

CAS No.	Chemical name	Effective date
00078-79-5	Isoprene	1/11
00081-49-2	1-Amino-2,4-dibromoanthraquinone	1/11
00091-23-6	o-Nitroanisole	1/11
00093-15-2	Methyleugenol	1/11
00110-00-9	Furan	1/11
00116-14-3	Tetrafluoroethylene	1/11
00509-14-8	Tetranitromethane	1/11
00556-52-5	Glycidol	1/11
03296-90-0	2,2-bis(Bromomethyl)-1,3-propanediol	1/11

(c) \* \* \*

Category name	Effective date
Polycyclic aromatic compounds (PACs): (This category includes only those chemicals listed below).	
42397-64-8 1,6-Dinitropyrene	1/11
42397-65-9 1,8-Dinitropyrene	1/11
07496-02-8 6-Nitrochrysene	1/11
57835-92-4 4-Nitropyrene	1/11

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BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 27****[WTB Docket No. 07-293; FCC 10-46]****Operations of Wireless Communications Services in the 2.3 GHz Band****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** The Federal Communications Commission (Commission) seeks comment on revising the performance requirements for the 2.3 GHz Wireless Communications Service (WCS) band. The Commission is seeking comment on possible revision of the performance requirements (also known as buildout or construction requirements) for the 2.3 GHz WCS band to ensure that the spectrum is used intensively in the public interest.

**DATES:** Interested parties may file comments on or before April 21, 2010, and reply comments on or before May 3, 2010. Written comments on the Paperwork Reduction Act proposed information collection requirements

must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before June 7, 2010.

**ADDRESSES:** You may submit comments, identified by WTB Docket No. 07-293, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission Web site:* <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting comments.

- *E-mail:* [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

Include the docket number(s) in the subject line of the message.

- **Mail:** Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. 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.

- **Hand delivery/courier:** Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Room TW-A325, Washington, DC 20554.

- **People with Disabilities:** Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432. All submissions received must include the agency name and docket numbers for this rulemaking, WT Docket No. 07-293. All comments received will be posted without change to <http://www.fcc.gov/cgb/ecfs>.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Richard Arsenault at (202) 418-0920, or e-mail at [Richard.Arsenault@fcc.gov](mailto:Richard.Arsenault@fcc.gov). In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or via fax at 202-395-5167.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Public Notice (Public Notice)* in WT Docket No. 07-293, FCC 10-46, adopted on March 26, 2010, and released March 29, 2010. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, or by downloading the text from the Commission's website at <http://www.fcc.gov/>. The complete text also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, Suite CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an e-mail to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or

calling the Consumer and Government Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

**Paperwork Reduction Act of 1995 Analysis**

This document contains modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in this Public Notice as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due June 7, 2010. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

**Synopsis of the Public Notice**

1. In December 2007, the Commission released a *Notice of Proposed Rulemaking*, 73 FR 2437 (January 15, 2008) (*NPRM*) seeking comment on the possible revision of certain WCS technical rules to facilitate the coexistence of operations in the WCS band (2305-2320 MHz, 2345-2360 MHz) with operations in the adjacent Satellite Digital Audio Radio Service (SDARS) band (2320-2345 MHz). The Commission has sought to develop a record that would enable the provision of innovative broadband services in the 2.3 GHz WCS band and provide licensees increased spectrum rights. The Commission now seeks comment on the performance requirements that would accompany such rule changes.

2. The current construction requirement for all spectrum blocks in the 2.3 GHz WCS band is a substantial service showing at the end of the license term. The Commission seeks comment on whether, if it alters the technical rules for this band, it should also revise the substantial service performance requirements. In order to aid the Commission's consideration of alternative performance requirements for the 2.3 GHz WCS band, the Commission requests that interested parties comment on the following requirements and possible alternatives to the following:

For mobile and point-to-multipoint services, reliable signal coverage to:

- 40% of a license area's population within 30 months; and
- 75% of a license area's population within 60 months.

For point-to-point services, construction and operation of point-to-point links:

- 15 per million persons in a license area within 30 months;
- 30 per million persons in a license area within 60 months; and,
- A minimum payload capacity (megabits/second for a given bandwidth) to ensure that the spectrum is used intensively.

