

enforce under the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act (RCRA). In the "Rules and Regulations" section of this **Federal Register**, the EPA is codifying and incorporating by reference the State's hazardous waste program as an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this codification and incorporation by reference in the preamble to the immediate final rule. Unless we get written comments which oppose this incorporation by reference during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose these actions, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send written comments by September 26, 2003.

ADDRESSES: Send written comments to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone number: (214) 665-8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson at (214) 665-8533 at the address listed in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: March 27, 2003.

Lawrence E. Starfield,

Acting Regional Administrator, EPA Region 6.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[**IB Docket Nos. 02-34 and 02-54, FCC 03-102**]

Satellite License Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission invites comment on revisions to the bond requirement for satellite licensees, adopted in the *First Report and Order* in this proceeding. The intended purpose of this proceeding is to discourage parties from applying for satellite licenses for speculative reasons, without unreasonably discouraging applicants who intend to construct and launch their licensed satellite systems.

DATES: Comments are due on or before September 26, 2003. Reply comments are due on or before October 27, 2003.

ADDRESSES: All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, The Portals, 445 Twelfth Street, SW., Room TW-A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steven Spaeth, Satellite Division, International Bureau, (202) 418-1539.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking adopted April 23, 2003 and released May 19, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 Twelfth Street, SW., Room CY-B402, Washington, DC 20554.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body

of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

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

Paperwork Reduction Act: This NPRM does not contain any proposed new or modified reporting, recordkeeping, or other compliance requirements not previously adopted in this proceeding. *See Paperwork Reduction Act of 1995, Public Law No. 104-13.*

Initial Regulatory Flexibility Analysis: As required by the Regulatory Flexibility Act (RFA),¹ 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 Further Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice of Proposed Rulemaking provided above. The Commission will send a copy of the Further Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See 5 U.S.C. 603(a).* In addition, the Further Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the **Federal Register**. *See id.*

Need for, and Objectives of, the Proposed Rules. The objective of the proposed rules is to discourage parties from filing "speculative" satellite applications, *i.e.*, applying for a satellite license without intending to construct the satellite facilities. These rule revisions are needed because speculative satellite applications can delay or preclude other parties from obtaining a satellite license and providing service to the public.

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

Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply. The RFA directs agencies to provide a description

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

of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted.² The RFA generally defines the term "small entity" "as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁴ A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵ A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."⁶ Nationwide, as of 1992, there were approximately 275,801 small organizations.⁷ "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."⁸ As of 1992, there were approximately 85,006 such jurisdictions in the United States.⁹ This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.¹⁰ The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees that may be affected by the proposed rules, if adopted.

The rules proposed in this Notice of Proposed Rulemaking would affect satellite operators, if adopted. The Commission has not developed a

definition of small entities applicable to satellite operators. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Satellite Telecommunications.¹¹ This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.¹² 1997 Census Bureau data indicate that, for 1997, 273 satellite communication firms had annual receipts of under \$10 million. In addition, 24 firms had receipts for that year of \$10 million to \$24,999,990.¹³

In addition, Commission records reveal that there are approximately 240 space station operators licensed by this Commission. We do not request or collect annual revenue information, and thus are unable to estimate the number of licensees that would constitute a small business under the SBA definition. Small businesses may not have the financial ability to become space station licensees because of the high implementation costs associated with satellite systems and services.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. In this Further Notice of Proposed Rulemaking, the Commission invites comment on whether to revise the bond requirement adopted in the First Report and Order in this proceeding. None of the proposed revisions are intended to increase the projected reporting, record keeping, or other compliance requirements associated with the bond requirement.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design,

standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c).

We have attempted not to foreclose any option. In addition, we invite comment on allowing licensees to create an escrow account as an alternative to a bond requirement. We also invite interested parties to propose alternatives for a standard for a waiver of the bond requirement for licensees providing public safety services, including small entities.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules. None.

Summary of Further Notice of Proposed Rulemaking: In the First Report and Order in this proceeding, the Commission adopted a bond requirement for new satellite licensees. Under this requirement, licensees of geostationary satellite orbit (GSO) satellites must post a bond of \$5 million, payable upon failure to meet a milestone. Licensees of non-geostationary satellite orbit (NGSO) satellite systems must post a bond of \$7.5 million. Non-U.S.-licensed satellite operators seeking access to the U.S. market through a letter of intent must also post bonds in these amounts.

The Commission adopted these bond amounts on an interim basis pending additional comment. Accordingly, parties are invited to comment on the bond amount. Parties are also invited to comment on whether to allow satellite licensees to create an escrow account in lieu of posting a bond. Finally, the Commission solicited comment on revising the bond requirements for non-U.S.-licensed satellite operators to be consistent with the requirements for U.S. licensees.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), 303(r), that this Further Notice of Proposed Rulemaking in IB Docket No. 02-34 is hereby *adopted*.

It is further ordered that the Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking in IB Docket No. 02-34, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

² 5 U.S.C. 603(b)(3).

³ *Id.* 601(6).

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

⁵ Small Business Act, 15 U.S.C. 632 (1996).

⁶ 5 U.S.C. 601(4).

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

⁸ 5 U.S.C. 601(5).

⁹ U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

¹⁰ *Id.*

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

¹² 13 CFR 120.121, NAICS code 513340.

¹³ U.S. Census Bureau, 1997 Economic Census, Subject Service: Information, "Establishment and Firm Size," Table 4, NAICS 513340 (Issued Oct. 2000).

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 081303D]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting/public hearing.

SUMMARY: The Western Pacific Fishery Management Council (Council) will meet on September 23, 2003, at 12 noon Hawaiian Standard Time to review the draft regulatory amendment to the Fishery Management Plan for the Pelagics Fishery of the Western Pacific (Pelagics FMP), which includes a range of alternatives (including no action) that permit some access by pelagic longline vessels to the southern fishing grounds during April and May while continuing to conserve sea turtles. The Council will also consider and may take final action on conservation measures intended to offset any potential harm that the Hawaii-based longline fishery could still pose to turtles. In addition, the Council will discuss potential modifications to the current northern prohibition on shallow-set longlining and may take initial action on this issue.

ADDRESSES: The Council meeting will be held via telephone conference call at the Council offices, 1164 Bishop Street, Suite 1400, Honolulu Hawaii 96813; telephone: 808-522-8220; Call in number: 1-808-527-2929 PIN 5785; FAX: 808-522-8226.

FOR FURTHER INFORMATION CONTACT:

Kitty M. Simonds, Executive Director; telephone: 808-522-8220.

SUPPLEMENTARY INFORMATION: The agenda during the Council meeting will include the following items:

1. Pelagic Fisheries

A. Status of Biological Opinion, litigation and mediation

B. Final action on modifications to the current longline seasonal southern area closure.

C. Initial action to consider modifications to the current northern prohibition on shallow-set longlining.

In 2002, the Council developed a regulatory framework adjustment to the Pelagics FMP which was intended to minimize interactions with, and harm to, Pacific sea turtles. These measures stemmed from the non-discretionary Reasonable and Prudent Alternative contained in a Biological Opinion issued in 2001 by NMFS under the Endangered Species Act. Among the various measures implemented were a prohibition on shallow-set longline fishing north of the equator, and a seasonal area closure from 15° N. lat. to the equator, and from 145° W. long. to 180° long. to all fishing by pelagic longline vessels during April and May of each year. These measures have contributed to reductions in sea turtle interactions. However, the southern area closure exacts a significant economic burden on the Hawaii-based longline fleet because it is unable to access these fishing grounds when bigeye and yellowfin tuna stocks are seasonally abundant during April and May. At its 118th meeting in June 2003, the Council took initial action to consider modifying the southern area closure to reduce the economic impact on the longline fishery while continuing to conserve turtles. The Council also directed its staff to continue preparation of a regulatory amendment for potential changes to the Pelagics FMP, including a detailed analysis of a range of modifications to the southern area closure and the impacts of those alternatives on sea

turtles, fisheries, and the environment. At its 119th meeting, the Council will review this draft regulatory amendment to the Pelagics FMP, which includes a range of alternatives (including no action) that permit some access by pelagic longline vessels to the southern fishing grounds during April and May while continuing to conserve sea turtles. The Council will also consider and may take final action on conservation measures intended to offset any potential harm that the Hawaii-based longline fishery could still pose to turtles. In addition, the Council will discuss potential modifications to the current northern prohibition on shallow-set longlining and may take initial action on this issue.

2. Other Business

Although non-emergency issues not contained in this agenda may come before the Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this document and to any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808)522-8220 (voice) or (808)522-8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 22, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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