

name indicates, UPCS is not a licensed service. There is no accurate source for the number of operators in the UPCS. Manufacturers could be affected if UPCS frequencies are transferred for other uses, however, because need for their product could be minimized or eliminated, depending on the final action taken. This hardship could be offset if UPCS operators are moved to other frequencies or if manufacturers can sell equipment to new services occupying the UPCS frequencies. The Commission has not developed a definition of small entities applicable to UPCS equipment manufacturers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified, which provides that a small entity is one with \$11.0 million or less in annual receipts. According to Census Bureau data, there are 848 firms that fall under this category. Of those, approximately 775 reported annual receipts of \$11 million or less and qualify as small entities. There are currently 15 manufacturers that have 45 equipment authorizations for devices that operate in the 1910–1930 MHz band. No equipment authorizations have been issued for devices operating in the 2390–2400 MHz band.

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

28. This FNPRM deals only with the possible reallocation of frequency bands below 3 GHz to support the introduction of new wireless services, and does not propose assignment or service rules. Thus, the item proposes no new reporting, recordkeeping, or other compliance requirements. Once it has been decided whether to reallocate this spectrum, the Commission will consider adoption of implementing rules, some of which might entail compliance requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered and Rejected

29. 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; (4) an exemption from coverage of the rule, or any part thereof, for small entities.

30. Providing spectrum to support the introduction of new advanced mobile and fixed terrestrial wireless services is critical to the continuation of technological advancement. First and foremost, the Commission believes that our proposal to explore the possible use of several frequency bands that could offer a wide range of voice, data, and broadband services over a variety of mobile and fixed networks may provide substantial new opportunities for small entities.

31. However, depending on the final action taken in this proceeding, small incumbent entities could be affected in a negative way as well, because some entities must be displaced to clear spectrum for new uses. The Commission endeavored to avoid this effect by identifying unencumbered spectrum, but spectrum in the suitable frequency range is heavily used already and sufficient unencumbered spectrum simply does not exist. The Commission has therefore sought to minimize an adverse impact by proposing to reallocate frequency bands for those incumbents, including small entities, which might be accommodated in other spectrum and could be relocated more easily. The Commission is also considering compensation of displaced incumbents, including any small entity, which is displaced. At this nascent stage of the proceeding, the Commission is soliciting comment on a variety of issues relevant to these possibilities.

32. Paragraph 40 of the full text of the FNPRM further suggests the alternative of grandfathering incumbent licensees who qualify as small entities, until they are ready to move to new frequencies, thus easing their transition to new spectrum. Another alternative that the Commission believes has worked in the past, would be to encourage small entities to participate by offering them bidding credits if the reallocation is adopted and the spectrum is auctioned.

33. The FNPRM more specifically considers a variety of alternatives that could make frequencies available to incumbents, including small entities, who could be subject to relocation. For example, one alternative discussed in paragraphs 11–13 of the FNPRM would be to use spectrum in the 1910–1930 MHz or 2390–2400 MHz bands for relocation. A second alternative, discussed in paragraphs 27–28 of the FNPRM, would be to use some of the 2 GHz MSS spectrum for relocation. Paragraph 38 of the full FNPRM seeks

comment on using the 2150–2160 MHz MDS band for relocation purposes. Any of these alternatives would facilitate the relocation of displaced incumbents, including small entities.

34. Finally, the Commission has already received extensive comments on issues related to the possible reallocation of the 2150–2160 MHz (2.1 GHz) spectrum for advanced wireless purposes. Comments filed by the multipoint distribution/instructional television fixed services industry and several equipment manufacturers argue that the 2.1 GHz band is necessary for the continued roll-out of fixed wireless services across the country. Other commenters support the use of 2.1 GHz for advanced wireless services.

We are considering both alternatives, and are attempting to minimize any negative impact on licensees, including small entities, in the 2150–2160 band. These alternatives are discussed in paragraphs 37–41 of the FNPRM, and include the possibility of providing displaced incumbents with relocation spectrum or compensating such licensees.

