

Flooding source(s)	Location of referenced elevation	Elevation in feet (*NGVD)		Communities affected
		Effective	Modified	

**City of Seaside:**

Maps are available for inspection at the Public Works Building, 1387 Avenue U, Seaside, Oregon.

Send comments to The Honorable Rosemary Baker-Monaghan, Mayor, City of Seaside, City Hall, 989 Broadway, Seaside, Oregon 97138.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: March 13, 2002.

**Robert F. Shea,**

*Acting Administrator, Federal Insurance and Mitigation Administration.*

[FR Doc. 02-6573 Filed 3-18-02; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[IB Docket Nos. 02-34 and 00-248, FCC 02-45]

#### Satellite License Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission invites comment on two alternatives for revising the satellite licensing process, both of which are intended to enable the Commission to issue satellite licenses more quickly. One alternative is the first-come, first-served approach. The other alternative is to streamline the current processing round approach. In addition, the Commission seeks comment on adopting several rule revisions regardless of whether it adopts a first-come, first-served approach or streamlines the current procedure.

**DATES:** Comments are due on or before June 3, 2002. Reply comments are due on or before July 2, 2002. Written comments by the public on the proposed information collections are due April 18, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before May 20, 2002.

**ADDRESSES:** All filings must be sent to the Commission's Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, The Portals, 445 Twelfth Street, SW, Room TW-A325, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to be submitted to Judy Boley Herman,

Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to [jbHerman@fcc.gov](mailto:jbHerman@fcc.gov) and to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to [jthornto@mb.eop.gov](mailto:jthornto@mb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:**

Steven Spaeth, Satellite and Radiocommunication Division, International Bureau, (202) 418-1539. For additional information concerning the information collection(s) contained in this document, contact Judy Boley Herman at 202-418-0214, or via the Internet at [jbHerman@fcc.gov](mailto:jbHerman@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking adopted February 14, 2002 and released February 28, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room, 445 Twelfth Street, SW, Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 Twelfth Street, SW, Room CY-B402, Washington, DC 20554.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998). 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. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. 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 get 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.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

#### Paperwork Reduction Act

This NPRM contains proposed new and modified information collections. 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(s) contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due April 18, 2002. Comments should address: (a) 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; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) 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 Control Number: 3060-XXXX (new collection).

**Title:** Streamlining and Other Revisions of part 25 of the Commission's

**Form No.:** FCC Form 312 Schedule S.

**Type of Review:** New collection.

**Respondents:** Business or other for-profit entities.

**Number of Respondents:** 146.

**Estimated Time Per Response:** 2-18 hours.

**Frequency of Response:** On occasion.

**Total Annual Burden:** 1,436 hours.

**Total Annual Costs:** \$193,500.

**Needs and Uses:** The information collection requirements accounted for in this collection are necessary to determine the technical and legal

qualifications of applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience and necessity. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the U.S. The Commission would therefore be unable to fulfill its statutory and responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the WTO Basic Telecom Agreement.

### Summary of Notice of Proposed Rulemaking

Currently, the Commission uses processing rounds to review satellite applications. Under this process, when an application is filed, the commission establishes a cut-off date—that is, a deadline for other applicants to file mutually exclusive applications to be considered together with the lead application. If sufficient spectrum is not available to accommodate all the applicants, the Commission requests them to negotiate a way to accommodate all of their proposed systems. These negotiations can be long, and can cause substantial delay in licensing satellites.

The Commission seeks comment on two options for revising the satellite licensing process. One option is a first-come, first-served approach. Under this approach, the commission would initially focus its attention on the lead application. Subsequently filed mutually exclusive applications would be included in a queue according to their date and time of filing. If for any reason the Commission could not grant the lead application, it would dismiss it and begin consideration of the next application in the queue. The Commission would continue this process until it could grant an application.

The other option is modifying the current processing round procedure. The Commission seeks comment on placing a 60-day time limit on negotiations during processing rounds. The Commission also invites comment on criteria for selecting among applicants if they cannot reach agreement within 60 days. As an alternative to the proposed selection criteria, the Commission invites comment on dividing the available spectrum evenly among the qualified applicants participating in the processing round.

The Commission also seeks comment on adopting several rule revisions regardless of whether it adopts a first-

come, first-served approach or streamlines the current procedure. First, the Commission seeks comment on revising the satellite license information requirements. In particular, the Commission invites comment on expanding the proposed “Schedule S,” which would be an attachment to the current Form FCC 312 satellite license filing form. The Commission initially proposed Schedule S in the Notice of Proposed Rulemaking in IB Docket No. 00–248, 66 FR 1283. In addition to seeking comment on revising the satellite license information requirements, the Commission invites comment on (1) eliminating financial qualifications; (2) strengthening milestone requirements; (3) eliminating the anti-trafficking rules; (4) requiring electronic filing for satellite license applications; and (5) streamlining the procedures for replacement satellite applications.

Finally, the Commission solicits comment on revising the procedure for non-U.S.-licensed satellite operators to request access to the U.S. market. Some of the proposed revisions would codify certain procedural requirements currently applicable to non-U.S.-licensed satellite operators. The rest of the proposals in this Notice of Proposed Rulemaking are intended to make the procedures applicable to non-U.S.-licensed satellite operators consistent with the procedure applicable to U.S. satellite operators.

### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking. 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 Notice of Proposed Rulemaking provided above. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, the Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the **Federal Register**. See *id.*

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 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) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

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

The objective of the proposed rules is to enable the Commission to process applications for satellite licenses more quickly than it can under its current rules. These rule revisions are needed because delays in the current satellite licensing process may impose economic costs on society, and because recent changes in the International Telecommunication Union procedures require us to issue satellite licenses more quickly in order to meet U.S. international treaty obligations. In addition, the current satellite licensing process is not well suited to some satellite systems employing current technology. Finally, revision of the satellite licensing process will facilitate the Commission's efforts to meet its spectrum management responsibilities.

### B. Legal Basis

The proposed action is supported by sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), 303(r).

### C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply

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.<sup>2</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>3</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>4</sup> 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).<sup>5</sup> A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not

<sup>2</sup> 5 U.S.C. 603(b)(3).

<sup>3</sup> *Id.* 601(6).

<sup>4</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. 632). Pursuant to the RFA, 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 definition(s) in the Federal Register.” 5 U.S.C. 601(3).

<sup>5</sup> Small Business Act, 15 U.S.C. 632 (1996).

dominant in its field.”<sup>6</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>7</sup> “Small governmental jurisdiction” generally means “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.”<sup>8</sup> As of 1992, there were approximately 85,006 such jurisdictions in the United States.<sup>9</sup> This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.<sup>10</sup> The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees that may be affected by the proposed rules, if adopted.

The rules proposed in this Notice of Proposed Rulemaking would affect satellite operators, if adopted. The Commission has not developed a definition of small entities applicable to satellite operators. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Satellite Telecommunications.<sup>11</sup> This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.<sup>12</sup> 1997 Census Bureau data indicate that, for 1997, 273 satellite communication firms had annual receipts of under \$10 million. In addition, 24 firms had receipts for that year of \$10 million to \$24,999,990.<sup>13</sup>

In addition, Commission records reveal that there are approximately 240 space station operators licensed by this Commission. We do not request or collect annual revenue information, and thus are unable to estimate of the number of licensees that would

constitute a small business under the SBA definition. Small businesses may not have the financial ability to become space station licensees because of the high implementation costs associated with satellite systems and services.

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

With few exceptions, none of the proposed rules in this notice are expected to increase the reporting, record keeping and other compliance requirements of any telecommunications carrier. The exceptions are as follows: (1) We propose requiring space station applicants to provide the antenna gain pattern contour diagrams in the .gxt format required in submissions to the ITU. (2) We propose requiring space station applicants to specify power flux density (PFD) values at angles of arrival equal to 5, 10, 15, 20 and 25 degrees. (3) We propose expanding Schedule S so that space station license applicants can provide information on polarization isolation, polarization switching, and alignment of polarization vectors relative to the equatorial plan. (4) We propose mandating that applicants certify that they will comply with the service area requirements of 47 CFR 25.143, 25.145, and 25.208, and the out-of-band emission requirements of 47 CFR 25.202.

These proposed increased reporting requirements are necessary because we also propose substantially decreasing the administrative burdens associated with the current satellite licensing process. Specifically, there are two options proposed in this Notice of Proposed Rulemaking for reforming the satellite licensing process. Under one of the options, the first-come, first-served approach, there may be an increased incentive to apply for a satellite license merely to sell it. In addition, under both options, we invite comment on eliminating our current method of preventing speculation, the anti-trafficking rule. Therefore, more detailed reporting requirements will be needed in the event that we adopt these proposed license procedure reforms to help us determine whether an applicant is seeking a satellite license merely for speculative purposes. The anti-trafficking rule is more administratively burdensome than the proposed increased data collections.

#### *E. Steps Taken to Minimize Significant Economic 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. 5 U.S.C. 603(c).

We have attempted not to foreclose any option. One alternative we have not embraced is the need to adopt any filing window in the event that we adopt a first-come, first-served procedure.<sup>14</sup> We believe that the alternative of a first-come, first-served satellite licensing procedure without a filing window better serves the interests of all possible applicants, including small entity applicants. For instance, for some applicants, the first-come, first-served procedure may be less expensive than maintaining an application throughout the longer processing round procedure under the Commission's current rules.<sup>15</sup> A filing window in a first-come, first-served satellite licensing procedure would tend to duplicate some of the delay inherent in the processing round procedure under the Commission's current rules.<sup>16</sup>

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

None.

#### **Ordering Clauses**

Pursuant to Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), 303(r), this Notice of Proposed Rulemaking is hereby *Adopted*.

The Consumer Information Bureau, Reference Information Center, *Shall send* a copy of this Order, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02-6525 Filed 3-18-02; 8:45 am]

**BILLING CODE 6712-01-P**

<sup>14</sup> See Notice of Proposed Rulemaking at paragraph 44.

<sup>15</sup> See Notice of Proposed Rulemaking at paragraph 41.

<sup>16</sup> See Notice of Proposed Rulemaking at paragraph 44.

<sup>6</sup> 5 U.S.C. 601(4).

<sup>7</sup> 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

<sup>8</sup> 5 U.S.C. 601(5).

<sup>9</sup> U.S. Dept. of Commerce, Bureau of the Census, “1992 Census of Governments.”

<sup>10</sup> *Id.*

<sup>11</sup> “This industry comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Small Business Administration, 1997 NAICS Definitions, NAICS 513340.

<sup>12</sup> 13 CFR 120.121, NAICS code 513340.

<sup>13</sup> U.S. Census Bureau, 1997 Economic Census, Subject Service: Information, “Establishment and Firm Size,” Table 4, NAICS 513340 (Issued Oct. 2000).