

(4) *Treatment of rotating residents.* A qualifying entity will not be eligible for incentive payments for a reduction in the base number of residents if the reduction is a result of the entity rotating residents to another hospital that is not a part of its voluntary residency reduction plan.

(5) *Updates to annual and cumulative targets.*—(i) Except as provided in paragraph (g)(5)(ii) of this section an entity with an approved voluntary residency reduction plan may not change the annual and cumulative reduction targets that are specified in its plan in accordance with paragraphs (g)(2) and (g)(3) of this section.

(ii) An entity may update annual reduction targets specified in its plan only if—

(A) It has failed to meet a specified annual target for a plan year in the 5-year period; and

(B) It wishes to adjust future annual targets for the remaining years of the plan in order to comply with its cumulative target.

(iii) An updated plan allowed under paragraph (g)(5)(ii) of this section must be submitted prior to the beginning of each July 1 medical residency training year during the plan years.

(h) *Computation of incentive payment amount.* (1) Incentive payments to qualifying entities that meets the requirements and conditions of paragraphs (d) and (g) of this section will be computed as follows:

(i) *Step 1.* Determine the amount (if any) by which the payment amount that would have been made under § 413.86(d) if there had been a 5-percent reduction in the number of FTE residents in the approved medical education training programs of the hospital as of June 30, 1997, exceeds the amount of payment that would have been made under § 413.86(d) in each year under the voluntary residency reduction plan, taking into account the reduction in the number of FTE residents under the plan.

(ii) *Step 2.* Determine the amount (if any) by which the payment amount that would have been made under § 412.105 of this chapter if there had been a 5-percent reduction in the number of FTE residents in the approved medical education training programs of the hospital as of June 30, 1997, exceeds the payment amount made under § 412.105 of this chapter in each year under the voluntary residency reduction plan, taking into account the actual reduction in the number of FTE residents.

(iii) *Step 3.* Determine the amount (if any) by which the payment amount that would have been made under § 412.322 of this chapter if there had been a 5-

percent reduction in the number of FTE residents in the approved medical education training programs of the hospital as of June 30, 1997, exceeds the payment amount made under § 412.322 of this chapter in each year under the voluntary residency reduction plan, taking into account the actual reduction in the number of FTE residents.

(iv) *Step 4.* Multiply the sum of the amounts determined under paragraph (h)(i), (ii), and (iii) of this section by the applicable hold harmless percentages specified in paragraph (i) of this section.

(2) The determination of the amounts under paragraph (h)(1) of this section for any year is based on the applicable Medicare statutory provisions in effect on the application deadline date for the voluntary reduction plan specified under paragraph (e) of this section.

(i) *Applicable hold-harmless percentage.* The applicable hold-harmless percentages for each year in which the residency reduction plan is in effect are as follows:

- (1) 100 percent for the first and second residency training years;
- (2) 75 percent for the third year;
- (3) 50 percent for the fourth year; and
- (4) 25 percent for the fifth year.

(j) *Payments to qualifying entities.* Annual incentive payments through cost reports will be made to each hospital that is or is part of a qualifying entity over the 5-year reduction period if the qualifying entity meets the annual and cumulative reduction targets specified in its voluntary reduction plan.

(k) *Penalty for noncompliance*—(1) *Nonpayment.* No incentive payment may be made to a qualifying entity for a residency training year if the qualifying entity has failed to reduce the number of FTE residents according to its voluntary residency reduction plan.

(2) *Repayment of incentive amounts.* The qualifying entity is liable for repayment of the total amount of incentive payments it has received if the qualifying entity—

(i) Fails to reduce the base number of residents by the percentages specified in paragraphs (g)(2) and (g)(3) of this section by the end of the fifth residency training year; or

(ii) Increases the number of FTE residents above the number of residents permitted under the voluntary residency reduction plan as of the completion date of the plan.

(l) *Postplan determination of FTE caps for qualifying entities*—(1) *No penalty imposed.* Upon completion of a voluntary residency reduction plan, if no penalty is imposed, the qualifying entity's 1996 FTE count is permanently adjusted to equal the unweighted FTE

count used for direct GME payments for the last residency training year in which a qualifying entity participates.

(2) *Penalty imposed.* Upon completion of the voluntary residency reduction plan—

(i) *During repayment period.* If a penalty is imposed under paragraph (k)(2) of this section, during the period of repayment, the qualifying entity's FTE count is as specified in paragraph (l)(1) of this section.

(ii) *After repayment period.* Once the penalty repayment is completed, the qualifying entity's FTE reverts back to its original 1996 FTE cap.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: July 7, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: July 27, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99-21322 Filed 8-17-99; 8:45 am]

BILLING CODE 4120-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 97-234, GC Docket No. 92-52, and GEN Docket No. 90-264; FCC 99-201]

Implementation of Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concludes that it is appropriate for the Federal Communications Commission to attribute the mass media interests of investors holding more than a 33% equity and/or debt interest in a broadcast auction bidder claiming a New Entrant Bidding Credit, even if such an interest is non-voting.

DATES: The effective date is August 18, 1999.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418-1600.

SUPPLEMENTARY INFORMATION: This item contains information collections requirements for which we have received OMB approval, OMB Control Number 3060-0896. This *Memorandum Opinion and Order* concludes that it is

appropriate for the Federal Communications Commission to attribute the mass media interests of investors holding more than a 33% equity and/or debt interest in a broadcast auction bidder claiming a New Entrant Bidding Credit, even if such an interest is non-voting. This action is a further refinement of the eligibility standards for the New Entrant Bidding Credit available to bidders in broadcast auctions created by the Commission as a means to promote and facilitate the diversification of ownership in the mass media. In an earlier *Memorandum Opinion and Order*, 64 FR 24523 (May 7, 1999), the Commission revised the eligibility standards for the New Entrant Bidding Credit to ensure that those standards are consistent with the Commission's general attribution standards. In this *Memorandum Opinion and Order*, the Commission determined that it was appropriate to attribute the mass media interests held by very substantial investors in any broadcast auction applicant claiming a New Entrant Bidding Credit. The Commission explained that it was taking this action to ensure that only true new entrants qualify for the bidding credit, because holders of otherwise nonattributable interests may well have a "realistic potential" to influence bidders claiming new entrant status. The Commission further determined, based upon a review of the record in the broadcast attribution proceeding and the precedent provided by its long-standing cross-interest policy, that setting the attribution threshold at 33% is appropriate in the new entrant context.

Supplemental Regulatory Flexibility Analysis (FRFA)

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, a Final Regulatory Flexibility Analysis (FRFA) was incorporated in Appendix B of the *First Report and Order*, 63 FR 48615 (September 11, 1998) in this proceeding. In addition, a Supplemental Final Regulatory Flexibility Analysis (First Supplemental FRFA) was incorporated in Appendix B of the *Memorandum Opinion and Order*, 64 FR 24523 (May 7, 1999) in this proceeding that resolved various petitions for reconsideration filed against the *First Report and Order*. The Commission's Supplemental Final Regulatory Flexibility Analysis (Second Supplemental FRFA) in this *Memorandum Opinion and Order* reflects revised or additional information to that contained in the FRFA and First Supplemental FRFA. This Second Supplemental FRFA is

thus limited to issues addressed in this *Memorandum Opinion and Order*. This Second Supplemental FRFA conforms to the RFA, as amended by the Contract with America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) (CWAAA); see generally 5 U.S.C. 601 *et seq.* Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

I. Need For and Objectives of Action

In the *First Report and Order* in this proceeding, the Commission adopted rules and procedures to implement provisions of the Balanced Budget Act of 1997 expanding its competitive bidding authority, under Sections 309(j) and 309(l) of the Communications Act of 1934, 47 U.S.C. 309(j), 309(l), to include, inter alia, the commercial broadcast services. In a recent *Memorandum Opinion and Order* resolving numerous petitions for reconsideration filed against the *First Report and Order* the Commission generally upheld its previous determinations made with respect to auction rules and procedures for the various broadcast services. That *Memorandum Opinion and Order* did, however, refine the eligibility standards for the "new entrant" bidding credit, which, as adopted in the *First Report and Order*, provides a tiered credit for broadcast auction bidders with no, or very few, other media interests. In particular, the Commission concluded in its previous *Memorandum Opinion and Order* that the eligibility standards for the new entrant bidding credit should be amended to be consistent with the general broadcast attribution standards, by which the Commission defines what constitutes an attributable interest in applying the broadcast multiple ownership rules. In addition to attributing mass media interests for purposes of the new entrant bidding credit to the same extent that such media interests are considered attributable for purposes of the broadcast multiple ownership rules, the Commission determined in that *Memorandum Opinion and Order* to also consider, in a further order, whether to attribute the mass media interests of any individual or entity who holds a significant equity and/or debt interest in a broadcast auction bidder claiming new entrant status, even if such an interest is nonvoting. The above-referenced *Memorandum Opinion and Order* does in fact determine to attribute the mass media interests of investors holding more than a 33% equity and/or debt interest in a broadcast auction bidder claiming new

entrant status, even if such an interest is nonvoting.

II. Significant Issues Raised by Public in Response to Final Regulatory Flexibility Analysis

No petitions or comments were received in response to the FRFA or the First Supplemental FRFA. Small business-related issues were raised indirectly by some parties filing petitions for reconsideration against the *First Report and Order*. These issues were addressed in detail in the previous *Memorandum Opinion and Order* and the First Supplemental FRFA.

