

The Commission is also considering, without proposing a specific rule, whether and how Tribes without tribal lands can qualify for the Tribal Priority. The proposals offered for consideration by commenters are (1) Whether an applicant or proponent is deemed to provide tribal area coverage if it covers a certain threshold tribal population or population density, (2) whether historical or contemporary cultural links between a Tribe and land or population covered should be taken into account in making the tribal coverage and community of license determinations, and (3) whether the fact that a currently landless Tribe or Tribes previously occupied the coverage area or proposed community of license should be taken into account. The Commission considers these proposals, and seeks comment and suggestions as to other ways to extend the benefits of the Tribal Priority to those Tribes that do not have reservations or other tribal lands, allowing such "landless" Tribes to acquire radio stations to achieve the goals of aiding tribal development, and perpetuating tribal language and culture.

Legal Basis. The authority for this proposed rulemaking is contained in Sections 1, 2, 4(i), 303, 307, and 309(j) of the Communications Act of 1934, 47 U.S.C 151, 152, 154(i), 303, 307, and 309(j).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term "small entity" as encompassing the terms "small business," "small organization," and "small governmental entity." 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.

Radio Stations. The proposed rules and policies potentially will apply to all AM and FM radio broadcasting applicants, and proponents for new FM allotments, who qualify for the Tribal Priority adopted in the First R&O in this proceeding. The "Radio Stations" 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, which is: such firms having \$7 million or less in annual receipts. According to BIA Advisory Services, LLC, MEDIA Access Pro Database on March 17, 2009, 10,884 (95%) of 11,404 commercial radio stations have revenue of \$6 million or less. Therefore, the majority of such entities are small entities. We note, however, that in assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included. In addition, to be determined to be a "small business," the entity may not be dominant in its field of operation. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. The proposed rule and procedural changes may, in some cases, impose different reporting requirements on existing and potential radio licensees and permittees, insofar as they would require or allow certain applicants to file new technical and population coverage information on or after filing the short form application (FCC 175) or in the noncommercial educational long form application (FCC 340). However, the information to be filed is already familiar to broadcasters, and the information requested to claim the Tribal Priority is similar to current Section 307(b) showings, so any additional burdens would be minimal.

To the extent that other applicants would be disadvantaged by Tribes qualifying for the Tribal Priority, the Commission believes that such burdens would be offset by the fact that the Tribal Priority is designed to redress inequities in the number of tribal radio licensees, compared to the population of tribal citizens in the United States and the fact that some of these citizens were deprived of their original tribal lands. The Tribal Priority, then, not only helps the Commission to meet its goals of ownership and program diversity, but also furthers the federal government's obligations toward Tribes to assist them in promulgating tribal languages and cultures, and to support tribal self-government.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (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 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. In the FNPRM, the Commission seeks to provide additional opportunities for participation by Tribes in broadcast auctions, especially FM auctions, and to open up the Tribal Priority to those Tribes who do not currently have tribal lands, and who therefore cannot qualify under the Tribal Priority's tribal coverage criterion. The Commission is open to consideration of alternatives to the proposals under consideration, as set forth herein, including but not limited to alternatives that will minimize the burden on broadcasters, most of whom are small businesses. There may be unique circumstances these entities may face, and we will consider appropriate action for small broadcasters when preparing a Report and Order in this matter.

Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals. None.

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Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10-307; MB Docket No. 10-49; RM-11593]

Television Broadcasting Services; Beaumont, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Freedom Broadcasting of Texas ("Freedom Broadcasting"), the licensee of KFDM(TV), channel 21, Beaumont, Texas. Freedom Broadcasting requests

the substitution of channel 25 for channel 21 at Beaumont.

DATES: Comments must be filed on or before March 19, 2010, and reply comments on or before March 29, 2010.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: John P. Janka, Esq., Latham & Watkins LLP, 555 Eleventh Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT:

Adrienne Y. Denysyk,
adrienne.denysyk@fcc.gov, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 10-49, adopted February 23, 2010, and released February 24, 2010. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed 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).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47

CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Texas, is amended by adding channel 25 and removing channel 21 at Beaumont.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1809, 1827, 1837, and 1852

RIN 4700-AD43

Release, Handling, and Protection of Restricted Information

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) to clarify the policy and procedures regarding the release of contractors' restricted information and the handling and protection of restricted information by contractors. This document proposes to change the term "sensitive information" to "restricted information;" clarify what data constitutes restricted information; and revise and move the coverage relative to providing contractors access to restricted information and release of contractors' restricted information to another part. These changes are required to clarify the applicability of clauses addressing

contractor handling and protection of restricted information and to clarify what data constitutes restricted information. Additionally, these changes will provide for consistent application of clauses and understanding of what constitutes restricted information. This proposed rule would also update NASA's waiver of the requirements of FAR 9.505-4 to reflect the policy and procedures regarding the release of contractors' restricted information and the handling and protection of restricted information by contractors. This proposed rulemaking would monitor and work to align with recent administration efforts to review the controlled unclassified information (CUI) framework to the extent that it impacts information designation, protection, release, and handling procedures addressed in this proposed rule.

DATES: Comments should be submitted on or before May 3, 2010 to be considered in formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700-AD43, via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to Leigh Pomponio, NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546. Comments may also be submitted by e-mail to leigh.pomponio@nasa.gov.

FOR FURTHER INFORMATION CONTACT: Leigh Pomponio, Office of Procurement, Contract Management Division, (202) 358-0592, e-mail: leigh.pomponio@nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Currently the NFS addresses the release of contractors' sensitive information and access to sensitive information in NFS Part 1837, Service Contracting and NFS Subpart 1837.2, Advisory and Assistance Services, uses the term "sensitive information" to describe data that may be subject to certain restrictions or subject to special handling procedures and protection from inappropriate disclosure. This rule changes the term "sensitive information" to "restricted information" as well as amends and moves from NFS Subpart 1837.2 to NFS Subpart 1827.4, Rights in Data and Copyrights, NASA's policy on release and protection and handling of such information. This action serves to clarify the nature of the information and