FED

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[IB Docket Nos. 22-411; 22-271; FCC 23-73; FR ID 188451]

Expediting Initial Processing of Satellite and Earth Station Applications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts changes to its rules aimed at expediting the initial license application processing for satellite operators. The Commission establishes timeframes for placing satellite and earth station applications on public notice, eliminates a procedural rule that prevents consideration of requests for waiver of the International Table of Frequency Allocations, and removes the prohibition on licensed-but-unbuilt systems for non-geostationary orbit (NGSO) operators. Additionally, the Commission creates a new, streamlined processing framework for earth station operators to add satellite points of communication under certain circumstances. Finally, the Commission lays the groundwork for a broader Transparency Initiative led by the Space Bureau to provide clarity and access to applicants when interfacing with the Commission's license application processes and filing system.

DATES: Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 23-73, adopted September 21, 2023, and released September 22, 2023. The document is available for download at

https://docs.fcc.gov/public/attachments/FCC-23-73A1.pdf. To request materials in accessible formats for people with disabilities, (e.g., Braille, large print, electronic files, audio format, etc.) send an email to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), or 202-418-0432 (TTY). A proposed rule relating to further expediting satellite and earth station application processing is published elsewhere in this issue of the *Federal Register*.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this document on small entities. The FRFA is set forth in Section IV below.

Final Paperwork Reduction Act Analysis

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13 (44 U.S.C. 3501-3520). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is "non-major" under the Congressional Review Act, 5 U.S.C. 804(2). The

Commission will send a copy of the Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Synopsis

I. Introduction

1. In this document, the Federal Communications Commission (Commission) advances opportunities for innovation in the new space age by taking measures to expedite the application processes for space stations and earth stations, consistent with the Commission's objective to "promote a competitive and innovative global telecommunications marketplace via space services." Applications for space services before the Commission continue to increase in complexity and number. Concrete measures to expedite the initial processing of applications for authority to operate space and earth stations under part 25 of the Commission's rules are vital to supporting U.S. leadership in the growing space economy. Accordingly, the rule updates and policy changes the Commission adopts today will: (1) improve the process that Commission staff uses to review space and earth station applications for acceptability for filing and to place the applications on public notice; (2) eliminate processing rules that are no longer necessary; (3) establish timeframes for placing space and earth stations on public notice; and (4) advance other initiatives to expedite the processing of applications. In addition, as part of the Space Innovation agenda, the Space Bureau will undertake a Transparency Initiative. The goal of this initiative is to provide information and guidance, in a variety of forms, to interested parties so they can understand the Commission's procedures and what is needed to obtain authorization for their proposed space station and earth station operations. The Commission believes that this initiative will reduce administrative burdens on both applicants and staff and will further expedite the processing of applications.

II. Background

2. To facilitate application filing and processing, the Commission has improved the standard forms for satellite and earth station applications (FCC Form 312, 312R, and Schedules A and S) and is currently working on improvements to its online filing system for such applications, the International Communications Filing System (ICFS). In addition, the Commission has regularly taken steps to streamline its part 25 rules. As part of previous streamlining efforts, the Commission adopted a 45-day expected period for placing on public notice applications both for initial space station authorizations and for modification of a space station authorization. The Commission also adopted an expected time of 60 days for acting on space station applications after the close of the comment period. For applications for special temporary authority (STA) for a space station, the Commission expected the application would be placed on public notice within 14 days of receipt (if public notice is required) and acted on within 30 days after the close of the comment period, or within 30 days of receipt if public notice is not required. In addition, expected processing times were also announced for earth station applications. These times were 45 days from confirmation of receipt of payment for placing applications for initial earth station authorizations or modifications on public notice, and 60 days after close of the comment period for action; 30 days from confirmation of receipt of payment for placing initial registrations of receive-only earth stations or modifications on public notice, and 45 days after close of comment period for action; and 14 days from confirmation of receipt of payment for applications for special temporary authority for earth stations, and 30 days after close of comment period for action, unless the application does not require public notice before action, in which case the expected time for action is 30 days of receipt. In all cases, the Commission's expectations applied to "straightforward applications that are not contested" and were set "barring any complication."

3. As we enter the new space age, applications for space services before the Commission continue to increase in complexity and number. In response to this unprecedented era of growth in the space industry, the Commission launched the Space Bureau on April 11, 2023. Space activities are increasing in almost every industry sector. The Commission must, therefore, make expediting the processing of applications a priority of its Space Innovation Agenda. If the current rate of filings for applications continues in 2023, the Commission will receive approximately four times the number of space station applications and three times the number of earth station applications than it received in 2015. In addition, the complexity of applications continues to increase as new and novel space technologies are presented for consideration. The commercial space industry is evolving at a rapid pace, and it is critical that the Commission keeps up with the cadence of applications and complexity of regulatory issues presented.

4. The Notice of Proposed Rulemaking (NPRM) sought comment broadly on changes to Commission rules, policies, or practices to facilitate the acceptance for filing of space and earth station applications under part 25. In particular, the NPRM proposed to remove a procedural rule that formally prevents consideration of waiver requests for operations not in conformance with the International Table of Frequency Allocations. It also sought comment on whether the limits on applications for NGSO systems and unbuilt NGSO systems should be amended, and whether the Commission should provide greater transparency or certainty with respect to its expected application processing timelines. In response to the NPRM, 24 comments, 11 reply comments, and multiple *ex parte* notifications were filed.

III. Discussion

a. Facilitating the Application Process

5. An essential element of expediting the application process is to make it easier for applicants to understand what is required to have an application accepted for filing and to

avoid the dismissal of an application. Accordingly, the Commission discusses the steps it takes today, and will take in the future, to provide transparency and guidance regarding Commission licensing procedures, as well as to reduce the risk of an application being dismissed, without considering the merits of the application, due to filing requirements that the Commission deems are no longer needed to serve the public interest.

i. Transparency and Guidance.

6. The NPRM sought comment on whether there is additional guidance or other assistance that the Commission should provide to applicants to avoid required information being omitted in their initial filings. Omission of required information can result in delays in processing an application, or even in the dismissal of an application. Commenters who responded to the Commission's procedural and technical inquiries overwhelmingly support the proposal of the Commission issuing guidance on the application process.

7. The Commission believes that the licensing process for space and earth station applications can be expedited by making it more transparent and providing applicants with further guidance on the initial application stages, as several commenters have suggested. The Commission agrees with commenters that clarity and guidance on what is required for an application to be acceptable for filing will result in an increase in complete filings that can be swiftly accepted for filing, which will in turn expedite the processing of space and earth station applications. Clear and transparent guidance to the applicant will aid in expediting application processing for both the applicants and staff. Accordingly, the Space Bureau will undertake a Transparency Initiative to provide such guidance. The goal of this initiative is to provide information and guidance, in a variety of forms, to interested parties so they can understand the Commission's procedures and what is needed to obtain authorization for their proposed space station and earth station operations. The Commission believes that this initiative will reduce administrative

burdens on both applicants and staff and will further expedite the processing of applications. The guidance will take a variety of forms, including "frequently asked questions" or helpful links on the FCC's website. In other cases, public workshops may be held to explain certain requirements.

8. The initiative will cover a variety of topics, for example, application completeness and orbital debris requirements. Additionally, when the Commission releases the updated International Communications Filing System (ICFS), the system will include multiple forms of guidance for users, including training videos for the ICFS application process and a helpful links page. The Commission believes that this Transparency Initiative will address many of the specific requests that commenters have identified in this record, facilitate new entrants into the space economy, and further expedite the Commission's processes to meet the needs of the innovative and expanding space sector.

9. In addition, the Commission will continue to consider various ways in which the Space Bureau can provide more clarity and guidance on the application process moving forward, including, for example, various methods for increasing transparency around the inter-bureau and inter-agency coordination process. The Commission expects this to be a continuing process and believes that this investment of time and resources will pay off in reducing staff time in reviewing and correcting incomplete applications and applicant time responding to staff requests for missing information, which will in turn expedite the processing of space and earth station applications. The Commission encourages stakeholders to discuss their needs for information and guidance directly with Space Bureau staff in order that they may be considered and addressed in ways that do not require a change in Commission rules.

10. The Commission received a wide variety of comments related to the NPRM's various procedural and technical streamlining questions including suggestions to provide certifications or fill-in template forms in lieu of narratives to the extent possible and

SpaceX suggests this could be done as a way of standardizing orbital debris showings. The Commission declines to change showings that require a narrative to certifications at this time, noting that the Commission has recently taken additional steps to utilize certifications where appropriate, such as in the 2020 unified licensing proceeding, which included new certification options for earth station operators. Moreover, as EchoStar noted in its comments, certain showings require a more thorough and nuanced explanation than what could be contained in a certification. But the Commission agrees that providing applicants with more clarity and guidance on orbital debris plans will aid in Commission review, as SpaceX points out, and plans to incorporate such guidance into the Commission's Transparency Initiative.

ii. Reducing Risk of Dismissal.

11. The Commission finds that expediting the processing of space and earth station applications requires reducing the risk that an application will be dismissed before full consideration of the merits of the application, thereby necessitating refiling the application and restarting the application process anew. The Commission takes several actions below to address these issues in light of existing reasons for dismissal.

1. Omissions, Inconsistencies, and Errors

12. Existing rules provide that a space or earth station application is considered unacceptable for filing if the application is defective with respect to completeness of answers to questions, informational showings, internal inconsistencies, execution, or other matters of a formal character. The requirement that applications be "substantially complete" when filed has been in place since 1998 and ended the practice of reviewing the accuracy or merits of specific information in an application before placing it on public notice. Under the "substantially complete" standard, an application is reviewed to ensure that it contains all information required by the Commission's rules and, if an

application fails to include any of the required information, the application is returned without prejudice as being unacceptable for filing.

13. The NPRM noted that in recent years, Commission staff have worked with applicants to correct omissions or inconsistencies in their applications in order for an application to be deemed acceptable for filing under Commission rules. The NPRM sought comment on this practice and potential alternatives that might speed up application review, such as dismissing applications that contained internal inconsistencies or omissions without prejudice to refiling or, conversely, loosening the standards for acceptability of filing.

