

Regulatory Flexibility Certification

12. The Regulatory Flexibility Act of 1980, as amended (RFA),¹ requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”² The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁴ 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 Small Business Administration (SBA).

13. The approach adopted in the First Report and Order will remove a statutory constraint on common carrier licensees, by forbearing from applying the 20 percent ownership limit under section 310(b)(3) to the class of common carrier licensees in which the foreign ownership is held in the licensee through intervening U.S.-organized entities that do not control the licensee. Instead of prohibiting foreign ownership in excess of 20 percent under section 310(b)(3), the Commission will assess whether the proposed foreign ownership in excess of 20 percent is in the public interest through an approval process that is consistent with its policies and procedures for approval of foreign ownership in a U.S.-organized entity that controls a licensee, under section 310(b)(4). The Commission believes that the new approach will reduce costs and burdens currently imposed on common carrier licensees, including those licensees that are small entities, while continuing to ensure that the Commission has the information it needs to carry out its statutory duties. Therefore, the Commission certifies that

the new approach will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the First Report and Order, including a copy of this Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.⁵ This certification also will be published in the **Federal Register**.⁶

Paperwork Reduction Act of 1995 Analysis

14. The First Report and Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The information collection requirements for the section 310(b) foreign ownership approval process are included in OMB Control No. 3060–0686. In addition, therefore, this document does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Report to Congress

15. The Commission has included a copy of the First Report and Order in a report sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

16. *It is ordered*, pursuant to sections 1, 2, 4(i), 4(j), 5(c), 10, 303(r), 308(b), 309, 310(b), 310(d), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 160, 303(r), 308(b), 309, 310(b), 310(d), and 403, that the First Report and Order in IB Docket No. 11–133 IS ADOPTED.

17. *It is further ordered* that the requirements of this First Report and Order *shall be effective* upon publication in the **Federal Register**.⁷

18. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Regulatory Flexibility Certification, to

the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 2012–20704 Filed 8–21–12; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 12–51; RM–11647; DA 12–1260]

Radio Broadcasting Services; Westfield, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Connoisseur Media of Erie, LLC, allots Channel 265A at Westfield, New York, as its first local transmission service. Channel 265A can be allotted to Westfield consistent with the minimum distance separation requirements of the Rules with a site restriction 3.4 kilometers (2.1 miles) west of the community. The reference coordinates are 42–18–51 NL and 79–37–04 WL. The allotment of Channel 265A at Westfield is located 320 kilometers (199 miles) from the Canadian border. Therefore, Canadian concurrence has been requested and approved by the Canadian government.

DATES: Effective September 17, 2012.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s *Report and Order*, adopted August 2, 2012, and released August 3, 2012. The full text of this Commission decision is available for 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 may also be purchased from the Commission’s duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email www.BCPIWEB.com. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability

¹ *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 857 (1996).

² 5 U.S.C. 605(b).

³ 5 U.S.C. 601(6).

⁴ 5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definitions(s) in the **Federal Register**.”

⁵ 5 U.S.C. 605(b).

⁶ *Id.*

⁷ *See* 47 CFR 1.103, 1.427(b). As set forth above, by forbearing from applying the strict section 310(b)(3) foreign ownership limit to the subject class of common carrier licensees, we afford these licensees and their potential owners greater flexibility in the structuring of their investment, free of a statutory constraint. Our action thereby “relieves a restriction” within the meaning of 5 U.S.C. 553(d)(1).

Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 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 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Westfield, Channel 265A.

[FR Doc. 2012–20682 Filed 8–21–12; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052, and 3053

[Docket No. DHS–2009–0085]

RIN 1601–AA28

Homeland Security Acquisition Regulation (HSAR); Revision Initiative [HSAR Case 2009–002]

AGENCY: Office of the Chief Procurement Officer, DHS.

ACTION: Final rule.

