

(i) The existing AO would be permitted to continue operating their existing CMS-approved accreditation programs, if the change of ownership transaction was not completed, unless our review of the transaction revealed issues with the AO that were the subject of the un-finalized change of ownership transaction that was previously unknown to CMS.

(ii) If a change of ownership transaction was completed without notice to CMS or the approval of CMS, CMS would be able to withdraw the existing approval of the AO's accreditation programs in accordance with § 488.8(c)(3)(ii) and (iii) of this section.

(8) *Withdrawal of CMS approval for accreditation programs which are transferred notwithstanding CMS' disapproval of the transfer.* In the event that the parties complete the change of ownership transaction, notwithstanding CMS disapproval and the purchaser/buyer/transferee attempts to operate the transferred accreditation program(s) under the CMS-approval granted to the previous owner, CMS will withdraw the existing approval of the transferred accreditation program(s) in accordance with the procedures set out at § 488.8(c)(3)(ii) and (iii).

(9) *Requirements for continuation of a deemed status accreditation of Medicare-certified providers and suppliers after CMS withdraws the existing approval of the transferred accreditation program(s).* If CMS withdraws the existing approval of the transferred accreditation program(s) because the change of ownership transaction was completed without notice to CMS or the approval of CMS, an affected Medicare-Certified provider or supplier's deemed status will continue in effect for 180 calendar days if the Medicare-Certified provider or supplier takes the following steps set forth in § 488.8(g).

(i) The Medicare-certified provider or supplier must submit an application to another CMS-approved accreditation program within 60 calendar days from the date of publication of the removal notice in the **Federal Register**; and

(ii) The Medicare-certified provider or supplier must provide written notice to the SA that it has submitted an application for accreditation under another CMS-approved accreditation program within this same 60-calendar day timeframe in accordance with § 488.8(g).

(iii) Failure to comply with the timeframe requirements specified in § 488.8(g) will place the provider or supplier under the SA's authority for

continued participation in Medicare and on-going monitoring.

(10) *Requirements for continuation of accreditation for non-certified suppliers when CMS withdraws the existing approval of the transferred accreditation program(s).* If CMS withdraws its existing approval from a transferred non-certified accreditation program for Advanced Diagnostic Imaging (ADI) suppliers; Home Infusion Therapy (HIT) suppliers; Diabetic Self-Management Training (DSMT) entities; Durable Medical Equipment Prosthetics, Orthotics and Supplies (DMEPOS) suppliers; or clinical laboratories, because a change of ownership transaction was completed without notice to or the approval of CMS, such affected non-certified supplier's deemed status would continue in effect for 1 year after the removal of the existing CMS accreditation approval, if such non-certified supplier take the steps specified paragraphs (f)(10)(i) and (ii) of this section—

(i) The non-certified supplier must submit an application to another CMS-approved accreditation program within 60 calendar days from the date of publication of the removal notice in the **Federal Register**; and

(ii) The non-certified supplier must provide written notice to CMS stating that it has submitted an application for accreditation under another CMS-approved accreditation program within the 60-calendar days from the date of publication of the removal notice in the **Federal Register**.

(iii) Failure to comply with the above-stated timeframe requirements will result in de-recognition of such provider or supplier's accreditation.

■ 9. Section 488.1030 is amended by adding paragraph (g) to read as follows:

§ 488.1030 Ongoing review of home infusion therapy accrediting organizations.

* * * * *

(g) *Change of ownership.* An accrediting organization that wishes to undergo a change of ownership is subject to the requirements set out at § 488.5(f).

PART 493—LABORATORY REQUIREMENTS

■ 10. The authority citation for part 493 is revised to read as follows:

Authority: 42 U.S.C. 263a, 1302, 1395x(e), the sentence following 1395x(s)(11) through 1395x(s)(16).

■ 11. Section 493.553 is amended by adding paragraph (e) to read as follows:

§ 493.553 Approval process (application and reapplication) for accreditation organizations and State licensure programs.

* * * * *

(e) *Change of ownership.* An accrediting organization that wishes to undergo a change of ownership is subject to the requirements set out at § 488.5(f) of this chapter.

Dated: November 7, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: April 2, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019-08939 Filed 4-30-19; 11:15 am]

BILLING CODE 4120-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 19-71; FCC 19-36]

Updating the Commission's Rule for Over-the-Air Reception Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on updating the Over-the-Air Reception Devices (OTARD) rule by eliminating the restriction that currently excludes hub and relay antennas from the scope of the rule.

DATES: Interested parties may file comments on or before June 3, 2019, and reply comments on or before June 17, 2019.