14. After consideration of the record, the Commission will maintain the practice of not immediately dismissing applications that contain omissions or internal inconsistencies and instead working with applicants to correct such omissions or inconsistencies so that the application may be acceptable for filing. Most comments encourage the continuation of the practice of communicating with applicants and allowing them opportunities to cure small mistakes or omissions, instead of issuing dismissals. The Commission finds that dismissing space and earth station applications for even minor omissions and inconsistencies, without an opportunity to correct the deficiencies, is inconsistent with the Commission's goal of expediting the processing of space and earth station applications, since substantial time is required to dismiss and refile a corrected application. The Commission agrees that the same result can be achieved in less time by promptly reviewing the application for any deficiencies and communicating these deficiencies to the applicant, and by giving a limited time for the applicant to make corrections or to provide missing information.

15. In order to achieve the goal of expediting application processing, the Commission expects the Space Bureau will provide applicants with limited timeframes to respond to requests for additional information or to promptly rectify inconsistencies or omissions in

the application. Limiting the time to respond will encourage applicants to file applications that are as complete and accurate as possible, with only minor errors or omissions that require correction in the limited timeframe for responding and will help ensure that a request for information does not result in unnecessary delay of processing the application if the applicant does not respond in a timely manner. Several comments support time limits for applicants to respond to Commission staff with additional information or corrections so as to avoid a drawn-out initial review process. Failure to respond within those timeframes will risk dismissal of the application under existing rules. Although some comments proposed specific deadlines for applicants to respond to staff inquiries, the Commission declines to adopt specific deadlines at this time. Space and earth station applications can vary greatly depending on the nature of the operations or whether the activities are novel or involve new technology. As such, it is important to allow some flexibility and case-by-case determinations on setting time limits for responses from applicants. The deadline for response will be communicated clearly to applicants as part of requests for additional information or notices to the applicant that there are errors, omissions, or inconsistencies that need to be resolved before finding the application to be acceptable for filing.

16. The Commission finds that it is unnecessary to change its rules in order to implement this practice. Although the existing rules state that an applicant will be dismissed for various omissions or internal inconsistencies, it does not preclude staff from allowing applicants the opportunity to cure omissions or internal inconsistencies before accepting the application for filing. The Commission expects that there will be prompt communications between staff and applicants in order to expedite the application process.

17. The Commission also received several comments on whether to loosen the standard for accepting applications for filing. AWS and OneWeb put forth what they

deem to be faster processes for placing applications on public notice. AWS suggests that, at least for earth station applicants, applications could be automatically placed on public notice after a designated period and applicants could work to cure any errors or omissions during the public notice period. OneWeb advocates for a "check box" determination method for placing applications on public notice and proposes revisions to § 25.112(a)(1) to enable quicker determination. Boeing also suggests that the Commission could place applications on public notice without necessarily first finding them to be acceptable for filing. Conversely, Viasat asserts that loosening the acceptability for filing standards would not lead to streamlining, but rather, would result in larger numbers of deficient or incomplete applications being reviewed by Commission staff and third parties, wasting limited resources. Similarly, Verizon / AT&T assert that more stringent standards would reduce processing times by incentivizing applicants to submit complete and accurate applications in the first instance if they believe the Commission is more likely to dismiss an application if it is not complete. Kuiper asserts that applications should be complete at the time of filing to avoid inefficiencies in review and suggests that the Commission require applicants to include a checklist table in their application demonstrating completeness and compliance with all relevant rules. Others do not advocate for strengthening or loosening standards, but rather assert that the Commission could streamline the acceptability for filing process through guidance, by more clearly articulating the Commission's "substantially complete" threshold.

18. The Commission finds that it is not necessary to loosen its acceptability for filing standards in order to expedite the processing of space and earth station applications. The Commission has previously explained what is meant by "substantially complete," and continues to hold to this understanding: "[t]he applications must be complete in substance, and must provide all the information required in the application form." This is a reasonable standard for finding that an application is acceptable for filing, and

acceptance for filing has legal consequences for a GSO-like space station's place in the queue or an NGSO-like space station's place in a processing round. As such, the Commission continues to find that there is merit to holding applications to a "substantially complete" standard and to review an application to ensure that it complies with this standard before accepting the application for filing. The Commission is not convinced that looser standards will result in an expedited process, and agrees with commenters who note that looser standards on the front end of application review will likely lead to a more burdensome review of incomplete applications at later stages of the application process. Although the Commission recognizes the interest in straightforward review, such as via a "check box" determination, part 25 applications cover many types of operations, which makes it infeasible to capture all elements of such diverse operations in a "check box" format. The Commission is also not convinced that more stringent acceptability for filing standards will expedite application processing. Rigidity in the initial application review can lead to premature dismissals, which in turn will take more of staff and applicants' resources. Instead, the Commission believes that the process can be expedited by providing applicants at the initial application stages with greater transparency and guidance, which applicants will be able to access on the Commission's website as part of the Space Bureau's Transparency Initiative.

19. Finally, numerous commenters support changes to the license application forms that would reduce duplication and the need to manually input technical information in various locations, which would reduce the risk of missing or inconsistent information being submitted. Likewise, commenters generally support the inclusion of compliance checks into the application process. Specifically, numerous commenters have suggested that the Commission consider these types of updates to specific licensing forms, including the Form 312, the Schedule S, and the Schedule B. Additionally, although the

Commission did not specifically ask about updates to ICFS, several commenters suggest that the Commission consider updates or a general overhaul of the filing system.

20. The Commission observes that the electronic filing system used for space and earth station applications, ICFS, is already being updated in ways that respond to many of the issues that commenters raise regarding the technicalities of the application process. As a result of these updates, ICFS will have several new features for application forms, including automatic error notifications in the Form 312, data entry alerts to misinformation, and an overall validation prior to submitting a filing. There also will be some pre-filled sections of the application form based on previously entered data. With regard to modification or amendment applications, applicants will be presented with a pre-filled form including the information from their current authorization or pending application that they seek to modify or amend. This pre-filled form can then be adjusted in the areas that the applicant seeks to modify or amend. Additionally, the Schedule B and Form 312 will allow users to delete or remove sections or data that are no longer needed. The Commission is also updating the fields in the Schedule S to better align with technical rules. The Commission finds that these updates address many, but not all, of the changes recommended by the comments. The Space Bureau expects to continue dialogue with system users about possible further improvements after the initial modifications of ICFS are introduced.

2. Conformance with International Frequency Allocations

21. Currently, with the exception of applications for streamlined small satellite and small spacecraft applications, applications will be dismissed if they request authority to operate a space station in a frequency band that is not allocated internationally for such operations under the Radio Regulations of the International Telecommunication Union. The Commission adopted this rule in 2003, with the purpose of eliminating premature applications filed prior to the ITU adopting a necessary frequency allocation, which can

take several years. At the time, the Commission had reasoned that applications that were filed far in advance of adoption of an ITU allocation had a likelihood of being placeholder applications for purposes of warehousing spectrum.

22. The Commission adopts the NPRM's proposal to amend the license application acceptability for filing criteria to place waiver requests for satellite operations not in conformance with the International Table of Frequency Allocations on an equal procedural footing with other requests for waiver of substantive Commission rules. Comments widely support adoption. Furthermore, the limitation on acceptance of applications has caused delay in review of applications for acceptability for filing and has complicated review of space station applications, which is contrary to the goal of expediting the space station application process. In addition, as the Commission observed when it adopted streamlined rules for the processing of applications for small satellites, there may be benefits associated with operations not consistent with the current International Table of Frequency Allocations in certain circumstances. Finally, Commission experience over the last twenty years since the rule was adopted supports the finding that the concerns about warehousing of spectrum and orbital resources through placeholder applications have been effectively addressed through the Commission's milestone and bond requirements, which makes this rule unnecessary. The Commission finds that adoption of this proposal will help avoid the dismissal of an application for failure to meet a rule that is no longer needed to protect against placeholder applications that warehouse spectrum resources.

23. Accordingly, the Commission amends § 25.112 of Commission rules to delete subparagraph (a)(3) and will no longer immediately dismiss applications that request authority to operate a space station in a frequency band that is not allocated internationally for such operations under the ITU Radio Regulations when the applications include a request for waiver of the allocation. Section 25.112(b) also is

revised accordingly to remove reference to paragraph (a)(3) of § 25.112. The Commission emphasizes that this decision to allow the Commission to review such applications is not intended to alter the allocation status of these bands. In considering the merits of such requests, the Commission recognizes its obligations as a ratifying member of the ITU, and as the regulatory body that allocates spectrum for commercial use in the United States. Accordingly, any application that includes waiver requests for satellite operations not in conformance with the International Table of Frequency Allocations would need to demonstrate sufficient justification to support the waiver request in light of Article 4.4 of the International Telecommunication Union Radio Regulations (ITU R.R.), which states that Administrations shall not assign frequencies to a station in derogation of the International Table of Frequency Allocations, except on the express condition that the station's use of the frequencies shall not cause harmful interference to, and shall not claim protection from harmful interference caused by, a station operating in accordance with the ITU R.R. For example, the Commission agrees with comments that urge, to the extent that there are co-channel operations that might be the subject of potential interference, the request for waiver should address those operations. The Commission may also consider, on a case-by-case basis, as some have suggested, opening rulemaking proceedings and accounting for any relevant ITU process to address potential related allocation issues if appropriate. Moreover, the Commission expects that such applicants would be engaged contemporaneously in activities to work toward modification of the International Table of Allocations at the ITU, and the applicants should consider describing the status of such efforts in their application. The Commission also encourages entities that are considering making a request for authorization for a non-conforming operation to discuss the request with Commission staff prior to filing.

24. A few commenters suggest that the Commission adopt specific requirements related to these non-conforming operations beyond the Commission's rules for considering waivers, and propose other limitations, including for protecting against potential interference to operations in the radioastronomy service (RAS) and earth exploration-satellite service (EESS). Other commenters argue that interference concerns to such services can be managed through coordination. The Commission declines to adopt such proposals and is not convinced that adopting strict engineering protocols is a necessary or appropriate means for preventing interference for every operation, or for operations in certain services. Further, it will not result in expediting the licensing process for applicants or the Commission. Instead, the Commission can process such requests on a case-by-case basis, taking into account the facts and circumstances of individual waiver requests and the potential for harmful interference in specific cases. Based on the Commission's experience in instances where applicants have been granted limited non-conforming operations, such as in the small satellite context, any waivers that the Commission determines to grant would include non-interference conditions and coordination conditions as necessary.

