may be used to foster the introduction of wireless services to rural areas of the United States and to develop new and more effective competition to existing wireline local exchange carriers by providing for an economical means to

offer competitive "local loop" or "last-mile" facilities.

#### *B. Legal Basis for Proposed Rules*

20. The proposed action is authorized under sections 4, 4(i), 157, 303, 303(g), 303(r), 307, and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 154(i), 157, 303, 303(g), 303(r), 307, and 332(c)(7).

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

21. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 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 Section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

22. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. The definition of "small governmental jurisdiction" is one with populations of fewer than 50,000. There are 85,006 governmental jurisdictions in the nation. The Commission estimates that 96 percent, or about 81,600, are small entities that may be affected by the proposed rules. Nationwide, there are 4.44 million small business firms, according to SBA reporting data.

23. The Commission has not developed a definition of small entities applicable to fixed satellite service licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is one with no more than \$11.0 million in annual receipts. According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported

annual receipts of \$11 million or less and qualify as small entities.

24. The Commission must assign licenses for this spectrum by competitive bidding to satisfy the requirements of the Balanced Budget Act of 1997. The Commission has not yet determined how many licenses will be awarded. Moreover, the Commission does not know how many licensees will partition their license areas or disaggregate their spectrum blocks, if partitioning and disaggregation are allowed. The Commission therefore assumes that, for purposes of our evaluations and conclusions in the IRFA, all prospective licensees are small entities, as that term is defined by the SBA or our proposed small business definitions for terrestrial fixed and mobile services in the 3650 through 3700 MHz band.

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

25. Applicants for licenses to provide terrestrial fixed and mobile services in the 3650 through 3700 MHz band will be required to submit short-form applications using FCC Form 175. In addition, winning bidders must submit long-form license applications through the Universal Licensing System using FCC Form 601, and other appropriate forms. The Commission invites comment on how these filing requirements can be modified to reduce the burden on small entities.

26. As proposed, all services, other than fixed satellite service earth stations, in the 3650 through 3700 MHz band would be governed by part 27 of the Commission's Rules, and, in certain instances, part 20. The proposals under consideration in this item include requiring commercial licensees to make showings that they are in compliance with construction requirements, file applications for license renewals and make certain other filings as required by the Communications Act. The Commission requests comment on how these requirements can be modified to reduce the burden on small entities and still meet the objectives of the proceeding.

#### *E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

27. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources

available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

28. The Second NPRM proposes the following small business definitions for bidders in auctions of licenses in the 3650 through 3700 MHz band: an "entrepreneur" would be defined as an entity with average annual gross revenues for the three preceding years not exceeding \$40 million, a "small business" would be defined as an entity with average annual gross revenues for the three preceding years not exceeding \$15 million, and a "very small business" would be defined as an entity with average annual gross revenues for the three preceding years not exceeding \$3 million. In developing these definitions, the Commission considered the alternative of using only two small business definitions, as it did in the case of the 2.3 GHz Wireless Communications Service (WCS) and certain other services. However, the Commission believes that an additional third category of small businesses may be appropriate because the deployment of fixed wireless equipment in nearby spectrum bands suggests that entry costs may be lower than was the case for the 2.3 GHz WCS when it was licensed in 1997. Thus, very small businesses may now be better able to take advantage of bidding credits to acquire licenses and provide communications services.

29. The Commission, while proposing a requirement that fixed and mobile services applicants identify whether or not they seek to provide common carrier services, also proposes to allow these applicants to request common carrier status as well as non-common carrier status for authorization in a single license, rather than require these applicants to choose between common carrier and non-common carrier services. The Commission also proposes that fixed and mobile applicants and licensees in the 3650 through 3700 MHz band not be required to describe their proposed services, but be required to indicate a regulatory status based on any services they choose to provide. The Commission, however, particularly seeks comment on the effect of this flexible approach on possible investment in communications services and systems and more generally on technology development.

30. The Commission proposes that there be no restrictions on eligibility for fixed and mobile services licensees in

the 3650 through 3700 MHz and 4.9 GHz bands other than the alien ownership restrictions set forth in section 310 of the Communications Act. The Commission proposes that both common carrier and non-common carrier licensees in the 3650 through 3700 MHz band provide the alien ownership information requested in FCC Form 601, as well as amendments to FCC Form 602 to reflect any changes in foreign ownership information.