ADDRESSES: You may submit comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). *All filings related to this document shall refer to WT Docket No. 19-71.*

■ *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

■ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All

filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People With Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection modifications proposed herein should be submitted to the Commission via email to PRA@fcc.gov and to Nicholas A. Fraser, Office of Management and Budget, via email to Nicholas_A_Fraser@omb.eop.gov or via fax at 202-395-5167.

FOR FURTHER INFORMATION CONTACT: For further information on this proceeding, contact Erin Boone, Erin.Boone@fcc.gov, of the Wireless Telecommunications Bureau, Competition & Infrastructure Policy Division, (202) 418-0736.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rulemaking (NPRM), in WT Docket No. 19-71; FCC 19-36, adopted April 12, 2019, and released on April 12, 2019. The document is available for download at http://fjallfoss.fcc.gov/edocs_public/. The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY-A257, Washington, DC 20554. To request materials in accessible formats for

people with disabilities (Braille, large print, electronic files, audio format), send an email to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Synopsis

I. NPRM

1. The Commission agrees with the Wireless Internet Service Providers Association (WISPA) that it should seek comment on modernizing and updating the OTARD regulatory framework to reflect the current technological landscape. Accordingly, the Commission proposes to eliminate the restriction that currently excludes hub and relay antennas from the scope of the OTARD provisions. The Commission's previous decision to limit the applicability of the OTARD rule reflected the infrastructure needs of a previous generation of wireless technologies that relied on larger antennas spread over greater distances to provide service to consumers. The wireless infrastructure landscape has since shifted toward the development of 5G networks and technologies that require dense deployment of smaller antennas across provider networks in locations closer to customers. The Commission anticipates that revising the OTARD framework would allow fixed wireless providers to deploy hub and relay antennas more quickly and efficiently and would help spur investment in and deployment of needed infrastructure in a manner that is consistent with the public interest. The Commission seeks comment on its proposal.

2. The Commission seeks comment on the extent to which extending the OTARD rule to fixed wireless hub and relay antennas would spur infrastructure deployment, including the deployment of mesh networks in urban, suburban, and rural areas. To what extent would extending the rule create more siting opportunities for fixed wireless service providers? What effect would adoption of the proposed rule have on infrastructure deployment in rural, Tribal, and other underserved areas? What effect would it have on infrastructure deployment by small providers? With respect to the hub and relay antennas, what types of services are these antennas typically used to supply, and what types of services might they supply in the future? Where do providers expect to deploy these facilities? To what extent are these facilities typically used to provide service both to the owner of the property on which they are located as

well as to other customers? To what extent do State, local, or private restrictions delay or impede the installation of fixed wireless hub or relay antennas currently? If there are delays or impediments, commenters should provide information and data on the length of delays and associated costs imposed by the restrictions. In addition, the Commission seeks comment on whether updating the OTARD rule could help facilitate the deployment of other 5G infrastructure, such as small wireless facilities.

3. Do fixed wireless service providers face a competitive disadvantage with respect to the deployment of these network facilities compared with other types of providers, such as carriers whose deployments are subject to the provisions of Section 253 of the Act or mobile operators whose deployments are subject to the provisions of Section 332? What are these competitive disadvantages? To what extent would extending OTARD protections as described here effectively address any competitive disparity? Specifically, would extending OTARD protections increase competition or provide an incentive for entry? Commenters opposing the proposal should explain their reasons for doing so, including providing any relevant data, and should discuss other steps the Commission could take to facilitate the deployment of the infrastructure necessary for modern fixed wireless networks.

4. The OTARD rule preempts restrictions on antennas that are located on property within the antenna user's exclusive use or control, and where the user has an ownership or leasehold interest in the property, and it does not apply to restrictions on antennas located in common areas. How should the rule apply in the case of hub or relay antennas? Should the Commission clarify that it will interpret "antenna user" to include fixed wireless service providers? For example, if a fixed wireless service provider leases space for a hub antenna on private property, should the Commission clarify that the service provider becomes the "antenna user" with respect to that property? Would doing so be necessary to ensure that fixed wireless providers are able to take advantage of an expanded OTARD rule? "Fixed wireless signals" are defined under the rule to mean "any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location." Should the Commission revise this provision to delete the word "customer"? Is doing so necessary to ensure that the rule applies to hub and relay antennas? Should the

Commission further define the term “hub or relay antenna”? If so, what definition should it adopt? Is it necessary to make any other changes to the text of the rule to ensure that it extends to hub and relay antennas or would other rule revisions or interpretations better effectuate the proposal?