25. Furthermore, the Commission is not convinced that caps on the number of waivers it grants or on the duration of operations will prevent the potential for harmful interference, and such caps will not further Commission goals to streamline the licensing process. Rather, the Commission emphasizes its review on technical showings of non-interference and on coordination requirements, which will better prevent harmful interference in these circumstances. Similarly, the Commission will not exclude entire bands from consideration for non-conforming use, as some commenters suggested. To preemptively exclude certain bands from possible waiver request consideration would undercut goals of fostering innovation in the satellite industry since the Commission cannot predict what bands will support future development. The Commission believes

that the requirements for demonstrating non-interference and coordination, along with the Commission's waiver standards, will provide sufficient protections to existing services.

3. Unbuilt NGSO Systems

26. Commission rules currently contain procedural safeguards against applications that are considered more likely to be speculative or intended to warehouse spectrum resources, including the prohibition on one party having multiple NGSO-like applications or licensed but unbuilt NGSO systems in the same frequency band. This prohibition prevents a party from applying for an additional NGSO-like satellite system license in a particular frequency band if that party already has an application for an NGSO-like satellite system license on file or a licensed-but-unbuilt NGSO-like satellite system in the band. The Commission adopted the unbuilt systems rule, in addition to bond and milestone requirements, as a means to restrain speculation without restricting applicants' business plans and to give licensees an incentive to surrender licenses for satellite systems that they do not intend to build. Recognizing that the unbuilt NGSO systems rule can lead to delays in processing applications by adding complexity to the review in determining whether an applicant has violated the rule, and, considering the current rapid state of development of NGSO systems, the Commission sought comment on whether the limit on unbuilt NGSO systems may be a hinderance to the acceptability of legitimate satellite applications and if so, whether the Commission should amend or eliminate such limitation.

27. After review of the record, the Commission concludes that the goal of expediting the initial processing of space station applications will be advanced by eliminating the part of the Commission's rules in §§ 25.159(b) and 25.137(d)(5) that prohibits a licensee or market access grantee respectively from applying for another NGSO license or grant of market access where the party has an already licensed-but-unbuilt NGSO system for the same frequencies. The Commission finds that it is often time consuming to determine

whether the relevant applicant violates this prohibition, for example when there are disputes in the record regarding whether a system is "unbuilt," and the need to make this determination prior to accepting an application for filing can delay placing an application on public notice to permit consideration of the application on the merits. In situations where it was not clear whether the prohibition has been violated by the proposed application, the Space Bureau (and the former International Bureau) has accepted the application for filing, without prejudice to a determination And the Commission is not convinced, as some commenters suggest, that its elimination will lead to speculative license applications or spectrum hoarding. The Commission's current bond and milestone requirements, which were also put in place to deter speculative license applications and spectrum warehousing, remain in place, and the Commission agrees with many commenters who note that these requirements serve as adequate deterrents. The Commission's experience has been that the restriction on unbuilt NGSO systems is unnecessary to deter warehousing of spectrum and orbital resources, in light of the bond and milestone requirements and other safeguards, and the restriction on unbuilt NGSO systems could delay processing times without a corresponding benefit to the public. However, the Commission retains and revises the portion of the rule that prohibits operators from filing multiple applications in the same frequency band where such applications are subject to NGSO-like processing round rules, which require that in the event there is insufficient spectrum in the requested frequency band or there is harmful interference between NGSO FSS licensees, the available spectrum is divided equally among licensees.

28. Several commenters suggested that instead of eliminating the prohibition on licensed-but-unbuilt systems, the Commission could "soften" the rule, amend it, more broadly interpret the meaning of "unbuilt", or issue waivers on a case-by-case basis. The Commission finds that these suggested changes for nuanced, case-by-case approaches in

interpretation would not result in an expedited review process on the whole. Rather additional review, and therefore a more-lengthy application processing timeframe, would be required. Kuiper suggests that the Commission amend the rule to focus on investment and progress. The Commission's current bond and milestone requirements are set up for such purpose. When the Commission adopted the bond requirements in 2003, the Commission reasoned that requiring satellite licensees to make a financial commitment to construct and launch their satellites would help deter speculative applications and thus prevent valuable spectrum resources from lying fallow. When the Commission adopted a revised escalating methodology for bond and milestone rules in 2015, which increases operators' liability over time, the Commission aimed to further incentivize satellite operators to construct and launch spacecraft expeditiously or surrender their authorization early. The Commission agrees with comments that state that the Commission's bond and milestone rules have been effective in deterring speculative applications, and the Commission finds that the licensed-but-unbuilt NGSO-like systems prohibition on filing an application for another NGSO-like satellite system license in that frequency band in § 25.159(b) has become redundant, while also creating an additional hurdle to the application process for NGSO operators. While the Commission agrees that a focus on investment and progress towards completing a system is prudent, it does not agree that amending the unbuilt systems rule to focus on investment is necessary. Rather, the most effective method for streamlining the application process is to eliminate the prohibition on applying for another NGSO system license when an applicant already has a licensed-but-unbuilt NGSO-like system and rely on the Commission's longstanding bond and milestone requirements.

29. Several commenters suggest that at the very least EESS operators should be exempt from the unbuilt NGSO systems rule given their views that EESS operators often have the ability to share spectrum without causing interference. This point is moot given

the decision to eliminate the prohibition on licensed-but-unbuilt systems and therefore there is no longer any need to expressly exempt EESS operators from it. However, the Commission agrees with commenters that EESS NGSO operators provide a relevant example for why the one-size-fits-all unbuilt NGSO systems rule did not account for the nuance of certain NGSO satellite operations, or the way NGSO systems have developed in the 20 years since the rule was implemented. As both Spire and a group of EESS operators point out, EESS operations licenses are routinely granted outside of processing rounds, which the unbuilt systems rule was designed for. Again, the Commission's experience and the record demonstrate that eliminating the prohibition on licensed-but-unbuilt systems is the most efficient method for streamlining, and because of the bond and milestone requirements, the Commission can do so without jeopardizing its goals to prevent spectrum warehousing and speculative applications. Additionally, by revising the remaining language in §§ 25.159(b) and 25.137(d)(5) to clarify that the prohibition on filing multiple applications in the same frequency band is tied to being subject to the Commission's "modified processing round rules," found in § 25.157, EESS operators who are granted licenses or market access outside of processing rounds will not be subject to §§ 25.159(b) or 25.137(d)(5) at all.

30. Several commenters suggest that the Commission take into account how to ensure that elimination of the unbuilt systems rule does not result in the potential for interference for other operators and ensure that ITU Equivalent Power Flux Density (EPFD) limits are adhered to. ViaSat cautions that, if this rule were eliminated, applicants might "propose to operate multiple NGSO 'systems' that would use the same frequency bands as a way of circumventing the Commission's substantive EPFD limits" or "attempt to game the default 'band-splitting' mechanism set forth in § 25.261 of the Commission's rules (which divides spectrum equally among the 'systems' involved in an inline interference event)." Intelsat raises a similar concern regarding EPFD limits and suggests that the

Commission clarify that NGSO systems must continue to adhere to the EPFD limits incorporated in § 25.146(c) of the Commission's rules. This decision to eliminate the unbuilt systems rule does not alter § 25.146(c), which remains in place. Moreover, applicants will continue to be held to Commission and ITU rules on EPFD limits. And, as stated above, the Commission is retaining the portion of the rule that prohibits operators from filing multiple applications in the same frequency band in specific circumstances to avoid the possibility of a single operator receiving unequal division of spectrum in cases where band-splitting is required.

31. SES, while supporting the removal of the unbuilt systems prohibition in § 25.159 so long as other protections are in place, suggests that the Commission ensure that NGSO operators must be limited to one application per processing round. SES argues that "[p]ermitting an applicant to submit two or more system designs in a [processing] round would multiply the burden on Commission staff and other round participants, who would be forced to evaluate each possible configuration, even if it is clear that the applicant only intends to build and launch one of its proposed options." EchoStar disagrees and suggests that applicants might plan to use different NGSO systems for different applications, and given the financial commitments that are necessary, companies are unlikely to file applications frivolously. EchoStar appears to go even further and suggest that the Commission eliminate § 25.159(d), which states, among other things, that "[i]n the event that a licensee misses three or more milestones within any three-year period, the Commission will presume that the licensee obtained one or more of those licenses for speculative purposes." The Commission declines to consider this suggestion further as it is beyond the scope of the Commission's queries related to paragraph (b), and the Commission finds that paragraph (d) in § 25.159 plays a distinct and important role in deterring speculative applications. The Commission agrees with SES that there are different considerations related to its rules on the number of applications per applicant

per processing round versus whether the applicant has a licensed-but-unbuilt system. Although NGSO systems have evolved and an operator may have two distinct purposes for seeking multiple applications in the same processing round, the Commission is not convinced that doing away with this aspect of the rules will expedite the application or review process for processing rounds, but rather would require heightened review and consideration that might delay the processing of the application. Additionally, this aspect of the rule serves to ensure that in the event there is insufficient available spectrum in a frequency band, the available spectrum will truly be shared equally among the licensees, as required by § 25.157(e) of Commission rules on NGSO processing rounds. Although commenters state that an applicant could have a legitimate reason to apply for separate systems in the same processing round, the commenters do not provide any concrete examples of what these reasons might be or how, as a general matter, the benefits of allowing multiple applications in the same processing round outweigh the identified potential harms. As a result, there is no basis in the record to determine that the potential harms identified by the Commission in adopting the rule, and identified by comments in this proceeding, could be outweighed by unspecified potential benefits. In sum, the Commission adopts revisions to § 25.159(b) and its equivalent for market access grantees in § 25.137(d)(5) by eliminating the prohibition on licensed-but-unbuilt systems in these rules, but the Commission retains the limitation on the number of applications per NGSO operator per processing round. The Commission has also clarified the text related to the number of applications to demonstrate this limit is tied directly to being subject to the procedures in §§ 25.157 and 25.261. The Commission notes that it has eliminated references to §§ 25.122 (small satellites streamlined licensing procedure) and 25.123 (small spacecraft streamlined licensing procedure) as exceptions to § 25.159(b) and § 25.137(d)(5) because licenses granted under these streamlined procedures are made outside of a processing round and thus not subject to §§ 25.157 and 25.261.

