

must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 14, 1996.

ADDRESSES: Comments and reply comments should be sent to the Office of Secretary, Federal Communications Commission, 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 Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Tom Derenge, Office of Engineering and Technology, (202) 418-2451. For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at (202) 418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, ET Docket No. 96-2, adopted January 18, 1996, and released February 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037. This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Paperwork Reduction Act

This NPRM contains either a proposed or modified information collection. 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 comments are due May 14, 1996. 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 Approval Number: N/A.

Title: Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico.

Form No.: N/A.

Type of Review: New Collection.

Respondents: Small Entities, Individual or households, Business or other for profit, State, Local or Tribal Government.

Number of Respondents: 500.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 300 hours.

Needs and Uses: The Commission believes that a Coordination Zone would facilitate the ability of the Observatory and Commission applicants to contact each other in order to cooperate to avoid causing interference. The collection would enable the Observatory and applicants to coordinate and share information in order to avoid harmful interference to sensitive, nationally important radio astronomy operations.

List of Subjects

47 CFR Part 5

Radio.

47 CFR Part 21

Communications common carriers, Radio.

47 CFR Part 22

Communications common carriers, Radio.

47 CFR Part 23

Communications common carriers, Radio.

47 CFR Part 24

Communications common carriers, Radio.

47 CFR Part 25

Communications common carriers, Radio.

47 CFR Part 26

Communications common carriers, Radio.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 74

Radio broadcasting, Television broadcasting.

47 CFR Part 78

Cable television, Radio.

47 CFR Part 80

Marine safety, Radio.

47 CFR Part 87

Defense communications, Radio.

47 CFR Part 90

Common carriers, Radio.

47 CFR Part 94

Radio.

47 CFR Part 95

Radio.

47 CFR Part 97

Civil defense, Radio.

Federal Communications Commission.

William F. Caton,
Secretary.

[FR Doc. 96-6205 Filed 3-14-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 25

[IB Docket No. 95-59; FCC 96-78]

Preemption of Local Zoning Regulations

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has proposed revisions to its rule preempting certain local regulation of satellite earth stations. These revisions are being proposed in response section 207 of the Telecommunications Act of 1996. That section directs the Commission to preempt nonfederal restrictions on certain direct-to-home video services, including Direct Broadcast Satellite (DBS) service. In our Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 95-59, we tentatively conclude that the final rule adopted in the Report and Order fulfills the Commission's obligation under the new statutory provision as to nonfederal, governmental restrictions on DBS-type satellite earth station antennas, but ask

for comment on this issue. Further, we tentatively conclude that section 207 of the Telecommunications Act of 1996 requires us to promulgate a new rule prohibiting enforcement of nongovernmental restrictions on small-antenna video reception. We therefore propose to add a new paragraph to our preemption rule in order to implement section 207 with regard to private, nongovernmental restrictions on DBS-type satellite earth station antennas. The proposed rule closely tracks the language of section 207, as amplified by the House Committee Report.

DATES: Comments are due by April 15, 1996; reply comments are due by May 6, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara, International Bureau, Satellite and Radiocommunication Division, Satellite Policy Branch, (202) 418-0754.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 95-59; FCC 96-78, adopted February 29, 1996 and released March 11, 1996. The complete text of this Report and Order and Further Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Further Notice of Proposed Rulemaking

1. The Further Notice of Proposed Rulemaking is being issued to implement section 207 of the Telecommunications Act of 1996. Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996). That section directs the Commission to preempt nonfederal restrictions that impair reception by antennas in direct-to-home video services, including Direct Broadcast Satellite (DBS) service. In our Further Notice, we tentatively conclude that the final rule adopted in this Report and Order fulfills the Commission's obligation under the new statutory provision as to nonfederal, governmental restrictions on DBS-type satellite earth station antennas. We ask for comment on our conclusion. We tentatively conclude that section 207 of the Telecommunications Act of 1996 requires us to promulgate a new rule

prohibiting enforcement of nongovernmental restrictions on small-antenna video reception.

2. We therefore propose to add a new paragraph (f), as set forth below, for our preemption rule in order to implement section 207 with regard to private, nongovernmental restrictions on DBS-type satellite earth station antennas. This proposed rule closely tracks the language of section 207, as amplified by the House Committee Report. The *per se* nature of the rule does treat private restrictions differently from restrictions imposed by state or local governments. However, as we have recognized throughout this proceeding, state and local land-use regulations have traditionally been near the core of those governments' general police powers. The presumption in favor of small antennas can be rebutted only by health or safety concerns. Non-governmental restrictions would appear to be directed to aesthetic considerations. Thus, we tentatively conclude that it is appropriate to accord private restrictions less deference on this basis. We seek comment on this conclusion and on all aspects of our proposed rule.

Ordering Clauses

3. Accordingly, *it is ordered* That pursuant to the Communications Act of 1934, 47 U.S.C. 151, 154, 303(r), 403, and 405, notice is hereby given and comment is sought regarding the proposals, discussion, and statement of issues in the Further Notice of Proposed Rulemaking that comprises paragraphs 55 through 62 of the Report and Order and Further Notice of Proposed Rulemaking.

4. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

5. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

6. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415

and 1.419, interested parties may file comments on or before April 15, 1996 and reply comments on or before May 6, 1996. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20054.