31. The Commission has reduced burdens wherever possible. To minimize any negative impact, however, the Commission proposes certain provisions that will redound to the benefit of small entities. These special provisions include partitioning and spectrum disaggregation. These provisions will allow smaller entities to overcome entry barriers. In addition, the Commission seeks comment on whether it would be appropriate to license the 3650 through 3700 MHz band for fixed and mobile services using smaller geographical licensing areas. The use of smaller licensing areas could benefit small entities by reducing costs and build-out expenses. The Commission also seeks comment on different approaches to minimizing the burdens of interference management.

32. The regulatory burdens the Commission proposed to retain are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner. The Commission will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing any significant economic impact on small entities. The Commission seeks comment on significant alternatives commenters believe we should adopt.

#### *F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules*

33. None.

#### **Paperwork Reduction Analysis**

34. This Second NPRM contains proposed and modified information collections. As part of our continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Second NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due January 16, 2001. OMB comments are due March 19, 2001. Comments should address: (1) Whether the

proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060-0926.

*Title:* The Transfer of the Bands from Federal Government Use: Notice of Proposed Rulemaking.

*Form No.:* FCC Forms 601, 602, 603, 604, 605.

*Type of Review:* Modified information collection.

*Respondents:* Business or other for profit.

*Number of Respondents:* 200.

*Estimated Time Per Response:* 113 hours.

*Total Annual Cost Burden:* 0.

*Total Annual Burden:* 22,600 hours.

*Needs and Uses:* The various information reporting and verification requirements, and the prospective coordination requirement will be used by the Commission to verify licensee compliance with Commission rules and regulations, and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934. Such information has been used in the past and will continue to be used to minimize interference, verify that applicants are legally and technically qualified to hold licenses, and to determine compliance with Commission rules.

#### **List of Subjects**

*47 CFR Part 2*

Radio.

*47 CFR Parts 25 and 27*

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

#### **Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2, 25 and 27 as follows:

## **PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS**

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

**Authority:** 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Add a new non-Federal Government footnote in numerical order to § 2.106, the Table of Frequency Allocations, to read as follows:

#### **§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

Non-Federal Government (NG)  
Footnotes

\* \* \* \* \*

NGXXX Fixed-satellite service systems that operate primarily outside the 3650 through 3700 MHz band may be authorized to perform space operations, such as, telemetry, tracking and telecommand operations in the band 3650 through 3700 MHz, provided the requirement in § 25.202(g)(1) of this chapter is satisfied.

\* \* \* \* \*

## **PART 25—SATELLITE COMMUNICATIONS**

3. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701-744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 322, unless otherwise noted.

4. In § 25.202, add a new sentence at the end of paragraph (g) to read as follows:

#### **§ 25.202 Frequencies, frequency tolerance and emission limitations.**

\* \* \* \* \*

(g) \* \* \* Telemetry, tracking and telecommand functions for satellite service systems operating outside of the band 3650 through 3700 MHz may be authorized on a secondary basis in the 3650 through 3700 MHz band upon a particularized showing of need.

## **PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES**

5. The authority citation for part 27 continues to read as follows:

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

6. Add new paragraph (b)(3) to § 27.1 to read as follows:

#### **§ 27.1 Basis and purpose.**

\* \* \* \* \*

(b) \* \* \*

(3) 3650 through 3700 MHz band.

\* \* \* \* \*

7. Add the following definition in alphabetical order to § 27.4 to read as follows:

**§ 27.4 Terms and definitions.**

\* \* \* \* \*

*Grandfathered fixed satellite service earth station.* An earth station in the 3650 through 3700 MHz band is an earth station that is authorized prior to December 1, 2000, or granted as a result of an application filed prior to December 1, 2000.

\* \* \* \* \*

8. Add new paragraph (c) to § 27.5 to read as follows:

**§ 27.5 Frequencies.**

\* \* \* \* \*

(c) *3650 through 3700 MHz band.* The 3650 through 3700 MHz band is available for licensing pursuant to this part.

9. In § 27.14, redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

**§ 27.14 Construction requirements; Criteria for comparative renewal proceedings.**

\* \* \* \* \*

(d) *3650 through 3700 MHz band.* (1) For a WCS licensee that offers fixed, point-to-point service, the construction of four permanent links per one million people in its licensed service area within the prescribed license term set forth in § 27.13 would constitute substantial service.

(2) For a WCS licensee that offers fixed, point-to-multipoint service, a demonstration of coverage of 20 percent of the population of its licensed service area within the prescribed license term set forth in § 27.13 would constitute substantial service.

(3) For a licensee that offers fixed satellite service, the construction of one earth station per licensed service area within the prescribed license term set forth in § 27.13 would constitute substantial service.

\* \* \* \* \*

10. In § 27.50, redesignate paragraph (c) as paragraph (d) and add a new paragraph (c) to read as follows:

**§ 27.50 Power limits.**

\* \* \* \* \*

(c) The following power and antenna height limits apply to base and fixed stations operating in the 3650 through 3700 MHz band: Base and fixed stations must not exceed an effective radiated power of 1640 watts and an antenna

height of 300 m height above average terrain, or its equivalent.

\* \* \* \* \*

11. In § 27.53, redesignate paragraph (f) as paragraph (g) and add a new paragraph (f) to read as follows:

**§ 27.53 Emission limits.**

\* \* \* \* \*

(f) Base and fixed service operations in the 3650 through 3700 MHz band are subject to the emission limits set forth in § 101.111 of this chapter.

\* \* \* \* \*

12. Add new paragraph (c) to § 27.55 to read as follows:

**§ 27.55 Field strength limits.**

\* \* \* \* \*

(c) 3650 through 3700 MHz band: 54 dBµV/m

13. Revise § 27.57 to read as follows:

**§ 27.57 International coordination.**

WCS licensees shall comply with the appropriate coordination agreements between the United States and Canada and the United States and Mexico concerning cross-border sharing and use of WCS bands. Operations in the border areas shall be subject to coordination with bordering countries and provide protection to non-U.S. operations in the appropriate frequency bands. In addition, satellite operations in WCS spectrum shall be subject to international satellite coordination procedures.

14. In § 27.58, add introductory text before paragraph (a) to read as follows:

**§ 27.58 Interference to MDS/ITFS receivers.**

The following rules concerning interference to Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") receivers apply only to WCS licensees in the 2305–2320 and 2345–2360 MHz bands:

\* \* \* \* \*

15. Add a new § 27.61 to read as follows:

**§ 27.61 FS/FSS coordination procedure.**

Base and fixed service transmitters in the 3650 through 3700 MHz band that are located within 200 kilometers of a grandfathered fixed satellite service earth station must be coordinated prior to construction to reduce the potential for interference. The fixed station licensee must use the coordination procedures specified in § 101.21 of this chapter.

16. A new Subpart H is added to part 27 to read as follows:

**Subpart H—Competitive Bidding Procedures for the 3650 Through 3700 MHz Band**

Sec.

27.701 3650 through 3700 MHz band

subject to competitive bidding.

27.702 Designated entities.

**Subpart H—Competitive Bidding Procedures for the 3650 Through 3700 MHz Band**

**§ 27.701 3650 through 3700 MHz band subject to competitive bidding.**

Mutually exclusive initial applications for terrestrial service licenses in the 3650 through 3700 MHz band are subject to competitive bidding procedures. The procedures set forth in part 1, subpart Q, of this chapter will apply unless otherwise provided in this part.

**§ 27.702 Designated entities.**

(a) *Eligibility for small business provisions.* (1) A very small business is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years.

(2) A small business is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$15 million for the preceding three years.

(3) An entrepreneur is an entity that, together with its controlling interests and affiliates, has average gross revenues not exceeding \$40 million for the preceding three years.

(4) For purposes of determining whether an entity meets any of the definitions set forth in paragraph (a)(1), (a)(2), or (a)(3) of this section, the gross revenues of the entity, its controlling interests and affiliates shall be considered in the manner set forth in § 1.2110(b) and (c) of this chapter.

(5) A consortium of very small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition in paragraph (a)(1) of this section. A consortium of small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition in paragraph (a)(2) of this section. A consortium of entrepreneurs is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which individually satisfies the definition in paragraph (a)(3) of this section. Where an applicant or licensee

is a consortium of small businesses (or very small businesses or entrepreneurs), the gross revenues of each small business (or very small business or entrepreneur) shall not be aggregated.

(b) *Bidding credits.* A winning bidder that qualifies as a very small business or a consortium of very small businesses as

defined in this section may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business or a consortium of small businesses as defined in this section may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A

winning bidder that qualifies as an entrepreneur or a consortium of entrepreneurs as defined in this section may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

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