Additionally, the Commission revises § 25.159(c) of the rules for clarification and to reflect these changes.

4. Waiver Requests

32. Current rules state that an application will be unacceptable for filing and will be returned to the applicant if it is defective, internally inconsistent, or incomplete, or if it does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements. Current rules also, however, specifically allow the Commission to accept for filing an application that is defective for these reasons if the application contains a request for waiver of any rule, regulation, or requirement with which the application is in conflict. Alternatively, the Commission may accept the application if the Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement. Thus, the current rules allow an otherwise defective application to be accepted for filing if it contains a request for waiver of a rule that it is in conflict with, or the Commission waives the rule on its own motion.

33. The NPRM asked whether applications omitting necessary waiver requests should be dismissed, and how well-supported should a waiver request need to be to overcome the acceptability for filing requirements, including waivers of filing deadlines or waivers that raise novel issues. This is an important question, given the risk of an application being delayed from being accepted for filing while the applicant and opposing parties argue whether an application complies with Commission rules, where the application did not explicitly request a waiver of the rule in question. As a result of this argument, a decision on the merits of the application instead becomes a procedural question that inhibits accepting the application for filing and placing the application on public notice for comment, which is a prerequisite for acting on the application.

34. The Commission finds that no change to its rules is necessary to address the potential delay of an application being accepted for filing because of a failure to request a waiver of Commission rules. Instead, the Commission encourages applicants to remember to request any necessary waivers of Commission rules or policies in order to avoid dismissal of applications or delay in accepting applications for filing. By filing a waiver request, the applicant removes a potential obstacle to accepting the application for filing and placing the application on public notice. Likewise, the Commission does not need to change any rules in order to answer the question of how well-supported a waiver request needs to be to overcome the acceptability for filing requirements. The current rules simply state that a defective application can be accepted for filing if it is "accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict." Because the waiver request must seek a waiver of a "specific rule, regulation, or requirement," an application cannot satisfy § 25.112(b)(1) with a blanket request for waiver of any unspecified rule that the Commission might find the application in conflict with. The rule does not impose any separate requirements on how well-supported the waiver request needs to be, so the general requirement for any waiver request to show "good cause" under Commission rules applies.

35. Some comments suggest that the Commission adopt requirements for, or limitations on, requests of waivers of specific rules. The Commission finds that these suggestions go beyond the generalized goal of expediting the processing of space and earth station applications and are better addressed in the context of specific applications and rulemakings. Accordingly, the Commission will not address them here.

b. Expediting Public Notice of Acceptability for Filing

36. The Commission establishes timelines for Space Bureau staff to either: (1) determine that an application for authority to operate a space or earth station is acceptable

for filing and place it on public notice; or (2) notify the applicant that staff has identified questions, errors, or omissions, and that the application will not be placed on public notice until after these questions, errors, or omissions are addressed by the applicant to the satisfaction of the Bureau. For all earth stations and GSO space station applications, the Commission concludes that a 30-day timeline is appropriate. For all NGSO space station applications, the Commission concludes a 60-day timeline is appropriate. In all cases, the timeline is measured in calendar days, starting on the day after the application is filed in ICFS. The Commission finds that expressing clear goals for accepting an application for filing or notifying the applicant of deficiencies will establish expectations for expedited processing of applications for both staff and applicants.

37. The NPRM asked whether the Commission should have deadlines for accepting certain space or earth station license applications for filing or dismissing them as unacceptable for filing. It also sought comment on what a reasonable deadline might be and whether deadlines should depend on the type of application filed. Additionally, it asked whether there should be limitations on any acceptability for filing deadline the Commission might adopt, such as for applications requesting operations not consistent with the International Table of Frequency Allocations, or where the application could involve initiation of a new NGSO processing round, or for contested applications. Finally, it queried whether instituting a deadline would result in more dismissals.

38. Most comments welcome the establishment of timeframes for placing applications on public notice, however, commenters differ on whether the timelines should be definitive deadlines, such as "shot clocks," or more flexible goalposts. Commenters are generally wary of automatic dismissals. AWS explains that a shot clock resulting in automatic dismissal if not approved before the deadline would not streamline the process, rather it would require an additional review burden on both the applicant and the Commission staff. Instead of an automatic dismissal approach, AWS

suggests that earth station applications could be automatically placed on public notice after 30 days if the Commission does not deem them acceptable for filing sooner. Inmarsat and SIA also suggest a 30-day shot clock for placing earth station applications on public notice. Boeing puts forth a similar suggestion, proposing that all earth station applications be placed on public notice after 30 days of filing and space stations after 90 days of filing, except in the event the staff determines that the application is incomplete or defective (thus requiring additional time for inquiry to the applicant). EchoStar also generally suggests a 30-day timeline for placing applications on public notice, unless they are deemed incomplete. However, EchoStar disagrees with the notion of making this timeline a shot clock and suggests that extensions to the timeline should be allowed when staff identify genuine issues that require more time to address. Globalstar and Viasat also advocate against firm shot clocks for placing applications on public notice, especially for space station license applications. Globalstar suggests that Commission staff will likely require at least 90 days for making the necessary technical assessments to find space station licenses acceptable for filing. SpaceX advocates for the Commission to adopt the anticipated timeframes the Commission contemplated in 2015 and 2016 for placing applications on public notice as firm shot clocks.

39. The Commission believes that establishing specific timeframes for finding applications to be acceptable for filing and placing them on public notice will aid in expediting the licensing process. Additionally, the Commission agrees with those comments that highlight the need for the Commission to have sufficient time to review applications and notify and engage in dialogue with applicants whose applications may require additional communication between Commission staff and the applicant due to the novel nature or complexity of the application. Given these considerations, the Commission concludes that maintaining a level of flexibility for dialogue with applicants is necessary when the Space Bureau staff discover errors, omissions, or unclear

information. In these cases, the Commission includes an alternative to the specified timelines for determining acceptability for filing. However, in the spirit of transparency, the Commission directs the staff to notify applicants regarding their application status if those applications will not go on public notice within the specified timelines and offer the reasons why the application is not acceptable for filing. Applicants can expect, therefore, that they will receive some form of application status confirmation within the specified timelines, either with the application appearing on an accepted for filing public notice, or with a communication notifying the applicant that the application requires the submission of missing information. The Commission anticipates that the most common form of this communication will be a letter to the applicant from Space Bureau staff, but does not preclude the use of other forms of communication that provide adequate notice to the applicant of the need to submit missing information. The Commission also notes that it has a weekly schedule for placing applications that are accepted for filing on public notice: the earth station public notice is released each Wednesday, and the space station public notice is released each Friday. Therefore, in some circumstances, Space Bureau staff might determine an application is acceptable for filing within the 30- or 60-day timeframe, yet the application might not appear on public notice until the next possible public notice release date following the determination.

40. Notably, the Commission does not require that an application be automatically dismissed if Space Bureau staff does not find it acceptable for filing within the specified timelines. Such a requirement could result in more applicants having to resubmit dismissed applications simply because of expiration of time, which would delay, rather than expedite, the earth and space station application process. The Commission also does not require automatically placing an application on public notice as acceptable for filing if Space Bureau staff does not act within the specified timelines. Although the Commission expects Space Bureau staff to act on applications consistent with the specific

timelines established today, the Commission recognizes that unusual circumstances may prevent such timely action. For example, new information may be placed into the record at a very late date that calls into question whether the application is acceptable for filing and does not allow time for Space Bureau staff to notify the applicant that the application is not accepted for filing. It would not serve the public interest to automatically accept the application for filing in such circumstances, simply because of expiration of time.

41. The Commission is mindful that different applications have different levels of complexity, and Commission rules require various considerations depending on the type of application. The Commission appreciates observations that space station applications in particular can require significant time to review, even for acceptability for filing. For NGSO applications, there is often a need for a longer time-period of initial review to reflect the greater complexity related to those applications. For example, deciding whether to accept an application as the lead application in a processing round requires a more substantive review than GSO applications which are not subject to a processing round because opening a new processing round affects not only the lead applicant, but also any other applicants that would apply in that processing round as well as applicants and grantees from prior processing rounds and, potentially, future processing rounds; further, potential lead applicants have often requested waiver of the processing round requirement altogether, which, if granted, would obviate the need to open a new round. Similarly, an application for NGSO space stations can include thousands of satellites in a single application, which greatly increases the amount of information that Space Bureau staff will need to review for acceptability for filing. Additionally, in the Commission's experience, NGSO applicants typically request a larger range of frequencies and utilize more complex and numerous beam patterns than GSO applicants, which again necessitates a longer review period than that for GSO and earth station applications.

42. The Commission also recognizes that the timelines it establishes today differ from some previously established, which did not distinguish between applications for GSO and NGSO space stations, and were for applications considered to be "straightforward", "not contested", and "barring any complications." The Commission finds that applying these new timelines across application types will provide greater certainty to applicants, and that the initial review timelines for GSO space stations of 30 days and initial review timeline for NGSO space stations of 60 days, reflects the differences identified above in the amount of time required to review the different types of applications. By establishing timelines for initial review that the Commission believes it can consistently meet, the Commission helps to mitigate regulatory uncertainty.

43. The Commission also finds that it is unnecessary to limit these timelines to applications for initial authorizations and for modifications. The remaining categories of filings—amendments, transfers of control, and assignments—to the extent that they require public notice, are not inherently more complex or review intensive than applications for initial authorizations and for modification with respect to determining acceptability. The Commission also applies these timeframes across the board, rather than limiting them to a smaller category such as "straightforward" applications. The decision to accept an application for filing need not consider the underlying merits of the application and is generally done prior to receiving comments and objections from other parties, which results in a simpler process than deciding whether to grant or deny an application. In any event, the Commission believes that any staff time spent on determining whether an application is straightforward or not, for example, would be better spent on reviewing the application for public notice and resolving issues that prevent it from being accepted for filing.

44. Although some commenters suggest that the Commission consider longer timeframes for initial space station review, the Commission notes that the initial review,

while thorough, is focused on an acceptability for filing determination, not on the merits of the application, and generally does not require the evaluation of comments and oppositions to the application, and the Commission believes that the revised timelines adopted here can be achieved. These new timelines strike a balance between the need to place applications for earth and space station operations on public notice expeditiously, and the time needed for staff to make the determination of whether an application is acceptable for filing under Commission rules.

c. Action on the Merits

45. The NPRM sought comment generally on whether the Commission should adopt broader shot clocks for ultimate "action taken" on certain types of space station or earth station applications. The Commission received a wide variety of comments and suggestions on this issue and the record is divided on support for "action taken" shot clocks. Some commenters approve of shot clocks for certain types of applications (for example, just for earth station applications), while others argue that all types of space and earth station applications should have shot clocks for Commission action taken. Suggested shot clock timeframes range from 45 days after the close of public notice to one year for "action taken" on an application.

46. A number of commenters oppose shot clocks for actions taken, cautioning that the institution of shot clocks for taking action on licenses could jeopardize the thorough review of complex technical issues that the Commission's rules require. Some commenters point out that considering action taken shot clocks is "premature" or that the Commission could consider the possibility of shot clocks in the future, after the Space Bureau has been well-established and resourced, but that implementing them should at least be deferred for the time being. As with the acceptability for filing issue, some commenters suggest that the Commission issue timelines instead of shot clocks, which would serve more as goals than obligations for action taken, or that the Commission can

toll the shot clocks as needed. Several commenters offer specific suggestions for alternatives to action-taken shot clocks. Intelsat argues for an "auto grant" procedure for straightforward applications, and AWS suggests that uncontested earth station applications could begin operations on a non-inference basis after six months, if action is not yet taken on their application.

47. Consistent with several of the commenters' views, the Commission recognizes the need to process applications promptly after accepting them for filing. Nevertheless, the Commission declines at this time to adopt a general, one-size-fits-all shot clock for taking action on license applications. At this point in the proceeding, the record does not show that any timeframe in particular would accommodate these complexities while also accelerating action on more straightforward applications. However, the Commission is dedicated to fostering innovation in the satellite industry and to preserving the United States as an attractive and competitive licensing destination for satellite services. The Commission believes it is important to further consider and address issues raised by commenters regarding timelines for taking action on the merits of an application. The Commission therefore seeks further comment in the FNPRM on proposals regarding action on the merits such as shot clocks and/or timeframes for action.

48. The Commission also finds that certain earth station applications are suitable for a more streamlined application review process, and the Commission discusses in more detail below its decision to expand the category of applications that may be deemed granted after a specific period of time.

49. Within the scope of the inquiry regarding whether the Commission should consider adopting any shot clocks or processing deadlines, the Commission sought comment on which types of license applications the Commission should consider "straightforward" and whether to implement processing timelines for such applications in particular. The Commission pointed to its 2016 public notice that identified expected

processing timelines for straightforward, uncontested earth station applications, barring any complication, and asked whether these guidelines should be codified, whether a more flexible approach and considerations of other factors was warranted, or whether given the pace of change in space activities and corresponding number of applications presenting unique or complex issues, the Commission should limit the scope of "straightforward" applications. After considering the record, the Commission declines at this time to further identify or otherwise separate out processing timelines for "straightforward" applications.

50. The record was divided on this issue. Numerous commenters generally support the notion of identifying "straightforward" applications and creating processing timeframes for those applications. However, only a few commenters specifically propose examples of applications that the Commission consider as "straightforward." RBC Signals suggests including: (1) applications for earth stations operating with a U.S.-licensed satellite and consistent with standard technical characteristics for the relevant bands; (2) earth station modification applications when it is an application to add a U.S.-licensed satellite or market access grantee operating in previously authorized bands; and (3) a new earth station license that is at a site within a defined distance of similar earth station operations (e.g., 1 mile) and operating within same parameters as pre-existing earth stations within the "straightforward" category. Intelsat proposes that uncontested earth or space station applications that pose minimal interference risk should be considered "straightforward." Boeing, TechFreedom, and SpaceX suggest that the Commission should not make such a distinction, and rather should apply shot clocks to all types of applications, regardless of whether they are "straightforward."

51. The Commission does not believe the divided record supports the creation of a category of "straightforward" applications at this time. The Commission recognizes the potential benefit to creating such categories so long as they are well-defined, and so long

as their development and application in specific cases do not hinder the goal of processing applications promptly. At the same time, the Commission recognizes the points made by SpaceX and TechFreedom that creating a carve-out for only "easy" or uncontested applications might incentivize the filing of oppositions and increase the number of contested applications. In the same vein the Commission agrees with commenters that the Commission can streamline its rules to expedite processing of routine and novel or complex applications. The Commission is currently faced with an unprecedented influx of earth station and space station applications. The Commission finds that the other concrete steps it is taking today, including removing no longer necessary rules that slow down the application process, committing to issue numerous forms of guidance for streamlining application filing, and creating a 30 and 60-day timeframe for determining acceptability for filing, are the types of practical and necessary processing improvements that the Commission can quickly implement. Additionally, the Commission notes that it will further consider timeframes and/or shot clocks for actions taken on the merits of applications in the FNPRM. Taking into account the divided record on this issue, the Commission concludes that it would not serve the Commission's goals to further identify or carve-out certain types of applications as "straightforward" at this time.

d. Expediting Earth Station Applications to Add Points of Communication

52. The Commission takes action to expedite the processing of a common category of earth station applications: applications to modify existing earth station licenses by adding new space stations as points of communication. Specifically, the Commission adopts a new rule, under which applications to add space station points of communication to existing earth station licenses will be deemed granted 35 days after being placed on public notice, under certain conditions described below and provided that no objection to

the application is filed. This rule is added as a new paragraph, (i) in § 25.117, which governs modifications of station licenses that require Commission authorization. . While the Commission declines to draw lines based on whether to consider this type of application to be "straightforward," the Commission finds that, under a specific set of conditions, the process of adding space station as additional points of communication to existing earth station licenses can be significantly expedited.

53. Commission rules allow earth stations to transmit to any space station in the same radio service that is listed as a point of communication in the earth station license, provided that permission has been received from the space station operator to access that space station. The NPRM specifically asked whether applications to add points of communication to existing earth station licenses should qualify as "straightforward" so long as the space station to be added is: (1) either U.S.-licensed, or (2) has been granted U.S. market access within the parameters requested in the earth station application, and the applicant identifies either the call sign of or the earth station license(s) in which the space station was granted market access. The NPRM sought comment on whether these types of applications should be automatically deemed granted 60 days after they are filed, absent other Commission action.

54. Numerous commenters support the consideration of earth station operators' applications to add previously authorized space stations as points of communication as "straightforward" and to allow for applications to be deemed granted after 60 days, absent other Commission action. AWS suggests that the Commission consider various benchmark shot clocks within the 60-day period for placing the application on public notice and coordination. Several commenters suggest that the Commission go even further and allow the addition of previously authorized points of communication through notification, such as via § 25.118 of Commission rules, instead of through a license application process. SpaceX proposes that notification, instead of authorization, should

be allowed when a space station operator is also the earth station licensee and is requesting to add one of its own previously authorized space stations as a point of contact. Microsoft suggests that earth station operators could add any space station as a point of communication, so long as a certain set of conditions are met. EchoStar suggests that the Commission should permit earth station operators to specify in their application that they will communicate with all FCC-authorized NGSO systems (just as is done with GSO systems currently), which will reduce the number of modifications requiring filing.

55. In contrast, several commenters suggest the Commission proceed with caution on this proposal. For example, Iridium cautions that in the case of earth stations subject to § 25.203(k) of the Commission's rules, applicants must either complete coordination or demonstrate that they will not cause unacceptable interference and therefore proposes that given these requirements, such applications should not be considered "straightforward" or subject to the proposed 60-day timeline for being deemed granted. Viasat asserts that adding NGSO systems as points of communication could "upset" the EPFD limit calculations and coordination agreements in NGSO system authorizations. Viasat proposes that if the Commission allows for streamlining in adding points of communication, earth station operators should be required to include a certification that the addition will not result in operations or impacts inconsistent with the EPFD analysis or coordination agreements of the NGSO operator.

56. After consideration of the record, the Commission concludes that, in a specific set of instances, it is feasible and appropriate to adopt a licensing procedure by which an application to add a point of communication can be deemed granted 35 days after the application has been found acceptable for filing and also placed on public notice if no sooner action is taken by the Commission. The Commission notes that in some instances an application might be found acceptable for filing within 30 days, but might not be

placed on public notice exactly within 30 days due to the weekly schedule of releasing public notices. This timeline takes into account the Commission's new timeframe for finding earth stations to be acceptable for filing within 30 days (or notifying the applicant of the need for further information). Therefore, a substantially complete application to add a point of communication would be found acceptable for filing and placed on public notice within 30 days, starting on the day after the application is filed in ICFS, and then would be deemed granted 35 days after public notice, a total of 65 days for processing. The Commission agrees with commenters that applications requiring coordination, including Federal coordination, require additional time.

57. Initially, this expedited process is premised on the following conditions, which are necessary to balance faster processing for adding points of communication and protecting other spectrum users from interference. First, the Commission notes that Commission staff will retain discretion to remove the application from the deemed-granted process if merited. Additionally, the Commission requires that these modifications be limited in nature, and not part of a larger set of modifications, which might require more lengthy review. Therefore, the modification can be only to add space stations as points of communication. Next, applications will need to demonstrate that the addition of a new point of communication will not cause earth station transmissions to exceed the highest equivalent isotropically radiated power (EIRP), EIRP density, and bandwidth prescribed for any already authorized emission. Finally, this option will only be available in frequency bands that are not shared with Federal or terrestrial wireless users and are not subject to coordination requirements with other non-Federal satellite services. The Commission does, however, seek comment in the FNPRM regarding some additional circumstances in which an earth station modification to add a point of communication could be expedited.

58. The Commission is not convinced, as some have suggested, that all applications for adding a point of communication are appropriate for notification-only consideration. The Commission observes that applications to add space stations as points of communication are only required for space stations that are not on the Permitted List, and for operations that fall outside "routine" earth station technical parameters. If a GSO space station is licensed by the Commission, or has been granted access to the U.S. market, and operates in specified frequency bands where GSO FSS has primary status, then the space station is a Permitted List space station and is automatically included as a point of communication for all U.S.-licensed earth stations that list the Permitted List as a point of communication, provided that the earth station operations with the space station fall within the existing technical parameters and conditions of the earth station license. The Permitted List already represents the Commission's judgment as to which space stations can be added as points of communications to an earth station's license without requiring an application and approval by the Commission. Allowing the addition of any space station as a point of communication, without prior application or approval, in any orbit or service or frequency band, and without regard to whether the operations fall within existing technical parameters would essentially render the Permitted List meaningless, which is an outcome outside the scope of this proceeding to expedite the processing of space and earth station applications. The Permitted List is limited to GSO space stations providing fixed-satellite service, and the Commission has not so far determined that it is possible to include NGSO space stations within the definition of the Permitted List. In the accompanying FNPRM, however, the Commission seeks comment on commenter proposals to create a process for allowing U.S.-licensed earth stations to have automatic authority to communicate with certain approved NGSO space stations, in a manner similar to the how the Permitted List functions for approved GSO space stations.

e. Other Suggestions

59. The NPRM sought comment generally on the issues the Commission identified for streamlining and on other guidance that may assist applicants and speed application processing. In response to the Commission's general questions, some commenters advocate for additional rule changes that they believe will reduce the need to file modification applications, but which are either outside of the scope of this proceeding or which the Commission declines to take action on at this time. Additionally, some of the comments and suggestions more appropriately align with other ongoing Commission proceedings and, as such, are not further considered in this document. Finally, several comments can be addressed by clarifying and explaining existing Space Bureau practices. The Commission values the input that it received in response to the NPRM, and the absence of action today or inclusion in the accompanying Further Notice of Proposed Rulemaking in no way precludes consideration of these ideas as part of other existing proceedings or as part of future rulemaking proceedings.

64. *Suggestions for Modifications without Prior Authorization*. Spire proposes that the Commission adopt a new provision in § 25.118 for EESS spacecraft, permitting operators to notify the Commission of these set of changes. SpaceX suggests that the Commission expand Spire's proposal to include all NGSO systems, not just EESS. The Commission declines to adopt Spire's proposal at this time. While the Commission believes expanding notification-only modifications could have merit, the Commission remains concerned that this proposal in particular would leave important determinations, such as the evaluation of interference risk, solely to the applicant. The Commission notes that it is not creating a new requirement here, rather the Commission is declining to adopt a proposal to amend § 25.118 to include certain additional changes to satellites. Commission rules on modifications remain the same. The Commission notes, however, that some satellite design changes may not require Commission review or notification at

all if they create no change to radio frequency, do not affect orbital debris mitigation plans, or otherwise affect the parameters or terms and conditions of the station authorization.

65. Spire additionally proposes that discrepancies related to whether an applicant can make a minor modification through notification or via prior authorization can be alleviated to some degree if the Commission codifies a broad definition of the term "technically identical." Spire proposes that "[t]he Commission should formally codify the explanation it provided in the 1994 MSS Order that 'technically identical' spacecraft are those that have 'identical satellite antenna footprints and transmission parameters' but which may have de minimis variation among them—including the physical structure or microelectronics." Additionally, Spire suggests that the Commission should expressly exempt "technically identical" components from modification rules. The Commission declines to adopt a specific definition of "technically identical" in the rules at this time because such a definition may become outdated as technology advances. The Commission aims to amend its rules in technologically-neutral and performance-based ways, and in light of this framework the Commission finds it inappropriate to adopt such a definition in the rules based on the current record.

66. *Suggested Changes to the Space Bureau's Special Temporary Authority Process*. Several commenters suggest various approaches to further streamline the license application process for STAs. SpaceX proposes, and other commenters agree, that STAs with an underlying request for full authorization should renew automatically while the underlying application is pending. RBC Signals suggests that the Space Bureau adopt a procedure which allows STA operations to continue while a license application with identical parameters to the STA is under review. And Intelsat suggests that the Commission "adopt the [§] 1.62 policies previously employed" for Earth station

applications "wherein operators were not required to file a new STA extension request prior to the grant of the previous STA extension request."

67. Here the Commission finds that an explanation of the Space Bureau's STA process is merited when considering these comments. Commission rules for special temporary authorizations under part 25 allow operators to apply for STAs for various amounts of time, and state that STAs expire at the end of those allotted terms. These rules stem from the Communications Act, which allows the Commission to grant STAs for up to 180 days if they are placed on public notice per section 309(f) of the Act, and allows the Commission to grant up to 30 and 60-day STAs in certain circumstances without public notice per section 309(c)(2)(G) of the Act. The reasoning behind these rules is simple: special temporary authorizations are meant to be used under exceptional or "extraordinary" circumstances, as the Act states and as Commission rulemakings have emphasized. The Space Bureau has applied § 1.62 to special temporary authorizations in that if an applicant with an STA files a new STA application to extend its temporary authorization three days prior to the end of its current license term, it may continue its temporary operations while the new STA application is pending. As such, an operator with an STA may continue its temporary operations while a new application to extend the time period for their authorization is under review and the Commission acknowledges this in its license grants. The Commission notes that the rules allow for STAs for up to 180 days at a time. Despite this, many applicants still file shorter-term STA applications for up to 30 days, which the Commission can issue without placing on public notice, or 60-day durations, which the Commission has the discretion to not place on public notice if the applicant plans to file an underlying request for regular authority of the service. Additionally, because requests for special temporary authority are meant to be granted under exceptional circumstances and for relatively short duration, any coordination that is needed for the temporary authorization is generally limited to the time period requested

by the applicant, or no more than up to 180 days. Additional requests then require additional coordination for the new time period.

68. For all these reasons, the Commission declines to adopt the suggested changes to the STA rules at this time. The Commission recognizes that STA applications are often accompanied by an underlying license or modification application for regular operations, and it can be difficult for applicants to determine the full timeframe for which they might require special temporary authorization. However, the Commission notes that applicants may consider a variety of time frames for their STA needs, including the 180-day STA. The Commission also notes that it does not wish to circumvent the 180-day STA requirements, which is distinguished by the 30 and 60-day STAs only in so far that the Act requires the Commission to place applications for STAs beyond 60 days and up to 180 days on public notice. Therefore, the Commission has discretion to place 30 and 60-day STA applications on public notice, and may choose to do so in the event an individual applicant files numerous shorter-term STA requests that result in longer than a 180-day use. Ultimately, the Commission is hopeful that the Commission's continued streamlining efforts will lead to faster processing of underlying applications and a reduction in the need for extensions to STAs.

69. *Additional Suggestions for Streamlining of Modifications*. SpaceX suggests that the Commission should permit and encourage operators to submit a single modification application that applies an identical change across multiple Earth station licenses. SpaceX proposes, as part of its suggestion, that for any modification that would require re-coordination with other commercial or Federal users, "the Commission could require the modification application to attach coordination information for each separate site." TechFreedom suggests "a hybrid licensing approach under which the common elements (technical parameters, points of communications, etc.) of a network of earth stations could be licensed on a network basis under a single license with only the individual

elements (e.g., location) licensed separately." Both SpaceX and TechFreedom assert that these types of changes would dramatically cut down on the amount of modification applications that would require filing and review.

70. The Commission is conscious of commenters' points regarding large numbers of modification applications being filed for common changes, and will consider this issue for future updates to the filing system, which currently cannot support this modification. In response to TechFreedom's suggestion, the Commission notes that it has made similar efforts to streamline common changes, such as through C-band earth station network licensing in § 25.115(c)(2) of Commission rules and the unified licensing system for space stations and blanket earth stations adopted in 2020. In the 2020 order creating the unified licensing system, the Commission declined to include individually licensed earth stations in the process, finding that adding them would "create more complexity than its streamlining benefit," given the need for site-specific information and coordination. This reasoning remains valid. However, the Commission may consider similar suggestions such as TechFreedom's "hybrid licensing" approach as the Commission gains more experience with some of the streamlining rules the Commission has more recently put in place, such as the unified licensing system, that have not yet been widely utilized. The Commission may consider further streamlining in a future proceeding.

71. *Emission Designators*. Intelsat and SIA both suggest that the Commission do away with requiring emission designators in earth station applications. SIA asserts that requiring applicants to include emission designators causes confusion, delay, and complexity to the application process "without providing any meaningful information." The Commission declines to consider changes to the emission designator requirements. Emission designators provide a variety of necessary information to inform the licensing process and to make a determination to authorize an operation under Part 25. For example, they provide technical information that Commission staff use to verify and

calculate the power spectral density, occupied bandwidth, whether transmissions are analog or digital, etc. Additionally, this information is typically requested as part of the Federal coordination process with NTIA. The Commission also notes that emission designators are required by OET in their license applications as well for similar reasons.

72. *Market Access and Orbital Debris Mitigation Showings*. In response to the NPRM, a few commenters suggest that the Commission ensure market access operators and U.S. licensees are subject to the same rules, in particular they suggest the Commission amend its rules related to orbital debris showings. TechFreedom asserts that applicants for market access are treated more favorably than U.S. licensees in part because "domestic applications are vetted at the acceptance stage to determine whether their orbital debris showings are sufficient, whereas such showings in market access petitions are not reviewed until a later stage." Conversely, OneWeb notes that market access applicants are effectively required to provide the same orbital debris showings as license applicants, but because this is often done through requests for information from Commission staff, OneWeb asserts the determination process is delayed as compared with the process for U.S. licensees.

73. As an initial matter, the Commission notes that § 25.114(d)(14)(v) of the Commission's rules, which addresses orbital debris showings for market access grantees, is the subject of a pending petition for reconsideration filed by SpaceX for the same reasons raised by SpaceX in this proceeding. Therefore, the Commission will consider any changes to that rule in the other proceeding. However, the Commission takes this opportunity to emphasize that the Commission applies the same scrutiny to orbital debris showings for market access grantees and U.S.-licensees, and ultimately determines whether to grant market access based on the same technical information that a U.S.-licensee would provide for orbital debris considerations. The Commission's current rules allow market access applicants to satisfy the requirement to describe the design and

operational strategies to minimize orbital debris risk by demonstrating that their debris mitigation plans are subject to direct and effective regulatory oversight by the national authority that licensed their space station operations. Such a showing requires market access applicants to provide supporting documentation and respond to inquiries from Commission staff in order for the staff to compare the foreign rules and determine whether there is an effective regulatory regime in place. This includes submitting an English language version of the debris mitigation rules or regulations of the authority and indicating the current status of the national licensing authority's review. However, while this provision allows the Commission to accept such equivalent regulatory oversight showings, it does not preclude applicants from alternatively providing the same orbital debris mitigation showings that are detailed elsewhere in § 25.114 of the rules. And, except for a few cases, applicants have generally found it preferable to just provide the Commission with a description of the design and operational strategies for orbital debris mitigation instead of presenting all of the showings necessary to demonstrate the effective regulatory oversight of another national authority.