5. Currently, the OTARD provisions applicable to fixed wireless antennas apply only to those antennas measuring one meter or less in diameter or diagonal measurement. In addition, the current rule is subject to an exception for State, local, or private restrictions that are necessary to accomplish a clearly defined, legitimate safety objective, or to preserve prehistoric or historic places that are eligible for inclusion on the National Register of Historic Places, provided such restrictions impose as little burden as necessary to achieve the foregoing objectives, and apply in a nondiscriminatory manner throughout the regulated area. The Commission proposes not to change these aspects of the rule at this time. The Commission seeks comment on this approach. Is there any reason to approach the size-limitation differently in rural or underserved areas?

6. The Commission proposes to rely on the legal authority it relied on originally to extending the OTARD rule to apply to antennas used in connection with fixed wireless services. The Commission notes that it assumed all hub sites were “personal wireless service facilities” covered by section 332(c)(7) of the Act—defined by the Act to include only facilities that provide “telecommunications services”—and therefore beyond the scope of its OTARD provisions. However, this assumption does not currently appear to be accurate. The Commission therefore seeks comment on extending relief to those relay antennas and hub sites that are not “personal wireless service facilities”—*i.e.*, those that fall into the gap between the current OTARD provisions and the protections of section 332(c)(7) of the Act, and those that WISPA claims are needed for modern high-speed broadband wireless networks. Commenters are invited to identify any other legal authorities that may be relevant.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible

significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

8. In the NPRM, the Commission seeks comment on proposals to facilitate the deployment of 5G wireless networks and technologies by removing outdated regulatory requirements. Specifically, the Commission proposes to eliminate the restriction that currently excludes certain hub and relay antennas from the scope of the over-the-air reception devices (OTARD) provisions. The Commission’s earlier decision to limit the applicability of the OTARD rule reflected the infrastructure needs of a previous generation of wireless technologies that relied on larger antennas spread over greater distances to provide service to consumers. The wireless infrastructure landscape has since shifted to the development of 5G networks and technologies that require dense deployment of smaller antennas across provider networks in locations closer to customers. The Commission anticipates that revising the OTARD framework to allow fixed wireless providers to deploy hub and relay antennas more quickly and efficiently in areas within their exclusive use or control will help spur investment in and deployment of needed infrastructure in a manner that is consistent with the public interest.

9. Currently, the OTARD provisions applicable to fixed wireless antennas apply only to those antennas measuring one meter or less in diameter or diagonal measurement. The current rule is also subject to an exception for state, local, or private restrictions that are necessary to accomplish a clearly defined, legitimate safety objective or to preserve an eligible category of prehistoric or historic preservation place, provided such restrictions impose as little burden as necessary to achieve the foregoing objectives, and apply in a nondiscriminatory manner throughout the regulated area.

10. In the Notice the Commission asks detailed questions about its proposals to

update the OTARD rule, and request comments to help us evaluate the impact of the proposed rule changes and facilitate the deployment of modern fixed wireless infrastructure by modernizing the OTARD rule.

2. Legal Basis

11. The proposed actions are authorized under sections 1, 4(i), s201(b), 202(a), 205(a), 303(r), and 1302 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 205(a), 303(r), and 1302 and section 207 of the Telecommunications Act of 1996, Public Law 104–104, section 207, 110 Stat. 56, 114.

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

12. 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 and policies, 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 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. Below, the Commission provides a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

13. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes 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 SBA’s 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 28.8 million businesses.

14. 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.” Nationwide, as of August 2016, there were approximately 356,494 small

organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

15. 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 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of “small governmental jurisdictions.”

16. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

17. *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 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 wireless telecommunications carriers (except satellite) are small entities.

18. The Commission’s own data—available in its Universal Licensing System—indicate that, as of May 17, 2018, there are 264 Cellular licensees that will be affected by the Commission’s actions today. 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 Telephony (SMR) 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, the Commission estimates that the majority of wireless firms can be considered small.

19. *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.

20. 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 the Commission 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, the Commission does 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 the Commission seeks comment. Moreover, the SBA has not developed a size standard for small businesses in the category “Tower Owners.” Therefore, the Commission is unable to determine the number of non-licensee tower owners that are small entities. The Commission believes, 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 the Commission seeks comment. The Commission does not have any basis for estimating the number of such non-licensee owners that are small entities.

21. The closest applicable SBA category is All Other Telecommunications, and the appropriate size standard consists of all such firms with gross annual receipts of \$32.5 million or less. For this category, U.S. Census 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 the Commission’s action can be considered small.

22. *Lessors of Residential Buildings and Dwellings.* This industry comprises establishments primarily engaged in acting as lessors of buildings used as residences or dwellings, such as single-family homes, apartment buildings, and town homes. Included in this industry are owner-lessors and establishments renting real estate and then acting as lessors in subleasing it to others. The establishments in this industry may manage the property themselves or have another establishment manage it for them. The appropriate SBA size standard for this industry classifies a business as small if it has \$27.5 million or less in annual receipts. U.S. Census Bureau 2012 data for Lessors of Residential Buildings and Dwellings show that there were 42,911 firms that operated for the entire year. Of that number, 42,618 firms operated with annual receipts of less than \$25 million per year, while 142 firms operated with annual receipts between \$25 million

and \$49,999,999 million. Therefore, based on the SBA's size standard the majority of Lessors of Residential Buildings and Dwellings are small entities.