F. Federal Rules That May Duplicate, Overlap, or Conflict with the Proposed Rules

35. None.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 01–23047 Filed 9–12–01; 8:45 am]

BILLING CODE 6712–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[IB Docket No. 01–185, ET Docket No. 95–18; FCC 01–225]

Flexibility for Delivery of Communications By Mobile Satellite Service Providers in the 2 GHz Band, the L-Band and the 1.6/2.4 GHz Band; Amendment of Section 2.106 of the Commission's Rules To Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document addresses proposals made by two Mobile Satellite Service (MSS) operators to allow Mobile Satellite operators to reuse their assigned spectrum over land-based transmitters to improve service quality, particularly where the satellite signals are blocked by buildings or other

obstacles. This document also addresses other means by which the Commission could permit flexible use of MSS spectrum.

The MSS operators claim that permitting MSS operators the flexibility to use their assigned spectrum for ancillary terrestrial operations would bolster the commercial viability of MSS systems by allowing MSS operators to extend service to indoor and urban areas that otherwise would remain unserved by a satellite-only MSS network. The MSS operators claim that the improved service and customer base would, in turn, enable the MSS industry to offer lower prices and higher quality of service to rural and underserved areas. The NPRM seeks comment on approaches by which the Commission could permit more flexible use of MSS spectrum.

DATES: Submit comments on or before October 11, 2001; reply comments due on or before October 25, 2001. Written comments by the public on the proposed information collections are due on or before October 11, 2001. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before November 13, 2001.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., 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 Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: James L. Ball, Associate Chief, International Bureau (202) 418-0427, or Breck Blalock, Deputy Chief, Planning and Negotiations Division, International Bureau (202) 418-8191. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202-418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking*, IB Docket No. 01-185, ET Docket No. 95-18, adopted August 9, 2001 and released August 17, 2001. The full text of this *Notice of*

Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY-A257, Portals II, 445 12th Street, SW, Washington, DC and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS"), Portals II, 445 12th Street, SW Room CY-B402, Washington, DC 20554.

Interested parties may file comments by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. The Commission will consider all relevant and timely comments prior to taking final action in this proceeding. To file formally, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Parties not filing via ECFS are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

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. 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 receive filing instructions for e-mail comments, commenters should send an e-mail to 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.

Paperwork Reduction Act

This NPRM contains proposed 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 collections 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 November 13, 2001. 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: Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 143.

Number of Responses: 440.

Estimated Time Per Response: 4-31 hours.

Frequency of Response: On occasion reporting and third party disclosures.

Total Annual Burden: 3,082 hours.

Total Annual Costs: \$141,000.

Needs and Uses: In this proceeding, the Commission releases an NPRM that seeks comment on issues regarding whether and how the Commission might bring flexibility to the delivery of Mobile Satellite Service. The proposals contained in this NPRM would result in new or modified information collection requirements that would be necessary to facilitate the proposed rules if and when they become definitive. The information collections would be used by the Commission under its authority to license commercial satellite services in the U.S.

Synopsis

On August 9, 2001 the Federal Communications Commission (Commission) adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on: (1) Proposals submitted by two satellite operators to allow flexibility in the delivery of communications by mobile satellite service (MSS) providers, and (2) other options pertaining to flexible use of MSS spectrum. Specifically, the Commission seeks comment on: (1) The specific proposals made by MSS operators outlined below, (2) an alternative proposal that would allow an entity to use MSS spectrum to provide terrestrial service in conjunction with (or alternatively to) MSS, and (3) whether the Commission should consider allowing MSS operators in Big LEO bands to provide terrestrial services in these bands.

In the NPRM, the Commission seeks comment on approaches by which the

Commission may permit more flexible use of MSS spectrum. The Commission recognizes that this concept raises new issues regarding allocation and licensing of spectrum-based services, particularly different approaches for licensing satellite and terrestrial services. The Commission intends to establish a record on a variety of policy, economic, and technical issues raised by the MSS Petitioners' proposals, including potentially innovative ideas that may result in improved quality and availability of services to the public.

First, both New ICO Global Communications (Holdings) Ltd. (New ICO) and Motient Services, Inc. (Motient) (collectively, the MSS Petitioners) filed proposals with the Commission, suggesting incorporation of a wireless "ancillary terrestrial component" (ATC) in their MSS networks. To date, MSS operators have not been allowed to provide terrestrial operations. These parties contend that although a satellite system is ideally suited to serve rural areas, it is technically more difficult for MSS systems to deliver service in urban areas where satellite signals may be blocked. In initiating the proceeding, the Commission recognizes the potential long-term benefits of expanded use of MSS, such as deployment of broadband services to rural areas.