74. *UMFUS Pre-Application Coordination*. Verizon / AT&T assert in their comments that the Commission could streamline the license application process by requiring earth station operators in bands shared with the Upper Microwave Flexible Use Service (UMFUS) to engage in additional pre-application coordination and certify conformance with § 25.136 of the Commission's rules and Space Bureau guidance in addition to the Part 101 coordination requirements. Additionally, they suggest that the Commission require earth station operators to provide more than visual information about proposed earth station contours, including the antenna gain at the horizon or the maximum equivalent isotropically radiated power at the horizon to validate how the contours were developed. OneWeb, Viasat, Intelsat, and EchoStar disagree with this proposal. The Commission agrees with commenters' assertions that these proposals fall

outside the scope of this rulemaking. Similarly, the Commission finds that Viasat's proposal to amend the review process under § 25.136 is also beyond the scope of this rulemaking. The Commission agrees that operators must fully engage in the coordination process identified for specific applications, but does not believe this proceeding, which focuses on expediting the license application process, is the pertinent forum for considering additions to pre-application coordination requirements.

75. *Redefining NGSO systems and EESS Licensing*. Spire suggests that the Commission consider expanding and altering its NGSO licensing framework beyond the streamlined procedure carve out for small satellites in § 25.122. The Commission notes that Spire's suggestions, which concern the overall licensing framework, operator definitions, and NGSO processing rounds, are beyond the scope of this rulemaking. Similarly, Spire's proposals related to amending the U.S. Table of Frequency Allocations for space-to-space transmissions in the S-Band and considering other frequencies for intersatellite links is beyond the scope of this rulemaking. The Commission may consider these suggestions when contemplating future rulemaking proceedings.

76. *Other Ongoing Commission Proceedings*. Several other commenters raise issues that are beyond the scope of this proceeding but may be more appropriate for consideration in other ongoing Commission proceedings. For example, Kuiper suggests that the Commission can streamline its licensing procedures in part by finishing its rulemaking to revise § 25.261 of the Commission's rules. SpaceX asserts these issues are beyond the scope of this rulemaking. We agree and we note that the Commission adopted new rules for satellite system spectrum sharing and issued a further notice of proposed rulemaking on April 20, 2023. Turion Space proposes that In-space Servicing, Assembly, and Manufacturing (ISAM) operations should be authorized by service category and the Commission should develop a new framework for space stations that deploy third-party payloads. The Commission has issued a Notice of Inquiry on ISAM

operations and proposals related to these novel operations are more appropriate for consideration in that proceeding and are beyond the scope of this rulemaking. Myriota's suggestions related to Space-as-a-service (SaaS) and licensing antennas hosted at third-party facilities are also beyond the scope of this proceeding, however the Commission notes that similar suggestions have been raised in response to the Commission's ISAM NOI.

77. *Station-keeping Requirements*. Intelsat suggests that the number of modification and STA requests could be cut down by revising § 25.210(j) of the Commissions' rules to permit maintaining GSO satellites within 0.1° of their assigned orbital longitude, which is consistent with the ITU's east-west station-keeping requirements as opposed to the Commission's current rules, which require maintaining satellites within 0.05° of their assigned orbital longitude. Intelsat suggests that this change would give operators increased flexibility for conducting fleet management maneuvers and obviate the need for requests for modifications or STAs in that situation. This suggestion falls outside the scope of this proceeding, which is focused on expediting the application process and not a review of all of the Commission's technical rules. Nonetheless, the Commission notes that it has amended the rule in the past to allow exceptions for end-of-life operations, and has considered waiver requests to this rule for applicants in the past. The Commission believes its current rules and practice are prudent, while allowing operators to apply for a waiver if needed under unique conditions.

78. *Bureau Practices*. Several commenters raise issues that can be clarified by pointing commenters to current Space Bureau practices, procedures, and policies. One commenter suggests that the Commission waive, for good cause, NGSO-like processing rules for EESS operators. This type of waiver has been granted where justified given the nature of EESS operations and the ability for operators to share spectrum. Similarly, requests for email notification when licenses are granted and contact information for

Bureau staff are already a part of Space Bureau practice. However, the Commission notes that FCC emails are sent to the designated point of contact on applications and, the Commission reminds applicants to notify the Commission of any updates to their designated point of contact details.

79. *Timing of Orbital Debris Showings*. The Swedish Space Corporation asserts that the Commission should allow applicants to address space debris mitigation plans and deorbiting strategy after a license is granted because these matters require obtaining data from manufacturers and may cause delay before licensing. The commenter could raise this in the Commission's Orbital Debris Mitigation proceeding. While orbital debris assessments are a key component in determining whether to grant a license or market access, in some instances the Commission has authorized licenses on the condition that the applicant must submit its orbital debris plan through a modification and meet the requirements in the Commission's rules prior to commencing operations.

80. *License Conditions*. A number of commenters raise suggestions and observations about the Commission's practices related to license conditions. Commenters suggest, for example, that the Commission could cut down on the license processing time by also limiting the number of conditions applied to each license. TechFreedom suggests this could be achieved in part by adding a new rule to part 25 "making clear that all licenses are issued subject to any rule changes later adopted." Similarly, Intelsat asserts that current license grants are more lengthy than needed due to restatements of various of FCC rule requirements. SpaceX asserts that the Commission should avoid imposing any conditions that conflict with § 25.118. SpaceX also asserts that the Commission has inconsistently applied conditions to similarly situated applicants in the past and suggests that the Commission should adopt "consistent conditions—ideally with identical language—that reduce the incentive for operators to claim heightened conditions for their

competitors and reduce the need for operators to contest their competitors' applications to ensure equitable treatment."

81. The Commission finds these comments to be outside the scope of the queries on expediting application processing, and rather directly concern the specifics of license operations. However, the Commission recognizes that authorization conditions do at times include restatements of Commission rules. As commenters point out, all operators are subject to the rules in part 25, unless granted a waiver of a specific rule section. Additionally, it is already well established that licenses are subject to changes in rules that are the result of Commission rulemaking proceedings. Nonetheless, the Space Bureau may consider these suggestions when crafting future license conditions. Regarding SpaceX's suggestion, the Commission notes that certain conditions may apply generally, for example if applications are requesting a particular frequency or waiver of a particular section of Commission rules. In such instances, effort is made to have standardized conditions that are placed in license grants where possible, and the Commission expects the Space Bureau will continue to review license conditions accordingly. Beyond that, however, the Commission notes that each application presents individualized circumstances and operations, and conditions will reflect those differences. For example, the conditions placed on an applicant requesting to launch and operate one NGSO satellite will be different from an applicant requesting to launch and operate a fleet of satellites. In turn, the number of satellites, the size and location of the fleet, and other factors will all play a role in what conditions are placed on an operator.

82. *Experimental Licensing*. Turion Space suggests that the Commission's experimental licensing rules under part 5 of Commission rules should be updated and that the Space Bureau, not OET, should administer the experimental licenses. OET has delegated authority to administer experimental licenses under part 5, in coordination with the Space Bureau when necessary. The Commission notes that part 5 rules cover all

manner of experimental licenses and OET has the delegated authority and expertise related to experimental licenses generally. When OET receives experimental license applications for satellite operations, OET and the Space Bureau coordinate given the Bureau's subject-matter expertise on satellite operations.

83. *Physical Characteristics of Spacecraft*. SpaceX suggests that the Commission should cease requiring operators to provide specific dimensions for satellites, claiming requests for such information is inconsistent with Commission rules and policy. The Commission disagrees with SpaceX's interpretation of Commission rules and policy. In a past licensing streamlining proceeding the Commission deleted a specific requirement in § 25.114(c)(10) requiring space station applications to provide, among other things, specific dimensions and mass because the Commission found that the information was either collected elsewhere or was unnecessary. In the case of specific dimensions, this information is often pertinent to the design and operational strategy that operators submit to demonstrate compliance with orbital debris mitigation under § 25.114(d)(14). Although the Commission removed the blanket requirement under § 25.114(c)(10) in 2013, the Commission retains authority under § 25.114(d)(14) to ensure that applicants submit sufficient showings to ensure compliance with orbital debris mitigation requirements concerns and therefore may request or expect operators to provide such information in individual cases.

84. *Public Participation in the Application Process, Informal Complaints, and Commission Discretion on Considering Comments*. TechFreedom and SpaceX suggest that the Commission can further streamline the application process by dismissing any late-filed informal complaints related to an application. Additionally, TechFreedom suggests that the Commission hold informal complaints to the standards set forth in § 1.41 of the Commission's rules. Both commenters suggest that the informal complaint procedure has been used to frustrate and slow down application processing.

