

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 12, 2005.

J.I. Palmer Jr.,

Regional Administrator, Region 4.

[FR Doc. 05-7936 Filed 4-19-05; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 05-02; FCC 05-14]

Service Rules and Procedures To Govern the Use of Aeronautical Mobile Satellite Service Earth Stations in Frequency Bands Allocated to the Fixed Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (FCC) proposes and seeks comment on a regulatory framework for licensing the operation of Aeronautical Mobile Satellite Service (AMSS) systems to communicate with fixed-satellite service (FSS) networks in the Ku-Band frequencies. Aircraft Earth stations (AES) in the AMSS can be used to provide broadband telecommunications services on passenger, government, and executive/private aircraft. This Notice of Proposed Rulemaking (NPRM) also seeks comments on licensing methods for AES terminals that will minimize the burdens upon applicants and licensees, while maintaining operational

limitations necessary to avoid harmful interference.

DATES: Comments are due on or before July 5, 2005, and reply comments are due on or before August 3, 2005.

ADDRESSES: All comments should be addressed to the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) proposed herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to Judith-B.Herman@fcc.gov, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 via the Internet to Kristy.L.LaLonde@omb.eop.gov or by fax to 202-395-5167. Electronic comments may be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed through the ECFS can be sent as an electronic file via Internet to <http://www.fcc.gov/cgb/ecfs/>. All other filings must be sent to the Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Room TW-B204, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Arthur Lechtman, (202) 418-1465, Satellite Division, International Bureau, Federal Communications Commission, Washington, DC 20554. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202-418-0214, or via the Internet at Judith-B.Herman@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (NPRM) IB Docket No. 05-20, FCC 05-14, adopted January 18, 2005, released on February 9, 2005, and corrected by erratum on February 18, 2005. The full text of the *Second Report and Order* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-488-5300, facsimile 202-488-5563, or via e-mail FCC@BCPIWEB.com. This NPRM may contain proposed new information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public

Law 104-13. The PRA implications of the Aeronautical Mobile Satellite Service (AMSS) NPRM are unknown at this time. We are seeking comment from the public on the regulatory framework for AMSS. The comments from the public will impact the PRA requirements of the new AMSS service. Therefore, we plan to address the PRA issues during the final stage of the rulemaking.

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 requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due June 20, 2005. 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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

Summary of Notice of Proposed Rulemaking

1. On February 9, 2005, the Commission released the *Notice of Proposed Rulemaking* ("NPRM") in the Aeronautical Mobile Satellite Service proceeding (IB Docket No. 05-20). In this NPRM, the Commission makes proposals and seeks comment on a regulatory framework for licensing the operation of Aeronautical Mobile Satellite Service (AMSS) systems to communicate with fixed-satellite service (FSS) networks in the Ku-Band frequencies. (For purposes of this NPRM, the "conventional" Ku-band refers to frequencies in the 11.7-12.2 GHz (downlink) and 14.0-14.5 GHz (uplink) bands and excludes the so-called "extended Ku-band" at 12.75-13.25 GHz, 13.75-14.0 GHz, 10.7-10.95 GHz, 10.95-11.2 GHz, 11.2-11.45 GHz, and 11.45-11.7 GHz. The "conventional" Ku-bands are allocated on a primary basis to the FSS. *See*

generally 47 CFR 2.106). Aircraft Earth stations (AES) in the AMSS can be used to provide broadband telecommunications services on passenger, government, and executive/private aircraft. The Commission's goal is to promote more efficient use of the spectrum while protecting and providing regulatory certainty to the existing primary allocations, including the fixed satellite service (FSS) operators, and sharing spectrum with other secondary operations in these frequency bands, including government space research (SRS) stations. The Commission's proposals would enable important new communications services to be provided to crew and passengers on board aircraft. They would also protect existing terrestrial FS and FSS operations from harmful interference from AMSS stations and allow for future growth of FS and FSS networks. With regard to the secondary government space research stations and radio astronomy operations in parts of the Ku-Band, the Commission's proposals would provide protection to existing and accommodate future stations of these national assets. The proposals also seek to establish a regulatory scheme that could enable foreign-licensed AES terminals to operate in the United States airspace without causing harmful interference to domestic operations.

2. The *NPRM* seeks comment on a number of spectrum allocation issues concerning AES uplinks in the 14.0–14.5 GHz band and downlinks in the 11.7–12.2 GHz band. The Commission also asks for comment on whether AMSS operations should be permitted on a non-protected basis in portions of the “extended” Ku-band (10.95–11.2 and 11.45–11.7 GHz bands). Space research services (for both Federal and non-Federal government use) are allocated to the 14.0–14.2 GHz sub-band on a secondary basis. The Commission recognizes the importance of protecting these space research facilities from receiving harmful interference, and seeks comment on a proposal that, as a prerequisite to licensing, AMSS operations in the 14.0–14.5 GHz band be coordinated with the National Telecommunications and Information Administration (NTIA) to resolve any potential concerns regarding space research facilities. The Commission also seeks comment on a coordination process with respect to future NASA Tracking and Data Relay Satellite System (“TDRSS”) sites in the space research service.

3. The Radio Astronomy Service (RAS) is allocated on a secondary basis internationally in the 14.47–14.5 GHz band, and pursuant to footnote US203 of

the U.S. Table of Frequency Allocations, radio astronomy observations of the formaldehyde line frequencies are permitted in this band at certain sites.

The Commission recognizes the importance of radio astronomy for studying the universe and realizes that ubiquitous airborne AES terminals have the potential to interfere significantly with RAS sites on the ground. With this in mind, the Commission proposes that, as a prerequisite to licensing, AMSS operations in the 14.0–14.5 GHz band be coordinated with the NTIA to resolve any potential concerns regarding radio astronomy facilities. The Commission seeks comment on this proposal and on whether, and if so how, AMSS licensees should coordinate their operations with future RAS sites.

4. The Commission proposes to require AMSS operators to protect FSS incumbents through limits on off-axis effective isotropically radiated power density and to cease operations if the AES antenna malfunctions or otherwise causes harmful interference to FSS networks. In addition, the Commission proposes footnotes to the U.S. Table of Frequency Allocations to recognize AMSS as an application of the FSS with secondary status in the uplink/transmit band and primary status in the downlink/receive band. The Commission also proposes to require AMSS operators to collect and maintain aircraft tracking data to assist in identifying and resolving sources of interference. The Commission also seeks comment on methods for system licensing (consisting of AMSS hub stations and/or blanket licensing for AES earth stations) in order to give Ku-band AMSS operators greater flexibility in structuring their operations. Finally, the Commission proposes a regulatory framework that would enable foreign-licensed AESs to operate in the United States airspace without causing harmful interference to domestic operations.

5. The proposed licensing procedures described above for Ku-band AMSS reflect the Commission's interest in providing regulatory certainty to both new and incumbent operators in the Ku frequency band. The proposals set forth in this *NPRM* are designed to: (1) Address existing government, space research, RAS, and FSS operations that may be affected by AES terminals; (2) allow for future growth of FSS networks; (3) establish rules and a regulatory framework that minimize the regulatory burden on AMSS licensees to the extent possible; (4) promote more efficient use of the spectrum by permitting new uses of the band by AES terminals, thereby enabling important new communications services to be

provided to consumers on board aircraft. The Commission seeks comment on each of the matters set forth above.

Procedural Matters

Ex Parte Presentations

This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules as well.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980 (RFA), *see* 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. Law n. 104–121, Title II, 110 Stat. 857 (1996), and 5 U.S.C. 605(b), 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 rules proposed in this Service Rules and Procedures to Govern the Use of Aeronautical Mobile Satellite Service Earth Stations in the Frequency Bands Allocated to the Fixed Satellite Service, Notice of Proposed Rulemaking (*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 for comments on the *NPRM* provided in paragraph 73 of 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 (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

In this *NPRM* the Commission makes proposals and seeks information on measures to provide a level of regulatory certainty to government, space research, radio astronomy, and fixed satellite service (FSS) operators regarding operations of the Aeronautical Mobile Satellite Service (AMSS). As discussed in greater detail below, the Commission

proposes rules and procedures to license aeronautical earth stations (AES) for operation in the Ku-band similar to the Commission's current licensing rules for very small aperture terminals (VSATs) that operate in the Ku-band, with appropriate modifications. However, rather than propose rules requiring minimum earth station antenna sizes and power limits, the NPRM proposes an off-axis EIRP envelope that, if adopted, would give AES operators more flexibility over their operations. This off-axis EIRP envelope proposal would provide for a minimally intrusive licensing regime for AESs that would maximize the efficient use of the Ku-band spectrum, by allowing a new service to be provided in that band, while respecting the legitimate expectations of incumbent operators. Establishing a licensing regime for AMSS also facilitates provision of a new service in the Ku-band, which would also advance the Commission's continuing effort to provide licensees with greater authority to most efficiently use of the spectrum that they occupy.