The NPRM seeks comment on the MSS Petitioners' claims that allowing terrestrial operations in conjunction with MSS networks is important to ensure the commercial viability of MSS systems, and that such flexibility will promote the Commission's goal of bringing access to advanced communications services to rural and underserved areas of the country. The NPRM seeks comment on the severity of the signal problems that underlie the MSS Petitioners' proposals. Further, the NPRM asks: should we view the MSS Petitioners' proposals as indicating that too much spectrum has been allocated for MSS? Would using this spectrum for terrestrial service in urban areas diminish spectrum capacity for satellite service to rural and unserved areas? Does the technology exist to provide this integrated service? Would it be in the public interest to adopt a segmentation plan wherein separated bands for terrestrial services would be identified and available for licensing to a larger group of parties, for example, through an auctions process? Are technological advances likely to occur in the next few years that will change the nature of the sharing relationship between terrestrial and satellite services in the near future?

The NPRM also seeks comment on the following issues that would arise if the MSS Petitioners' proposal were adopted: (1) Conditions on the use of terrestrial components to ensure ancillary operation, such that 2 GHz band MSS operators would be required to demonstrate that they can provide space segment service covering all 50 states, Puerto Rico, and the Virgin Islands 100% of the time, and L-band operators would be required to demonstrate that they can provide space segment service across their entire satellite coverage area, (2) licensing requirements, such that for U.S.-licensed systems, the licenses would permit these additional operations, and for non-U.S. licensed systems, authority for such operations would be provided for in Declaratory Orders reserving spectrum for the non-U.S. licensed systems, (3) technical issues and rules modeled on rules in place for broadband PCS¹, (4) modifications to the Table of Allocations, and (5) the impact on existing relocation and reimbursement rules.

With respect to technical issues, the NPRM seeks comment in the following specific areas relating to terrestrial operations in MSS bands: (1) Protection of adjacent and intra-band operations, (2) coordination with co-frequency systems, (3) frequency stability, (4) use of handheld terminals aboard aircraft, (5) system architecture, and (6) technical requirements specific to the L-band including extending special requirements relating to the protection of emergency operations and global radiolocation operations.

Second, the Commission seeks comment on an alternate plan: Making some MSS spectrum available for use by any entity to provide terrestrial service either in conjunction with MSS systems or as an alternative mobile service. Under this approach, portions of the spectrum currently designated for 2 GHz and L-band MSS would be made available for use by terrestrial operations, separated from the MSS operations in the bands, and possibly assigned by auction. The NPRM seeks comment on how such an identification and assignment process might work from the perspective of MSS operators and others interested in providing terrestrial services in this spectrum. The

¹ The NPRM seeks comment on these specific technical issues: (1) protection of adjacent and intra-band operations, (2) coordination with co-frequency systems, (3) frequency stability, (4) use of handheld terminals aboard aircraft, (5) system architecture, and (6) technical requirements specific to the L-band including extending special requirements relating to the protection of emergency operations and global radiolocation operations.

NPRM also seeks comment on the implications of section 309(j) with regard to this option.

Third, the NPRM seeks comment on whether the Commission should consider extending to Big LEOs MSS licensees the opportunity to incorporate terrestrial operations within the Big LEO MSS bands into their respective MSS networks. In particular, the NPRM seeks comment on whether the general approach discussed for 2 GHz and L-band MSS could be adopted for Big LEO MSS. In the alternative, the NPRM asks whether the Commission should consider opening the Big LEO MSS band to parties other than Big LEO licensees to provide services either in conjunction with Big LEO MSS operators or to provide additional alternative services.

Paperwork Reduction Analysis

The NPRM contains a proposed information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104-13.² Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due November 13, 2001. Comments should address:

- 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.
- The accuracy of the Commission's burden estimates.
- Ways to enhance the quality, utility, and clarity of the information collected.
- 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.

Written comments by the public on the proposed information collections are due November 13, 2001. In addition to filing comments with the Secretary, a copy of any comments on the proposed information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Virginia Huth, OMB Desk Officer, 10236 New Executive Office Building, 725 17th Street, NW., Washington, DC

² See generally 44 U.S.C. 3501-3520.