SUMMARY: DHS is issuing a final rule amending multiple sections of the Homeland Security Acquisition Regulation (HSAR). These amendments align existing content with the Federal Acquisition Regulation (FAR); implement Section 695 of the Post-Katrina Emergency Management Reform Act of 2006 by restricting the length of certain noncompetitive contracts entered into by the Department of Homeland Security to facilitate the response to or recovery from a natural disaster, act of terrorism, or other manmade disaster; clarify agency acquisition regulations; and make editorial corrections.

DATES: *Effective Date:* September 21, 2012.

FOR FURTHER INFORMATION CONTACT: Teresa McConahie, Office of the Chief Procurement Officer, Department of Homeland Security, (202) 447–0271.

SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion of Final Rule

III. Regulatory Analyses

- A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)
- B. Regulatory Flexibility Act
- C. Paperwork Reduction Act
- D. Executive Order 13132 (Federalism)
- E. National Environmental Policy Act

I. Background

This final rule amends the Department's acquisition regulation which was initially issued in 2003. 68 FR 67871 (Dec. 4, 2003), as amended at 71 FR 25767 (May 2, 2006). On September 13, 2010, DHS published a notice of proposed rulemaking NPRM, with a public comment period ending on November 12, 2010. 75 FR 55529. DHS received no public comments on this NPRM. DHS is now adopting the proposed rule, with minor changes, as final.

II. Discussion of Final Rule

In the NPRM, DHS proposed various changes to the Homeland Security Acquisition Regulations (HSAR), including changes to 48 CFR part 3006 implementing section 695 of the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109–295, 120 Stat. 1394, 1460 (Oct. 4, 2006). This final rule implements the majority of the changes described in the “Discussion of Proposed Rule” section of the NPRM. See 75 FR 55530–55532.

Additionally, as a result of further internal review, DHS is making several minor changes to the proposed rule in this final rule. The changes are administrative in nature and do not change the substance of the rule. The changes to the proposed rule include: (1) Adding an “s” to the word “System” in the phrase “DHS Sensitive System Handbook” at 3004.470–2; changing the phrase “DHS legal counsel” to “legal counsel” at 3003.204–(a); and correcting the citation at 3003.1003(a) to read “(FAR) 48 CFR 52.203–13” in place of “(FAR) 49 CFR 52.203–13”. DHS is correcting these inadvertent typographical errors to ensure the final rule is clear and precise.

DHS is also making a technical change by removing the proposed change at (HSAR) section 3009.403 designating the DHS Heads of Contracting Activity as the DHS Suspension and Debarment Officials.

The Secretary of Homeland Security has approved a new Suspension and Debarment program which eliminates the Heads of the Contracting Activities as Suspension and Debarment Officials. The change in the proposed rule is no longer necessary and is not included in this final rule.

DHS is also correcting the title of the FEMA HCA at 3002.101 to read “Director, Office of Acquisition Management (FEMA)” in place of “Director, Procurement (FEMA)”. This change is necessary due to a change in the naming convention for this office.

In the NPRM, DHS proposed to delete paragraph (d) of clause 3052.216–71, Determination of Award Fee, to align the HSAR with the OMB guidance, Appropriate Use of Incentive Contracts (Dec. 4, 2007). This final rule also revises the date of the entire clause to distinguish the existing version of the clause from the revised version.

The NPRM also proposed the inclusion of paragraph (k)(1) of 3052.204–71 Alternate I regarding contractor employee access. In this final rule, the proposed change to paragraph (k)(1) is not included because a similar provision already exists at (HSAR) 3004.470–2, citing to the DHS Sensitive Systems Policy Directive 4300A and the DHS 4300A Sensitive Systems Handbook both of which address contractor employee access.

Throughout this final rule, references to Title 41 of the United States Code have been revised to reflect the recodification of Title 41 under Public Law 111–350, January 4, 2011.

III. Regulatory Analyses

A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

This is not a significant regulatory action under Section 6(b) of Executive Order 12866, as supplemented by Executive Order 13563, and the Office of Management and Budget has not reviewed this final rule. This final rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the term “small entities” comprises of small businesses, not for profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000. DHS certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory