

ALERT: Space Innovation Comes to Part 25 as the FCC Proposes New Reforms for its Satellite and Earth Station Licensing Rules

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On November 30, 2022, the Federal Communications Commission ("Commission") released a [draft Notice of Proposed Rulemaking](#) ("Draft NPRM") that, if adopted, will seek comment on comprehensive changes to the Part 25 satellite and earth station licensing rules for the first time since 2015.^[1] The Draft NPRM represents a significant step in the Commission's efforts to facilitate innovation in the satellite industry, proposing changes that would facilitate greater expediency, flexibility, and curability in the licensing process.

Since the last streamlining order nearly a decade ago, the non-geostationary orbit ("NGSO") satellite industry has grown and multiplied exponentially, with new entrants and novel services emerging and maturing at record pace. Through the Draft NPRM, the Commission begins the process of updating the Part 25 rules to "help Commission processing stay apace with the unprecedented number of innovative satellite applications in the new space age."^[2] The Commission makes its objectives clear from the start, tentatively concluding that "it is in the public interest to move quickly on license application processing and specifically to begin building a public record on applications early."^[3]

The Draft NPRM identifies four areas through which the Commission proposes to amend the Part 25 rules to streamline satellite and earth station licensing:

1. Acceptability – maintaining applications that do not conform with international allocations;
2. Duplicability – reconsidering the necessity of the Unbuilt Systems rule for NGSOs;
3. Curability – addressing procedures for incomplete or inconsistent applications; and

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4. Expediency – developing processes to accelerate application processing timelines.

Acceptability

Since 2003, a space station application requesting authority to operate in a frequency band not allocated internationally for such operation would be deemed unacceptable for filing—“premature”—regardless of whether a waiver was requested. The Draft NPRM proposes that, similar to the Streamlined Smallsat Rules adopted in 2020,^[4] there are cases in which a waiver of the Table of Frequency Allocations would be warranted to permit non-conforming operations based on “sufficient supportive reasoning.” The Draft NPRM therefore proposes to amend the acceptability criteria to place these waiver requests on an equal procedural footing with other requests for waiver of substantive rules, and allow them to be accepted for filing.

Duplicability

The Unbuilt Systems Rule prevents an applicant from applying for an additional NGSO-like satellite system authorization in a particular frequency band if that applicant already has an application on file or a licensed-but-unbuilt NGSO-like satellite system in the same frequency band.^[5] The Draft NPRM proposes to seek comment on whether the Unbuilt Systems Rule is a hinderance to the acceptability of legitimate satellite applications and if so, whether it should be amended. The Draft NPRM also inquires whether there other ways in which the unbuilt systems limits should be updated to reflect the current state of development of NGSO systems or if the rationale underlying the rule is even relevant today.

Curability

Under the Part 25 rules, an application will only be accepted for filing if it has been found to be “substantially complete” following the Commission’s initial review.^[6] While this does not require that the application be “letter perfection,” it does often mean that discrepancies or omission may result in an application being dismissed or returned no action.^[7] Recognizing that dismissal or return of an application can have negative impacts on an applicant’s filing priority or participation in a processing round, the Draft NPRM proposes to seek comment on whether to adopt processes to permit applicants (or staff) to correct certain omissions or inconsistencies in a filed application, including whether a request for waiver should be required and whether such a process would reduce the reliability of information in the record.

Efficiency

In the last streamlining order, the Commission predicted that most satellite and earth station licenses would be acted on within two months of filing. The Draft NPRM proposes to seek comment on the anticipated processing times for “straightforward uncontested satellite and earth station applications” and asks whether it would “make sense” for the Commission to “codify or otherwise better highlight” its expected processing times.^[8] The Commission also plans to seek comment on what types of applications should considered “straightforward” or “routine” and therefore subject to such timing guidelines.

The Commission is expected to vote on the Draft NPRM at the December 21, 2022 Open Meeting.

For any questions about the Commission’s Draft NPRM or for guidance about its potential impact on satellite or earth station licensing, please contact a Sheppard Mullin Telecom attorney below.

FOOTNOTES

^[1] See *Expediting Initial Processing of Satellite and Earth Station Applications*, IB Docket Nos. 22-411; 22-271, Notice of Proposed Rulemaking, FCC-CIRC2212-02 (Nov. 30, 2022) (DRAFT) (“*Draft NPRM*”); *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, IB Docket No. 12-267, Second Report and Order, 30 FCC Rcd 14713, ¶ 258 (2015) (“*Part 25 Streamlining Second Report and Order*”).

^[2] *Draft NPRM*, ¶ 1.

^[3] *Id.*, ¶ 12.

^[4] See *Streamlining Licensing Procedures for Small Satellites*, IB Docket No. 18-86, Report and Order, 34 FCC Rcd 13077, ¶ 115 (2019).

^[5] 47 CFR § 25.159(b).

^[6] *Part 25 Streamlining Second Report and Order*, ¶ 258.

^[7] *Id.*

^[8] *Draft NPRM*, ¶ 17.

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