3. The Commission also seeks comment on whether the Commission should require WCS licensees to fulfill performance requirements for an entire license area and for defined market areas therein. For Major Economic Area (MEA) licenses, the defined market areas would be Economic Areas (EAs), and for Regional Economic Area Grouping (REAG) licenses, the defined market areas would be MEAs. Under this approach, if a licensee fails to meet a performance requirement for an entire license area or for any defined market area, its entire license would terminate automatically. The Commission requests that interested parties comment on the following and possible alternatives to the following:

For mobile and point-to-multipoint services, the license area coverage requirements of 40% and 75% as proposed above and reliable signal coverage to:

- 25% of each defined market area's population within 30 months; and
- 50% of each defined market area's population within 60 months.

For point-to-point services, construction and operation of a minimum number of links as proposed above, and:

- A minimum number of links in defined market areas within 30 and 60 months, respectively. The Commission seeks comment on the minimum number of links it should require for each EA within an MEA, and for each MEA within a REAG.

4. Compliance Procedures. Consistent with § 1.946(d) of the Commission's rules, the Commission proposes that licensees demonstrate compliance with any revised performance requirements by filing a construction notification within 15 days of the relevant benchmark certifying that they have met the applicable performance requirements. Each construction notification should include electronic coverage maps and supporting documentation, which must be truthful and accurate and must not omit material information that is necessary for the Commission to determine compliance with its performance requirements.

5. Electronic coverage maps must clearly and accurately depict the

boundaries of each license area (REAG or MEA) in the licensee's service territory. Further, REAG maps must depict MEA boundaries, and MEA maps must depict EA boundaries. If the licensee's signal does not provide service to the entire license area, the map must clearly and accurately depict the boundaries of the area or areas within each license area not being served. Each licensee also must file supporting documentation certifying the type of service it is providing for each REAG or MEA within its license service territory and the type of technology it is utilizing to provide such service. Supporting documentation must provide the assumptions used to create the coverage maps, including the propagation model and the signal strength necessary to provide service with the licensee's technology.

6. The Commission envisions that when a licensee files its construction notification package, the public will be afforded an opportunity to review and comment on the construction notification, including the licensee's coverage maps and the technical assumptions used to create the maps. If the Commission determines that a licensee has not met the applicable performance benchmarks for a license area, the license will be deemed to have terminated automatically as of the applicable performance benchmark deadline without further Commission action.

## I. Procedural Matters

### A. Paperwork Reduction Act Analysis

7. The *Public Notice* contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it contains a 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).

### B. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and requirements proposed in this *Public Notice*. 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 *Public Notice*. The Commission will

send a copy of the *Public Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need for, and Objectives of, the Proposed Rules

10. The primary objective of the *Public Notice* is to consider changes to the rules governing performance requirements (also known as construction or buildout requirements) for the 2.3 GHz Wireless Communications Service (WCS), which may be necessary to promote the rapid deployment of new and innovative wireless services to the American public. Such rule changes are needed because the Commission may ease certain rules governing operations in the 2.3 GHz WCS band and thereby enable the deployment of new services in the band. Thus, appropriate performance rules for WCS are necessary to ensure that the spectrum is rapidly developed in the public interest. In sum, the *Public Notice* is intended to enhance the record on any necessary performance requirements that would ensure WCS licensees maximize spectrum use in the public interest.

### Legal Basis for Proposed Rules

11. The proposed action is authorized under Sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 403.

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 rules 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 Small Business Administration (SBA). A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Below, is a further description and estimate of the number of small entity licensees and regulatees that may be affected by the

performance rule changes explored in the *Public Notice*.

13. WCS Licensees. The Wireless Communication Service in the 2305–2360 MHz (2.3 GHz) frequency band has flexible rules that permit licensees in this service to provide fixed, mobile, portable, and radiolocation services. Licensees are also permitted to provide satellite digital audio radio services. The SBA rules establish a size standard for “Wireless Telecommunications Carriers,” which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. There are currently 155 active WCS licenses held by 10 licensees. Of these, 7 licensees qualify as small entities and hold a total of 50 licenses.

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

14. The *Public Notice* seeks to evaluate whether changes to the existing performance requirements for 2.3 GHz WCS licenses may ultimately foster more effective use of the spectrum to better meet the needs of today's consumers. To the extent the Commission's past decisions no longer reflect the best approach regarding performance requirements the *Public Notice* seeks comment on the possibility of making appropriate adjustments that will serve the public interest.