III. Description and Estimate of the Number of Small Entities Involved

In the FRFA and First Supplemental FRFA, the Commission utilized the definition of "small business" promulgated by the Small Business Administration (SBA), even though, as discussed in detail in the FRFA, we tentatively believed that the SBA's definition of "small business" overstated the number of radio and television broadcast stations that were small businesses and was not particularly suitable for our purposes. No petitions or comments were received concerning the Commission's use of the SBA's small business definition for purposes of the FRFA and First Supplemental FRFA, and we will therefore continue to employ such definition for this Second Supplemental FRFA. As we are utilizing the same definition of small business for this Second Supplemental FRFA, the description and number of small entities affected by the rule change adopted in this *Memorandum Opinion and Order* should be the same as the entities described in both the FRFA and First Supplemental FRFA, and include, specifically, commercial broadcast stations (television, low power television, television translator, AM, FM and FM translator stations).

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

The *First Report and Order* adopted a number of rules that included reporting, recordkeeping and compliance requirements. These requirements were described in detail in the FRFA, and, as discussed in the First Supplemental FRFA, generally remained unchanged by the rule amendments adopted in the previous *Memorandum Opinion and Order*. The rule change adopted in this *Memorandum Opinion and Order* does not include any additional or different reporting or recordkeeping requirements, but only affects the

standards for qualifying for the new entrant bidding credit.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The FRFA and First Supplemental FRFA described in considerable detail the steps taken in the *First Report and Order* and in the previous *Memorandum Opinion and Order* to minimize significant economic impact on small entities and the alternatives considered. The rule amendment adopted in this *Memorandum Opinion and Order* further refines the eligibility standards for the new entrant bidding credit. The Commission believes that attributing the mass media interests (if any) held by very substantial investors in bidders claiming new entrant status will help properly limit the scope of the bidding credit to those truly new entities intended to benefit from the credit (and who are likely to be small businesses). In addition, adoption of this attribution policy should reduce the likelihood of bidder manipulation of the eligibility standards for the bidding credit.

The Commission also believes that setting this attribution benchmark at 33% reasonably balances its interest in capturing investor relationships that provide a realistic potential to influence the core operating functions of broadcast auction applicants, and the needs of prospective auction applicants (including small businesses) to obtain financing. This 33% equity/debt attribution standard does not preclude an individual or entity (including any existing broadcaster) from investing any amount in a prospective broadcast auction applicant. Nor does this 33% equity/debt standard require an applicant claiming new entrant status to contribute a minimum amount of equity, or otherwise affect an applicant's right to participate in a broadcast auction. Because this standard only establishes that the attributable media interests (if any) of an investor who holds more than a 33% equity and/or debt interest in a broadcast auction bidder will be attributable to that bidder for determining its status as a new entrant, the Commission concludes that adoption of the 33% equity/debt standard should not unduly hinder the ability of broadcast licensees generally, or broadcast auction applicants specifically, to obtain capital.

VI. Report to Congress

The Commission will send a copy of this *Memorandum Opinion and Order*, including this Second Supplemental FRFA, in a report to be sent to Congress pursuant to the Small Business

Regulatory Enforcement Fairness Act of 1996. See 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Memorandum Opinion and Order*, including the Second Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Memorandum Opinion and Order* and Second Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

Authority for issuance of this *Memorandum Opinion and Order* is contained in Sections 4 (i) and (j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 307(c), 308(b), 309(j), 309(l) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 307(c), 308(b), 309(j), 309(l) and 403.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Reporting and recordkeeping requirements, Television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Change

Part 73 of Title 47 of the Code of Federal Regulations is amended 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, and 336.

2. Section 73.5008 is amended by revising paragraph (c) to read as follows:

§ 73.5008 Definitions applicable for designated entity provisions.

* * * * *

(c) An *attributable interest* in a winning bidder or in a medium of mass communications shall be determined in accordance with § 73.3555 and Note 2. In addition, the attributable mass media interests, if any, held by an individual or entity with an equity and/or debt interest(s) in a winning bidder shall be attributed to that winning bidder for purposes of determining its eligibility for the new entrant bidding credit, if the equity (including all stockholdings, whether voting or nonvoting, common or preferred) and debt interest or interests, in the aggregate, exceed thirty-three (33) percent of the total asset value

(defined as the aggregate of all equity plus all debt) of the winning bidder.

[FR Doc. 99-21471 Filed 8-17-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 081399A]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of northern rockfish in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 13, 1999, through 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907-481-1780 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1999 TAC of northern rockfish in the Western Regulatory Area of the Gulf of Alaska was established by the Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) as 840 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 TAC for northern rockfish has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 740 mt, and is setting aside