20503, or via the Internet to fain_t@al.eop.gov.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),³ 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 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 provided in 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. See 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for and Objectives of the Proposed Rules

This NPRM seeks comment on proposals to bring flexibility to delivery of MSS. The NPRM seeks comment on issues regarding whether and how we might bring flexibility to MSS either by: (1) permitting MSS operators to provide coverage to areas where the MSS system is attenuated by integrating terrestrial operations within their networks using assigned MSS frequencies, as has been proposed by two operators, or (2) opening up portions of the 2 GHz and L-band for MSS or terrestrial operators to provide a stand-alone terrestrial service offered in conjunction with MSS or use it for additional alternative services. We believe that permitting greater flexibility would reduce regulatory burdens and, with minimal disruption to existing permittees and licensees, result in the continued development of 2 GHz and L-band MSS and other satellite services to the public.

2. Legal Basis

This action is taken pursuant to sections 1, and 4(i) and (j) of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), and section 201(c)(11) of the Communications Satellite Act of 1962, as amended, 47 U.S.C. 721(c)(11), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Would 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.⁴ The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" under section 3 of the Small Business Act.⁵ 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.⁶

The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit fixed-satellite or mobile satellite service operators. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified.⁷ This definition provides that a small entity is one with \$11.0 million or less in annual receipts. According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified which could potentially fall into the 2 GHz, L-band, or Big LEO MSS category. Of those, approximately 775 reported annual receipts of \$11 million or less and qualify as small entities. The rules proposed in this NPRM apply only to entities providing 2 GHz, L-band, or Big LEO mobile satellite service. Small businesses may not have the financial ability to become 2 GHz MSS system operators because of the high implementation costs associated with satellite systems and services. At least one of the 2 GHz MSS licensees and one of the Big LEO licensees may be considered a small business at this time. We expect, however, that by the time of implementation they will no longer be considered small businesses due to the capital requirements for launching and operating its proposed system. Since there is limited spectrum and orbital resources available for assignment at 2 GHz, we estimate that no more than eight entities will be approved by the Commission as operators providing these services. Therefore, because of the high implementation costs and the limited spectrum resources, we do not

believe that small entities will be impacted by this rulemaking to a great extent.

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

The proposed action in this NPRM would affect those entities applying for 2 GHz, L-band, and Big LEO MSS space station authorizations and those applying to participate in assignment of 2 GHz, L-band, and Big LEO MSS spectrum. In this NPRM, we seek comment on requiring U.S.-licensed operators to file an authorization request to use terrestrial facilities and to demonstrate that the eligibility criteria have been met. Foreign-licensed operators would be required to file a Letter of Intent and/or an appropriate earth station authorization, including the terrestrial facilities as part of the application, demonstrating compliance with the eligibility and coverage requirements. We seek comment on alternatives to these proposed licensing requirements.

5. 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: (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.

In developing the proposals contained in this NPRM, we have attempted to allow flexibility for efficient operations by all participants in the 2 GHz, L-band, and Big LEO MSS market, regardless of size, consistent with our other objectives. We believe the proposed conditions under which these entities would be granted this additional flexibility would not impose a significant economic impact on small entities because: (1) The conditions are reasonable and not overly burdensome and (2) as mentioned above, we do not expect small entities to be impacted by this rulemaking due to the substantial implementation costs involved. Nonetheless, we seek comment on the impact of our proposals on small

³ 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).

⁴ 5 U.S.C. 603(b)(3).

⁵ 5 U.S.C. 601(3).

⁶ 5 U.S.C. 632.

⁷ 13 CFR 121.201, NAICS Code 51334.

entities and on any possible alternatives that could minimize any such impact.

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

None.

Deadlines and Instructions for Filing Comments

Under §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the Further Notice of Proposed Rule Making on or before October 11, 2001. Reply comments are due October 25, 2001. Interested parties may file comments by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁸ The Commission will consider all relevant and timely comments prior to taking final action in this proceeding. To file formally, interested parties must file an original and four copies of all comments, reply comments, and supporting comments. If interested parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Interested parties should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties not filing via ECFS are also encouraged to file a copy of all pleadings on a 3.5-inch diskette in Word 97 format.

Ordering Clauses

Accordingly, It Is Ordered that pursuant to the authority contained in sections 1, 4(i), 4(j), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), 308, this *Notice of Proposed Rulemaking* is adopted.