15. The *Public Notice* proposes that licensees demonstrate compliance with any revised performance requirements by filing a construction notification within 15 days of the relevant benchmark certifying that they have met the applicable performance requirements. It proposes that each construction notification should include electronic coverage maps and supporting documentation, which must be truthful and accurate and must not omit material information that is necessary for the Commission to determine compliance with its performance requirements.

16. Further, under the *Public Notice's* proposed compliance procedures, electronic coverage maps must clearly and accurately depict the boundaries of each license area (REAG or MEA) in the licensee's service territory, with REAG maps depicting MEA boundaries, and MEA maps depicting EA boundaries. If the licensee's signal does not provide service to the entire license area, the *Public Notice* provides that the map must clearly and accurately depict the boundaries of the area or areas within each license area not being served. The proposed compliance procedures direct each licensee to file supporting

documentation certifying the type of service it is providing for each REAG or MEA within its license service territory and the type of technology it is utilizing to provide such service. Further, the proposed compliance procedures would require the supporting documentation to provide the assumptions used to create the coverage maps, including the propagation model and the signal strength necessary to provide service with the licensee's technology.

#### Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

17. 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: (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.

18. The *Public Notice* specifically invites comments on a range of potential performance requirements and invites interested parties to suggest alternative proposals. At this time, the Commission has not excluded any alternative proposal concerning performance requirements from its consideration, but it would do so in this proceeding if the record indicates that a particular proposal would have a significant and unjustifiable adverse economic impact on small entities.

19. In the *Public Notice*, the Commission discusses possible reporting requirements to ensure that spectrum is used intensively in the public interest. In particular, the Commission is considering a proposal to require licensees to provide additional reports demonstrating the level of service provided to the public. However, the Commission will not consider any alternative that would have a significant and unjustifiable adverse economic impact on small entities.

20. The Commission solicits any alternative proposals that would not incur significant and unjustifiable adverse impact on small entities.

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

21. None.

#### List of Subjects in 47 CFR Part 27

Communications common carriers, Radio.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2010-7761 Filed 4-5-10; 8:45 am]

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#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### 50 CFR Part 17

[FWS-R1-ES-2009-0043]

[MO 92210-0-0008 B2]

#### Endangered and Threatened Wildlife and Plants; 12-month Finding on a Petition To List the Mountain Whitefish in the Big Lost River, Idaho, as Endangered or Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the mountain whitefish (*Prosopium williamsoni*) in the Big Lost River, Idaho, as endangered or threatened under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, we find that the mountain whitefish in the Big Lost River does not constitute a listable entity under the Act and, therefore, listing is not warranted. However, we ask the public to continue to submit to us any new information that becomes available concerning the taxonomy, biology, ecology, and status of the mountain whitefish in the Big Lost River, and to support cooperative conservation of mountain whitefish within its historical range in the Big Lost River.

**DATES:** The finding announced in this document was made on April 6, 2010.

**ADDRESSES:** This finding is available on the Internet at <http://www.fws.gov/idaho>, and also at <http://www.regulations.gov> at Docket No. FWS-R1-ES-2009-0043. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709. Please submit any new information, materials,

comments, or questions concerning this finding to the Service at this address.

#### FOR FURTHER INFORMATION CONTACT:

Acting State Supervisor, Idaho Fish and Wildlife Office (see **ADDRESSES**); by telephone at 208-378-5243; and by facsimile at 208-378-5262. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information indicating that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this 12-month finding, we may determine that the petitioned action is either: (1) Not warranted, (2) warranted, or (3) warranted, but immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

##### Previous Federal Actions

On June 15, 2006, we received a petition from Western Watersheds Project to emergency list as endangered or threatened the population of mountain whitefish in the Big Lost River, Idaho, as a separate species, subspecies, or distinct population segment (DPS) under the Act. The petitioner also requested that we designate critical habitat concurrent with the listing.

In an August 21, 2006, letter to the petitioner, we acknowledged receipt of the petition and explained that we would not be able to address the petition at that time due to other priorities relating to court orders and settlement agreements. We further indicated we had reviewed the petition and determined an emergency listing was not necessary. On October 23, 2007,