7. *It is further ordered* That the Secretary shall send a copy of this Report and Order and Further Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 95-354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

Initial Regulatory Flexibility Analysis

Reason for Action

The rulemaking is initiated to obtain comment on the proposed changes to the Commission's satellite antenna preemption rule, 47 CFR § 25.104.

Objectives

The Commission seeks to evaluate whether the proposed changes to the satellite antenna preemption rule will facilitate the installation of antennas and assist in the development of satellite based technologies.

Legal Basis

The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 (i) and 303 (r), Section 207 of the 1996 Telecom Act.

Reporting, Recordkeeping, and Other Compliance Requirements

Private restrictions on satellite antennas would be preempted.

Federal Rules that Overlap, Duplicate or Conflict With These Requirements

None.

Description, Potential Impact and Number of Small Entities Involved

Any policies or regulations adopted in this proceeding could affect small businesses that install or use satellite antennas.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

This Notice solicits comments on any suggested alternatives.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

Part 25 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: Sections 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 416–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

Section 25.104 is amended by adding new paragraph (f) to read as follows:

§ 25.104 Preemption of local zoning of earth stations.

* * * * *

(f) No restrictive covenant, encumbrance, homeowners' association rule, or other nongovernmental restriction shall be enforceable to the extent that it impairs a viewer's ability to receive video programming services over a satellite antenna less than one meter in diameter.

[FR Doc. 96–6380 Filed 3–14–96; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 620

[Docket No. 960222043–6043–01; I.D. 111595B]

RIN 0648–AC61

Foreign and Domestic Fishing; Scientific Research Activity and Exempted Fishing

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes new and revised definitions for certain regulatory

terms to distinguish clearly among scientific research activities, exempted fishing, and exempted educational activities; to clarify and standardize issuance procedures for letters of acknowledgement of notification of scientific research activity and exempted fishing permits (EFPs); and to facilitate scientific research activities.

DATES: Comments must be received by April 15, 1996.

ADDRESSES: Comments should be sent to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments regarding burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be sent to Richard H. Schaefer at the above address and to the Office of Management and Budget, Paperwork Reduction Project (0648–0214), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: William D. Chappell, Fishery Management Specialist; 301–713–2341.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act) authorizes the Secretary of Commerce to conserve and manage fishery resources in the exclusive economic zone (EEZ) by regulating “fishing.” Section 3(10) of the Magnuson Act, 16 U.S.C. 1802(10), defines “fishing” as the catching, taking, or harvesting of fish; the attempted catching, taking, or harvesting of fish; any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or any other operations at sea in support of, or in preparation for, any of the aforementioned activities. “Fish” includes finfish, mollusks, crustaceans, and all other forms of marine life other than marine mammals and birds.

Excluded expressly from the definition of fishing, and therefore from the Magnuson Act's purview, is “scientific research activity which is conducted by a scientific research vessel.” The Magnuson Act does not, however, define “scientific research activity” or “scientific research vessel.” The legislative history provides little guidance on Congress' intent in exempting scientific research conducted from a scientific research vessel from the Magnuson Act's requirements. The sole mention of the subject occurred during the Senate Conference Committee's consideration of H.R. 200, which, after amendment, ultimately became the Magnuson Act:

It should be noted that the definition of “fishing” in section 3(10) does not include scientific research conducted by a scientific research vessel. The conference committee does not consider the conducting of tests of fishing gear to be scientific research within the meaning of the bill. (S. Conf. Rep. No. 711, 94th Cong., 2d Sess. 43, reprinted in 1976 U.S. Code Cong. & Admin. News 660, 667).

It seems clear that Congress' intent was that not all activity that takes place on board a scientific research vessel be exempt from provisions of the Magnuson Act. The focus of the exemption is on the research nature of a particular activity conducted on board a scientific research vessel, rather than on the fish taken. However, because “scientific research activity” and “scientific research vessel” have never been precisely defined, the potential exists for abuse by using the exemption to obtain marketable fish outside of established fishing seasons or areas, or to otherwise avoid applicable regulations. Accordingly, NMFS now proposes definitions for “scientific research activity” and “scientific research vessel”.

Consistent with the wording of the Magnuson Act, the proposed definition of “scientific research activity” has as its focus “pure science,” as opposed to general gear or market research, or scouting for exploitable resources. Such applications would now be included under exempted fishing. The proposed definition for “scientific research activity” for the purposes of these regulations is an activity in furtherance of a scientific fishery investigation or study that would meet the definition of fishing under the Magnuson Act, but for the exemption applicable to scientific research activity conducted from a scientific research vessel. Scientific research activity includes, but is not limited to, sampling, collecting, observing, or surveying the fish or fishery resources within the U.S. EEZ, at sea, on board scientific research vessels, to increase scientific knowledge of the fishery resources or their environment, or to test a hypothesis as part of a planned, directed investigation or study conducted according to methodologies generally accepted as appropriate for scientific research. At-sea scientific fishery investigations address one or more issues involving taxonomy, biology, physiology, behavior, disease, aging, growth, mortality, migration, recruitment, distribution, abundance, ecology, stock structure, bycatch, and catch estimation of fish and shellfish (invertebrate) species considered to be a component of the fishery resources within the U.S. EEZ. Scientific research