It Is Further Ordered that the Commission's Consumer Information 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.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-23048 Filed 9-12-01; 8:45 am]

BILLING CODE 6712-01-P

⁸ See *Electronic Filing of Documents in Rulemaking Proceedings*, Memorandum Opinion and Order, 13 FCC Rcd 21,517 (1998); *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11,322 (1998).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[I.D. 050101B]

Endangered and Threatened Species; Notice of Public Hearings on Proposed Rule Governing Take of Four Threatened Evolutionarily Significant Units (ESUs) of West Coast Salmonids: California Central Valley Spring-run chinook; California Coastal chinook; Northern California steelhead; Central California Coast coho

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

ACTION: Request for comment and announcement of public hearings.

SUMMARY: On August 17, 2001, NMFS proposed an Endangered Species Act (ESA) 4(d) protective rule for four threatened salmonid ESUs that occur in California. The proposed 4(d) rule would apply the take prohibitions in section 9(a)(1) of the ESA in most circumstances to California Central Valley spring chinook, California Coastal chinook, and Northern California steelhead which currently have no 4(d) protective regulation in place. However, for these three threatened ESUs, NMFS is proposing 10 categories of activities for which the take prohibitions would not apply. For the threatened Central California Coast coho salmon ESU, NMFS is proposing to amend the existing 4(d) rule to establish the same 10 limitations on the take prohibitions that are being proposed for the other threatened ESUs covered by this rule.

This **Federal Register** document announces three public hearings that NMFS has scheduled to provide the public with opportunities to comment on the proposed protective rule and to provide information to the public about the rule.

DATES: Comments on the proposed 4(d) rule must be received on or before October 1, 2001. Public hearings on the proposed ESA 4(d) rule will be held as follows: (1) September 13, 2001, 6-9 p.m., Chico, CA; (2) September 18, 2001, 6-9 p.m., Eureka, CA; and (3) September 20, 2001, 6-9 p.m., Ukiah, CA.

ADDRESSES: Comments on the proposed 4(d) rule should be sent to the Assistant Regional Administrator, Protected Resources Division, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach,

CA 90802-4213. Comments will not be accepted via e-mail or Internet.

The hearings will be held at the following locations:

(1) Chico, CA—Chico Masonic Family Center' 1110 West East Avenue, Chico, CA 95926;

(2) Eureka, CA—Eureka Inn, 518 7th Street, Eureka, CA, 95501; and

(3) Ukiah, CA—Ukiah Valley Conference Center, 200 South School Street, Ukiah, CA 95482.

FOR FURTHER INFORMATION CONTACT:

Craig Wingert at 562-980-4021; Miles Groom at 707-575-6068; Diane Windham at 916-930-3601, Greg Bryant at 707-825-5162, or Chris Mobley at 301-713-1401. Copies of the **Federal Register** documents cited herein and additional salmon-related materials are available via the Internet at <http://swr.nmfs.noaa.gov> or <http://nwr.nmfs.noaa.gov>.

SUPPLEMENTARY INFORMATION:

Background

On September 16, 1999, NMFS published a final rule listing the California Central Valley spring-run chinook and California Coastal chinook ESUs as threatened species (64 FR 50394). In a final rule published on June 7, 2000, NMFS also listed the Northern California steelhead ESU as a threatened species (65 FR 36074). These final rules describe the background for the listing actions and provide a summary of NMFS' conclusions regarding the status of the three ESUs. No protective regulations, pursuant to section 4(d) of the ESA, have been promulgated for these three ESUs. On October 31, 1996, NMFS listed the Central California Coast coho salmon ESU as a threatened species and simultaneously promulgated a 4(d) which imposed the section 9(a)(1) take prohibitions on this ESU (61 FR 56138). This 4(d) rule, however, does not include any of the take limitations which NMFS has incorporated into subsequent 4(d) rules for threatened salmonid ESUs (65 FR 42422).

On August 17, 2001, NMFS proposed an ESA 4(d) protective rule for these four threatened salmonid ESUs (66 FR 43150). The proposed 4(d) rule would apply the take prohibitions in section 9(a)(1) of the ESA, in most circumstances, to the California Central Valley spring chinook, California Coastal chinook, and Northern California steelhead ESUs. In addition to applying the section 9 take prohibitions, the proposed 4(d) rule would establish 10 categories of activities for which the take prohibitions would not apply for each of