

Commission's rules, 47 CFR 1.411 and 1.412, the Memorandum Opinion & Order and Notice of Proposed Rulemaking *is adopted*.

53. Pursuant to sections 4(i), 201(b), 251(a), 253, 303(r) and 332(c)(1)(B) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 251(a), 253, 303(r) and 332(c)(1)(B), and sections 1.411 and 1.412 of the Commission's rules, 47 CFR 1.411 and 1.412, the automatic and manual roaming rulemaking proceeding in WT Docket No. 00-193 *is terminated*.

54. The Petition for Commission Action filed by the Rural Telecommunications Group, Inc. on November 1, 2004 *is granted*, to the extent described in the Notice of Proposed Rulemaking.

55. Notice is given of the proposed regulatory changes described in this Notice of Proposed Rulemaking, and comment is sought on these proposals.

56. 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.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 23

[IB Docket No. 05-216; FCC 05-130]

#### Elimination of Part 23 of the Commission's Rules and Spectrum Usage by Satellite Network Earth Stations and Space Stations

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Communications Commission (FCC) proposed to eliminate part 23 of the Commission's rules, governing International Fixed Public Radiocommunication Services (IFPRS). We instead propose to regulate IFPRS services pursuant to part 101, which includes rules applicable to other fixed services. This should simplify the Commission's rules and eliminate necessary burdens on IFPRS licenses.

**DATES:** Comments are due on or before October 28, 2005 and reply comments are due on or before November 14, 2005.

**ADDRESSES:** You may submit comment, identified by [docket number and/or rulemaking number], by any of the following methods:

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

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

- 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.

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

**FOR FURTHER INFORMATION CONTACT:**

Steven Spaeth (202) 418-1539, 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](mailto:Judith.B.Herman@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in IB Docket No. 05-216, adopted June 20, 2005 and released on June 24, 2005. The full text of the Notice of Proposed Rulemaking 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](mailto:FCC@BCPIWEB.com).

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 November 28, 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

##### A. Elimination of Part 23

1. At this time, we initiate a new proceeding to propose eliminating part 23 completely and applying the requirements of part 101 of the Commission's rules to IFPRS services. Part 101 establishes procedures for many terrestrial fixed services other than IFPRS. The Commission created part 101 in 1996, to replace parts 21 and 94 of the Commission's rules. Eliminating part 23 of the Commission's rules and including IFPRS services in the part 101 framework might serve the same purposes. In addition, eliminating distinctions in regulation between international and domestic fixed public radio services would be consistent with the Commission's elimination of such distinctions in fixed satellite service regulations.

2. Specifically, we proposed allowing future IFPRS licensees to apply for a license pursuant to the rules in part 1, subpart F, "Wireless Telecommunications Services Applications and Proceedings." In addition, we invite comments on revising § 101.147 of the Commission's rules to require any future IFPRS licenses to operate in the 3700-4200 MHz and the 10,700-11,700 MHz bands. These bands are available for fixed microwave services, and are currently shared with IFPRS. The 2110-2130 MHz and 2160-2180 MHz bands are also currently assigned to fixed microwave services and shared with IFPRS, but we proposed eliminating the assignment of these bands to IFPRS in part 101 of the Commission's rules because these bands are in the process of a transition to a reassignment to emerging technology (ET). Together with these revisions to part 101 of the Commission's rules, we also propose revising the Table of Frequency of Allocation to eliminate reference to part 23 in Column 6 and to

revise footnote NG41 to reflect the decision we make this proceeding.

3. Moreover, we seek comment on applying the requirements of part 101, subpart C, "Technical Standards," to IFPRS licensees to the extent that those requirements apply to the frequency bands in which they are authorized to operate. We also propose applying part 101, subpart I, "Common Carrier Fixed Point-to-Point Microwave Service," and subpart E, "Miscellaneous Common Carrier Provisions," to IFPRS licensees. Finally, we request comments to propose any revision to part 101 they believe may be necessary to include IFPRS among the service subject to part 101, in the event that we decide to eliminate part 23.

#### B. Transition

4. One of the three IFPRS licensees operating in 2000, Interisland, has since stopped providing IFPRS service. Only AT&T of the Virgin Island (AT&T) and Broadcast Media Satellite, Inc. (BMS) remain in operation. AT&T is licensed to transmit at 6256.54 and 6375.14 MHz, and to receive at 5974.85 and 6093.45 MHz. BMS is licensed to transmit at 6695 and 6226.89 MHz, and receive at 6855 and 6004.5 MHz. The AT&T and BMS licenses are scheduled to expire on December 1, 2008 and December 1, 2009, respectively.

5. Abruptly requiring AT&T and BMS to comply with part 101 of the Commission's rules requirement might be disruptive to them and their customers. Therefore, we seek comment on whether to adopt transition provisions for these licensees. Specifically, we propose allowing these licensees to continue operating pursuant to part 23 of the Commission's rules until the date that their licenses are scheduled to expire. At that time, we propose permitting AT&T and BMS to apply for a fixed point-to-point microwave license pursuant to the relevant provisions of parts 1 and 101 of the Commission's rules. If either licensee chooses to apply for such a

fixed point-to-point microwave license, we proposed grandfathering their use of the frequency band on which they are currently operating. We seek comment on considering any such application under the rules applicable to microwave renewal applications, but only if the licensee applies to continue its use of the frequency bands it is licensed to use now. Finally, we propose limiting this transition to AT7T and BMS, or their successors in interest. In the event that any other IFPRS operator is licensed under part 23 of the Commission's rules before this rulemaking is completed, that operator is on notice that we are considering applying part 101 requirements to IFPRS, and should be prepared to comply with those requirements immediately, should we decide to eliminate part 23.

#### Procedural Matters

6. *Initial Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "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).

7. In this *Notice of Proposed Rulemaking*, the Commission proposes to eliminate part 23 of the Commission's rules, and apply the rules in part 101 to the IFPRS licensees currently subject to part 23. We expect that the change from the licensing procedure in part 101 of

the Commission's rules to the licensing procedure in part 23 of the Commission's rules would have little effect from IFPRS licensees' perspective. Furthermore, the Commission proposes grandfathering measures to lessen any impact that current part 23 licensees might otherwise experience as a result of the application of part 101 of the Commission's rules. Therefore, we certify that the requirements of this *Notice of Proposed Rulemaking*, if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Notice of Proposed Rulemaking*, including a copy of this certification, in a report to Congress pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A). In addition, the *Notice of Proposed Rulemaking* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. See 5 U.S.C. 605(b).

#### Ordering Clauses

8. *Accordingly, it is* pursuant to section 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), and 308, that is Notice of Proposed Rulemaking in IB Docket No. 05-216 is hereby adopted.

9. *It is furthered ordered* that the Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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