23. *Property Owners' Associations.* This industry comprises establishments formed on the behalf of individual property owners, to make collective decisions based on the wishes of a majority of owners. This includes associations formed on behalf of individual residential condominium owners or homeowners. These associations may provide overall management, publish a telephone directory of the owners, sponsor seasonal events for the owners, establish and collect funds to operate the project, enforce rules and regulations, settle differences of opinion among residents, and make other decisions that are vital to the owners. Associations formed on behalf of individual real estate owners or tenants that provide no property management, but which arrange and organize civic and social functions are included here as well. The appropriate SBA size standard for this industry classifies a business as small if it has \$7.5 million or less in annual receipts. U.S. Census Bureau 2012 data for Property Owners' Associations show that there were 17,379 firms that operated for the entire year. Of that number, 16,963 firms operated with annual receipts of less than \$5 million per year, while 334 firms operated with annual receipts between \$5 million and \$9,999,999 million. Therefore, based on the SBA's size standard the majority of Property Owners' Associations are small entities.

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

24. The proposed updates to the OTARD rule, if adopted, would not impose any new or additional reporting, recordkeeping, or other compliance obligations. However, the number of entities subject to the rule's protections and the labelling requirements may expand as a result of the proposals.

25. The Commission takes steps to reduce regulatory impediments to deployment by ensuring that State, local, and private restrictions do not delay or impede the installation of fixed wireless hub or relay antennas on private property. If enacted, the Commission's proposal would benefit fixed wireless providers—both small and large—by creating more siting opportunities, and the Commission anticipates its proposal would spur investment in and deployment of needed infrastructure. The Commission

seeks comment on this proposal and, in particular, on the potential impact it may have on infrastructure deployment in rural areas and by small providers.

26. As part of the Commission's efforts to modernize and update the OTARD regulatory framework to reflect the current technological landscape, the Commission also seeks comment on other steps it could take to facilitate the deployment of the infrastructure necessary for modern fixed wireless networks, and on what implementation issues the Commission should consider. Following the Commission's review and consideration of any comments filed in response to the Notice, the Commission will fully address any requirements adopted that impose new or additional reporting, recordkeeping, or other compliance obligations, and/or will require small entities to hire attorneys, engineers, consultants, or other professionals to comply.

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

27. The RFA requires an agency to describe any significant, especially small business, 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 and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

28. The proposed rule changes contemplated by the Commission in this proceeding would relieve small as well as large companies from private and governmental restrictions on the placement of devices integral to the deployment of modern fixed wireless infrastructure. However, to better evaluate the economic impact on small entities, which could occur as a result of the actions proposed in this Notice, the Commission has sought comment. By revising the OTARD framework to allow fixed wireless providers to site hub and relay antennas more quickly and efficiently, in areas within their exclusive use or control (provided that devices are properly labelled as required by the existing rule), the Commission seeks to significantly reduce the economic impact on small and large entities involved in deploying fixed

wireless infrastructure. Moreover, while these changes would be beneficial to all companies, they should be particularly beneficial to small entities that may not have the resources and economies of scale of larger entities. In addition, these proposed changes represent alternatives to the existing framework which will allow the Commission to continue to fulfill its statutory responsibilities, while reducing the burden on small entities by removing unnecessary impediments to the rapid deployment of modern fixed wireless infrastructure across the country.

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

29. None.

B. *Ex Parte* Presentations

30. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc,

.xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

C. Paperwork Reduction Act

31. This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements in this document, subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

III. Ordering Clauses

32. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 201(b), 202(a), 205, 303(r), and 1302 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 205(a), 303(r), and 1302 and section 207 of the Telecommunications

Act of 1996, Public Law 104–104, section 207, 110 Stat. 56, 114 that this Notice of Proposed Rulemaking *is adopted*.

33. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

The Federal Communications Commission proposes to amend § 1.4000 of Title 47 of the Code of Federal Regulations as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Section 1.4000 paragraphs (a)(1)(i)(A) and (ii)(A) are revised to read as follows:

§ 1.4000 Restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

(a) * * *

(1) * * *

(i) * * *

(A) An antenna that is used to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, including a hub or relay antenna, and

* * * * *

(ii) * * *

(A) An antenna that is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite, including a hub or relay antenna, and

* * * * *

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