

how much spectrum each licensee should be assigned; how licensees should be selected if mutually exclusive applications are filed; whether applications already pending before the Commission should receive special consideration; how those licensees should be classified; whether licensees should be permitted to use some of their spectrum for non-DARS services; how this service would impact terrestrial radio broadcasting; and what rules should govern the operation of DARS transmissions to ensure service to the public and to prevent interference to competitors and other services. We also request comment on the pioneer's preference requests filed by three of the current applicants.

In addition to the rule changes being proposed for Part 25, we are proposing to modify Section 87.303(d)(1) concerning frequency use in Aviation Services. We seek comment on this proposal and on any additional modifications to Part 87 that may be necessary.

We conclude that the proposals set forth in this NPRM will facilitate the implementation of DARS in the United States. We seek comment on all aspects of these service rules and anticipate an extensive record on which to base decisions on final regulations.

Ordering Clauses

Accordingly, it is ordered that, pursuant to sections 1, 4(i), 4(j), 7, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and 154(j), 157, and 309(j), notice is hereby given of the proposed amendments to Parts 25 and 87 of the Commission's Rules, 47 CFR Parts 25 and 87, in accordance with the proposals in this Notice of Proposed Rulemaking, and the comment is sought regarding such proposals.

It is further ordered that the Secretary 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 paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq* (1981).

Administrative Matters

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). The individual satellite DARS applications and pioneer's preference

proceedings are restricted proceedings, to the extent that any party has formally opposed an application or pioneer's preference request. *Ex parte* presentations concerning any formally opposed application or request are prohibited. *See* 47 CFR § 1.1208.

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 *September 15, 1995* and reply comments on or before *October 13, 1995*. To file formally in this proceeding, parties must file an original and five copies of all comments, reply comments, and supporting comments. If parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Parties should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, room 239. For further information contact Rosalee Chiara or Ron Repasi at (202) 739-0735. Parties filing comments on the pioneer's preferences requests must file comments separate from those on the rules proposed in this notice and reference both the file numbers and the General Docket No. 90-357. For further information on pioneer's preference requests contact Rodney Small at (202) 776-1622.

Initial Regulatory Flexibility Act Statement

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 in Appendix III. 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 Analysis.

List of Subjects

47 CFR Part 25

Satellites.

47 CFR Part 87

Air transportation.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Proposed Rules

Parts 25 and 87 of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

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

Authority: Sections. 101-404, 76 Stat. 419-427; 47 U.S.C. 701-744, Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303.

2. Section 25.114 is amended by revising paragraph (c)(18), or read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(18) Detailed information demonstrating the financial qualifications of the applicant to construct and launch the proposed satellites. Applications for domestic fixed-satellite systems and mobile-satellite systems shall provide the financial information required by § 25.140(b) through (e), § 25.142(a)(4), or § 25.143(b)(3), as appropriate.

Applications for satellite DARS systems shall comply with the requirements of § 25.144(b)(3). Applications for international satellite systems authorized pursuant to Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985), *recon*, 61 RR 2d 649 (1986), *further recon*, FCC Rcd 439 (1986), shall provide the information required by that decision.

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3. A new § 25.144 is added to read as follows:

§ 25.144 Licensing provisions for the 2.3 GHz satellite digital audio radio service.

(a) Definitions:

(1) *System*. The term *System* refers to the constellation of one or more satellite DARS space stations, the feeder link earth station(s), and the mobile, fixed and/or portable receivers.

(2) *Allocated bandwidth*. The term *allcoated bandwidth* refers to the entry in the Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radiocommunication services or the radio astronomy service under