85. As commenters suggest, the Commission's rules offer multiple avenues for public participation related to Commission licensing actions: for example, through filing objections or petitions to deny under § 25.154(a), through informal objections under § 25.154(b), as well as other avenues such as § 1.1307 (actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared). Formal pleadings, such as petitions to deny, must generally be made within the 30-day public comment period, however, the Commission has authority to extend the opportunity for public comment. Under FCC rules, pleadings that are not filed in accordance with § 25.154(a), including those not meeting the 30-day deadline, are classified as informal objections under subsection (b). The Commission recognizes that allowing informal objections that are not subject to the 30-day public notice timeframe may slow down the pace of application processing in some instances, especially when a significant number of comments are generated due to an application for innovative services and novel operations. However, allowing public comment under the Commission's existing processes and rules benefits the review process, especially when comments are well thought out, and factually supported. TechFreedom cites to *NetworkIP, LLC v. Federal Communications Commission*, 548 F.3d 116 (D.C. Cir., 2008) and proposes that the Commission should extend the court's reasoning in that case "to the informal complaint procedures for satellite applications" and hold "all parties to strict filing deadlines". The Commission finds the court's decision in *NetworkIP* to be inapposite. In that case, the court found that the FCC's failure to apply its six-month filing deadline by granting a waiver was arbitrary and capricious. 548 F.3d at 128. Unlike the situation in *NetworkIP,* here, by accepting a filing after the 30-day period and classifying it as an informal objection, the Commission is complying with its rules, not waiving them. The Commission believes the benefit of robust debate and input as part of the record outweighs the concerns about delay, and therefore decline to change the

informal objection process. However, in those cases where parties file frivolous pleadings, or pleadings meant solely to delay the process, the Commission reminds them that such filings are prohibited under § 1.52 of the Commission's rules.

f. Digital Equity and Inclusion

60. In the NPRM, the Commission noted its continuing efforts to advance digital equity for all, consistent with the Communications Act and with Executive Order 13985. Specifically, the Commission asked how its streamlining proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority. Both SIA and EchoStar assert that efforts to expedite the licensing process will advance digital equity. EchoStar notes that a simpler, more efficient application process supports the Commission's digital equity and inclusion goals and will make it easier for satellite operators to offer services and lower costs to users across the country, including members of historically disadvantaged groups. Additionally, EchoStar notes that a streamlined process makes it more likely that a wide range of applicants will be able to participate in space business. SIA similarly emphasizes the effect of satellite broadband services in closing the digital divide for rural communities in particular and highlights the important role that satellite remote sensing services can play in natural and cultural resource management on Tribal lands. SIA also urges the Commission to "continue to adopt rules that remain neutral with respect to the business models of the satellite systems that the Commission authorizes… [which] will ensure that the benefits of broadband satellite services will continue to be available to all end user groups, including underserved consumers, and the business, industries, and government infrastructure that support them and their communities."

61. The Commission agrees with commenters that its efforts to expedite the application process and increase transparency for applicants will aid in lowering barriers to new entrants into the satellite communications industry. The Commission also agrees

that supporting efforts to increase connectivity to historically underserved communities is in line with the Commission's mandate under the Communications Act and Commission efforts to comply with Executive Order 13985. With this in mind, the actions the Commission takes today to increase transparency and guidance for applicants are aimed at increasing accessibility, supporting innovation, and furthering the Commission's goal of increasing connectivity for all.

IV. Final Regulatory Flexibility Analysis

62. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Expediting Initial Processing of Satellite and Earth Station Applications Notice of Proposed Rulemaking (NPRM) released in December 2022. The Federal Communications Commission (Commission) sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

a. Need for, and Objectives of, the Final Rule

63. In recent years, the Commission has received an unprecedented number of applications for earth and space station licenses. The final rule facilitates and expedites the acceptance for filing of satellite and earth station applications under 47 CFR part 25 and adopts other streamlining measure to keep pace with growing demand for satellite services and innovative satellite operations. This rulemaking continues to and will promote competition and innovation among satellite and earth station operators, including the market entry of new competitors by removing barriers to applying for licenses.

64. This document changes to Commission rules aimed at reducing barriers and burdens on satellite operators. Specifically, the document removes and reserves § 25.112(a)(3) thus allowing operators to seek a waiver for operations not in conformance

with the international table of allocations. Additionally, the document removes the prohibition on licensed-but-unbuilt systems for NGSO operators by amending §§ 25.159(b) and 25.137(d)(5), and creates a new, streamlined processing framework for earth station operators to add satellite points of communication under certain circumstances. Finally, the document lays the groundwork for a broader transparency initiative led by the Space Bureau to provide clarity and access to applicants when interfacing with the Commission's license application processes and filing system.

b. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

65. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

c. Response to Comments by the Chief Counsel for Advocacy of the Small Business

66. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments the Chief Counsel for Advocacy of the Small Business Administration (SBA) filed in this proceeding, and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules or policies in this proceeding.

d. Description and Estimate of the Number of Small Entities to which the Rules will Apply

67. 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 rules adopted herein. 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).

68. Below, the Commission describes and estimate the number of small entities that may be affected by the adoption of the final rules.

69. *Satellite Telecommunications*. This industry comprises firms "primarily engaged in providing 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." Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than $25 million. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

e. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

70. The final rule amends rules that are applicable to earth and space station operators requesting a license or authorization from the Commission, or entities requesting that the Commission grant a request for U.S. market access. The changes adopted in the final rule, as described below, will decrease the burden for small entities and other business

operators. Specifically, this final rule eliminates the rule requiring automatic dismissal of applications requesting operations not in conformance with the international table of allocations, eliminates the NGSO unbuilt systems rule, and creates an expedited licensing process for certain earth station operators to add points of communication. Further, in light of these limited changes and rule reductions, the Commission does not believe that small entities will have to hire professionals to comply with the final rule.

f. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Alternatives Considered

71. The RFA requires an agency to provide, "a description of the steps the agency has taken to minimize the significant economic impact on small entities…including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

72. The final rule amends the Commission's rules governing acceptability for filing by removing and reserving § 25.112(a)(3), which led to automatic dismissals of applications that proposed frequency operations not in conformance with the international table of frequency allocations. By removing this barrier, applicants may now apply for a waiver of the international table, just as operators applying under the small satellite or small spacecraft streamlined procedures have been able to do and just as all operators have been able to apply for waivers of the U.S. table of frequency allocations.

73. As an alternative, the Commission could have left 25.112(a)(3) in place. This would have potentially created a barrier to innovative uses of spectrum and stifled the development of the industry, including for small entities. The Commission allowed waivers of the international table of frequency allocations for small satellites and small spacecraft through its streamlined rulemaking processes, found at §§ 25.122 and 25.123 respectively. However, small entities as defined for purposes of the RFA do not always

align with the requirements to apply for a license under the small satellite or small spacecraft streamlined process. By removing 25.112(a)(3), all applicants may now seek a waiver for nonconforming use instead of risking automatic dismissal of an application that required time and resources to file.

74. In addition, the final rule removes the prohibition on applicants from applying for an additional NGSO-like satellite system license in a particular frequency band if that party already had a licensed-but-unbuilt NGSO-like satellite system in the band. By removing this prohibition the Commission eliminates an additional barrier to applicants in moving forward with their satellite operations while maintaining safeguards against speculative license applications through the Commission's bond and milestone requirements.

75. As an alternative, the Commission could have allowed applicants to seek waivers of the prohibition on a case-by-case basis. This alternative would have been more costly to small entities, requiring additional resources to craft a request for waiver as part of their application or to engage with outside counsel to assist with crafting the waiver request. Leaving the rule as is would have potentially created a barrier to small entities to apply for a license and expand their operations.

76. The final rule creates a new, streamlined review process under § 25.117 (Modification of station licenses) for earth station operators to add points of communication under specific circumstances. The Commission identified a set of circumstances under which the review process can be expedited and applications for this modification can be deemed granted 35 days after being placed on public notice. This new process will allow applicants to add points of communication to their operations at a quicker pace, thus creating an economic benefit to operators as well as a benefit to the public who will be able to access the services being provided sooner.

g. Report to Congress

77. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the *Federal Register*.

V. Ordering Clauses

78. IT IS ORDERED, pursuant to Sections 4(i), 7(a) , 301, 303 , 307, 309, 310, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 301, 303, 307, 309, 310, 332, that this Report and Order IS ADOPTED, the policies, rules, and requirements discussed herein ARE ADOPTED, Part 25 of the Commission's rules IS AMENDED as set forth in Appendix A.

79. IT IS FURTHER ORDERED that Part 25 of the Commission's Rules IS AMENDED as set forth in Appendix A and such rule amendments will become effective 30 days after publication in the *Federal Register*.

80. IT IS FURTHER ORDERED that the Office of the Secretary, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analyses, 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.

81. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 25

Administrative practice and procedure, Satellites.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25 – SATELLITE COMMUNICATIONS

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

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

2. Amend § 25.112 by removing and reserving paragraph (a)(3) and revising paragraph (b) introductory text.

The revision reads as follows:

§ 25.112 Dismissal and return of applications.

* * * * *

(b) Applications for space station authority found defective under paragraph (a)(4) of this section will not be considered. Applications for authority found defective under paragraph (a)(1) or (2) of this section may be accepted for filing if:

* * * * *

3. Amend § 25.117 by adding paragraph (i) to read as follows:

§ 25.117 Modification of station license.

* * * * *

(i) Unless otherwise ordered by the Commission, an application to add a space station point of communication to an earth station authorization will be deemed granted 35 days after the date of the public notice that the application has been accepted for filing, provided:

(1) The license modification is only to add one or more points of communication;

(2) The modification will not cause the earth station transmissions to exceed the highest EIRP, EIRP density, and bandwidth prescribed for any already authorized emission; and

(3) The new space station point of communication will operate with the earth station only in frequency bands that are not shared with Federal or terrestrial wireless users and are not subject to coordination requirements with other non-Federal satellite services.

4. Amend § 25.137 by revising paragraph (d)(5) to read as follows:

§ 25.137 Requests for U.S. market access through non-U.S.-licensed space stations.

* * * * *

(d) * * *

(5) Entities that have one market access request on file with the Commission for NGSO-like satellite operations in a particular frequency band will not be permitted to request access to the U.S. market for another NGSO-like satellite system in that frequency band in the same processing round subject to the procedures of §§ 25.157 and 25.261.

* * * * *

5. Amend § 25.159 by revising paragraph (b) and paragraph (c) introductory text to read as follows:

§ 25.159 Limits on pending applications and unbuilt satellite systems.

* * * * *

(b) Applicants with an application for one NGSO-like satellite system license on file with the Commission in a particular frequency band will not be permitted to apply for another NGSO-like satellite system license in that frequency band in the same processing round subject to the procedures of §§ 25.157 and 25.261.

(c) If an applicant has an attributable interest in one or more other entities seeking one or more space station licenses or grants of U.S. market access, the pending applications and licensed-but-unbuilt satellite systems filed by those other entities will be counted as filed by the applicant for purposes of the limits on the number of pending space station applications or requests for U.S. market access and licensed-but-unbuilt satellite systems in this section and in § 25.137(d)(5). For purposes of this section, an applicant has an "attributable interest" in another entity if:

* * * * *

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