It is the Commission's view that if adopted, the off-axis EIRP licensing methodology proposed in the NPRM would benefit businesses both large and small by streamlining the process for obtaining authority from the Commission to provide AMSS service, which currently must be obtained on a case-by-case basis. The proposed procedures would provide license terms of fifteen years and would permit parties to seek authorization using simplified procedures. The proposed procedures would also require AMSS operators to provide aircraft tracking information to the Commission upon request. This would benefit businesses large and small by providing businesses that might be affected by AMSS operations with a simple, clear mechanism with minimal administrative burden to resolve any possible claims of harmful interference resulting from those operations.

B. Legal Basis

The NPRM is adopted pursuant to 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.

C. Description and Estimate of the Number of Small Entities To Which the Proposals Will 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. 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). Below, we further describe and estimate the number of small entity licensees that may be affected by the adopted rules.

Satellite Telecommunications. The SBA has developed a small business size standard for Satellite Telecommunications Carriers, which consists of all such companies having \$12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were 324 firms in the category Satellite Telecommunications, total that operated for the entire year. Of this total, 273 firms had annual receipts of \$5 million to \$9,999,999 and an additional 24 firms had annual receipts of \$10 million to \$24,999,990. Thus, under this size standard, the majority of firms can be considered small.

Space Stations (Geostationary). Commission records reveal that there are 15 space station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition cited above, or apply any rules providing special consideration for Space Station (Geostationary) licensees that are small businesses.

Fixed Satellite Transmit/Receive Earth Stations. Currently there are approximately 3,390 operational fixed-satellite transmit/receive earth stations authorized for use in the C- and Ku-bands. The Commission does not request or collect annual revenue information, and thus is unable to estimate the number of earth stations that would constitute a small business under the SBA definition.

Cellular and Other Wireless Telecommunications. The SBA has developed a small business size standard for Cellular and Other Wireless Telecommunication, which consists of all such firms having 1,500 or fewer employees. According to Census Bureau data for 1997, in this category there was a total of 977 firms that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional twelve firms had

employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

Paging. The SBA has developed small business size standard for Paging, which consists of all such firms having 1,500 or fewer employees. According to Census Bureau data for 1997, in this category there was a total of 1,320 firms that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional seventeen firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

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

The proposed rules would, if adopted, require satellite telecommunications operators to establish a database for tracking the location of AES remote earth stations. This database would assist investigations of interference claims. The NPRM seeks comment on this proposal, including the effectiveness and utility of the proposal, and seeks comment regarding possible alternatives. The proposed rules, if adopted, would also require AMSS operators to name a point of contact to maintain information about aircraft location and frequencies used by AESs. Such information would assist in investigating interference claims. The Commission does not expect significant costs associated with these proposals, if adopted. Therefore, we do not anticipate that the burden of compliance would be greater for smaller entities.

The NPRM seeks comment on possible methods for coordinating AMSS operations with space research service and radio astronomy operations.

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

The RFA requires that, to the extent consistent with the objectives of applicable statutes, the analysis shall discuss significant alternatives such as: (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 and reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage or the rule, or any part thereof, for small entities.

This *NPRM* solicits comment on alternatives for more efficient processing of aircraft earth station (AES) applications and simplifying AMSS procedures, for example, by migrating from non-conforming use licensing to a licensing method that would provide for licenses with terms of fifteen years. The *NPRM* also seeks comment on streamlining the application process for AMSS operations by permitting blanket licensing of multiple AES terminals in a single application, as an alternative to requiring all AESs to be licensed individually. Adoption of some of these proposals would simplify the application process for AESs and establish license terms consistent with other satellite-based services (such as Earth Stations on Vessels). Accordingly, the Commission believes that adoption of these proposed rules would benefit all AMSS applicants, including small entities, by significantly reducing the cost associated with obtaining and maintaining authority to operate an AMSS network.

As described above, the Commission also seeks comment on a number of alternative compliance and coordination processes. For example, the Commission seeks on whether to base the off-axis EIRP requirement on an aggregate limit or on a per-earth station limit. The Commission has taken care to consider the costs on business both large and small and has solicited comment on alternatives to its proposals.

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

None.

Paperwork Reduction Act

This *NPRM* contains proposed new and modified information collection(s). 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 n. 104-13. Public and agency comments are due 60 days from date of publication of the *NPRM* in the **Federal Register**. 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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law n. 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

A copy of any comments on the information collections contained herein should 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 and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, via the Internet to Kristy.L.LaLonde@omb.eop.gov, or via fax at 202-395-5167.

Comment Filing Procedures

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments in response to this *NPRM* no later than on or before 75 days after **Federal Register** publication. Reply comments to these comments may be filed no later than on or before 105 days after **Federal Register** publication. All pleadings are to reference IB Docket No. 05-20. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Parties are strongly encouraged to file electronically. *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>. Parties should transmit one copy of their comments to the docket in the caption of this rulemaking. In completing the transmittal screen, commenters should include their full name, U.S. 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 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 choosing to file by paper must file an original and four copies of each filing in IB Docket No. 05-20. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we

continue to experience delays in receiving U.S. Postal Service mail). If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. The Commission's mail contractor, Vistrionix, Inc. will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. 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. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Comments submitted on diskette should be on a 3.5 inch diskette formatted in an IBM-compatible format using Word for Windows or compatible software. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case, IB Docket No. 05-20), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file.

All parties must file one copy of each pleading electronically or by paper to each of the following: (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. (2) Arthur Lechtman, Attorney, Satellite Division, International Bureau, 445 12th Street, SW., Washington, DC 20554; e-mail Arthur.Lechtman@fcc.gov.

Comments and reply comments and any other filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300, via facsimile (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. The pleadings will be also available for public inspection and copying during regular

business hours in the FCC Reference Information Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554 and through the Commission's Electronic Filing System (ECFS) accessible on the Commission's World Wide Web site, <http://www.fcc.gov>.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. All parties are encouraged to utilize a table of contents, and to include the name of the filing party and the date of the filing on each page of their submission. We also strongly encourage that parties track the organization set forth in this *NPRM* in order to facilitate our internal review process.

Commenters who file information that they believe is proprietary may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. *See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 13 FCC Rcd 24816 (1998), Order on Reconsideration, 14 FCC Rcd 20128 (1999).* Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. *See 47 CFR 0.461; 5 U.S.C. 552.* We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

Further Information

For further information regarding this proceeding, contact Arthur Lechtman, Attorney, Satellite Division, International Bureau at (202) 418-0719. Information regarding this proceeding and others may also be found on the Commission's Web site at <http://www.fcc.gov>.

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 and Governmental Affairs 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, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (1981).

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05-7791 Filed 4-19-05; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Delist the Idaho Springsnail; 90-Day Finding on a Petition To List the Jackson Lake Springsnail, Harney Lake Springsnail, and Columbia Springsnail; and Initiation of a 5-Year Review for the Idaho Springsnail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of two 90-day petition findings and initiation of status review for two 12-month findings and one 5-year review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to remove (first petition) the Idaho springsnail (*Pyrgulopsis idahoensis*) from the Federal List of Endangered and Threatened Wildlife and Plants (List) pursuant to the Endangered Species Act (Act), as well as a 90-day finding on a petition to add (second petition) the Jackson Lake springsnail (*P. robusta*), Harney Lake springsnail (*P. hendersoni*), and Columbia springsnail (*P. spp. A*) to the List as endangered or threatened. We find the first petition presents substantial scientific information that delisting the Idaho springsnail may be warranted. We also

find that the second petition presents substantial scientific information that listing the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail may be warranted.

We are requesting submission of any new information on the Idaho springsnail since its original listing as an endangered species in 1992, and information on the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail. Following this 12-month status review, we will issue 12-month findings on the petition to delist the Idaho springsnail and the petition to list the Jackson Lake springsnail, Harney Lake springsnail, and Columbia springsnail. Section 4(c)(2)(A) of the Act also requires a status review of listed species at least once every 5 years. We are therefore electing to conduct these reviews simultaneously. At the conclusion of these reviews, we will issue the 12-month findings on the petitions, as provided in section 4(b)(3)(B) of the Act, and make the requisite recommendation under section 4(c)(2)(B) of the Act based on the results of the 5-year review for the Idaho springsnail.

DATES: The finding announced in this document was made on April 20, 2005. To be considered in the 12-month findings for these delisting or listing petitions, or the 5-year review, comments and information should be submitted to us by June 20, 2005.

ADDRESSES: Data, information, comments, or questions concerning these petitions and our finding should be submitted to the Field Supervisor, Attention: Idaho Springsnail comments, Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Suite 368, Boise, ID 83709. Comments may also be faxed to 208/378-5262, or e-mailed to fw1srboacomment@fws.gov. Please include "Idaho Springsnail Comments" in the subject line for faxes and e-mails. Please submit electronic comments in ASCII file format, and avoid the use of special characters and encryption. The petitions, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steve Lysne, Fish and Wildlife Biologist, at the above address (telephone 208/378-5243 or e-mail steve_lysne@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act) requires that