DOT is unnecessary. The proposed amended regulation would remain in effect for only 4 hours each day for two days.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to section 2.B.2.e.(34)(h) of Commandant Instruction M16475.1B, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Regattas and marine parades.

Proposed Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, the Coast Guard proposes to be amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46.

2. In section 100.717, paragraph (c) is revised to read as follows:

§ 100.717 Special Local Regulations; Fort Myers Beach, FL.

* * * * *

(c) *Effective Dates:* This section is effective each day from 11 a.m. through 3 p.m. EDT annually during the third Saturday and Sunday of May.

Dated: March 27, 1997.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 97–8744 Filed 4–4–97; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 101

[CC Docket No. 92–297; FCC 97–82]

Use of the 28 GHz and 31 GHz Bands for Local Multipoint Distribution Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission adopts a *Second Report and Order, Order on Reconsideration and Fifth Notice of Proposed Rulemaking* regarding the use of the 28 GHz and 31 GHz Bands for Local Multipoint Distribution Service (LMDS). The *Second Report and Order* designates an additional 300 megahertz of spectrum in the 31 GHz band to LMDS and adopts service and competitive bidding rules for LMDS. The *Order on Reconsideration* denies petitions for reconsideration of the Commission's dismissal of applications for waiver of the Commission's point-to-point rules governing the 28 GHz band. These portions of the decision will be summarized in a future edition of the **Federal Register**. The *Fifth Notice of Proposed Rulemaking (Fifth NPRM)* seeks comment on specific rules to be applied for the partitioning and disaggregation of LMDS licenses. This action is taken to establish a record from which to consider procedural, administrative and operational rules for partitioning and disaggregating LMDS licenses and to reach an ultimate decision. This *Fifth NPRM* contains new information collections subject to the Paperwork Reduction Act of 1995 (PRA). It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. The general public is invited to comment on the proposed information collections contained in this proceeding.

DATES: Comments are due on or before April 21, 1997, and reply comments are due on or before May 6, 1997. Written comments by the public on the proposed information collections are due by April 21, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Bob James, Private Wireless Division, (202) 418–0680, Mark Bollinger or Jay Whaley, Auctions Division, (202) 418–0660, or Joe Levin or Jane Phillips, Policy Division, (202) 418–1310. For additional information concerning the information collections contained in this *Fifth NPRM,* contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Fifth NPRM* segment of the *Second Report and Order, Order on Reconsideration and Fifth Notice of Proposed Rulemaking* in CC Docket No. 92–297, FCC 97–82, adopted March 11, 1997, and released March 13, 1997. The *Second Report and Order* portion of this decision will be summarized in a future edition of the **Federal Register**. The complete text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Paperwork Reduction Act

1. This *Fifth NPRM* contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this *Fifth NPRM,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this *Fifth NPRM.* Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

OMB Approval Number: 3060–0531.

Title: Redesignation of 27.5 GHz Frequency Band, Establishing Rules and Policies for Local Multipoint Distribution (NPRM CC Docket No. 92–297).

Form No.: N/A.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Respondents: Business or other for-profit.

Number of Respondents: 197.

Estimated Time Per Response: 21 hours.

Total Annual Burden: 3,132.5 hours.

Total Annual Cost: $205,800.

Needs and Uses: The information requested will be used by FCC personnel to determine whether partitioning and disaggregation applicants are qualified legally and technically to be licensed to use the radio spectrum.

OMB Approval Number: New Collection (which adds respondents to three existing collections 3060–0105, FCC 430; 3060–0068, FCC 702; 3060–0623, FCC 600).

Title: Redesignation of 27.5 GHz Frequency Band, Establishing Rules and Policies for Local Multipoint Distribution (NPRM CC Docket No. 92–297).

Form No.: FCC Forms 430, 600, and 702.

Type of Review: New collection.

Respondents: Potential LMDS applicants.

Number of Respondents; Estimated Time Per Response and Total Annual Burden: If the proposed changes in the Fifth NPRM are adopted the respondents and burden for the FCC Form's 430, 600, and 702 as follows: The FCC 430 has 1,900 respondents, to be increased to 3,433; the estimated time for completion is 2 hours per respondent. The total annual burden for the FCC 430 is now 3,800 hours, and would increase to 6,866 hours. The FCC 600 has 194,769 respondents, which would be increased to 198,053. The estimated time for completion is 4 hours per respondent. The total annual burden is currently 779,076. This figure will be increased to 792,212 hours if the changes proposed in the *Fifth NPRM* are adopted. The Form 702 has 1,000 respondents, to be increased to 2,644 respondents. The estimated time for completion is 5 hours per respondent. The total annual burden for the FCC 702 is now 5,000 hours and would increase to 13,220 hours.

Needs and Uses: The information will be used by Commission personnel to determine if the licensee is a qualifying entity to obtain a partitioned license or disaggregated spectrum. Additionally, the information will be used by Commission personnel to determine who is using spectrum and thus maintain the integrity of the spectrum.

Synopsis of the Fifth Notice of Proposed Rulemaking

2. The Commission has concluded in the *Second Report and Order* that any LMDS licensee will be permitted to partition or disaggregate portions of its authorization. As part of the next phase of our LMDS rulemaking, the Commission is proposing specific procedural, administrative, and operational rules to ensure effective implementation of the general partitioning and disaggregation rules adopted in the *Second Report and Order* for LMDS. It is the Commission's tentative view that a more complete delineation of these partitioning and disaggregation mechanisms, which we hope to achieve in this rulemaking, will ensure realization of the competitive benefits that are at the core of our partitioning and disaggregation policy.

3. In the *Fifth NPRM* we will seek comment as to how various requirements imposed on LMDS licensees (*e.g.*, construction requirements) may be modified if such licensees partition or disaggregate their authorization. We seek comment as to whether partitioning of LMDS licenses should be permitted in a manner similar to the rules for partitioning we have adopted for broadband PCS licensees. In addition, we seek comment as to specific procedural, administrative, and operational rules under which LMDS licensees are permitted to disaggregate their licensed spectrum.

4. We seek comment on the following specific aspects of partitioning and disaggregation, which we will need to address in order to administer the general partitioning and disaggregation rules for LMDS licensees that we have adopted in the *Second Report and Order.* For example, we seek comment as to whether there are any technical or regulatory constraints unique to the LMDS service that would render any aspects of partitioning or disaggregation impractical or administratively burdensome. Further, we recognize that there are special competitive bidding issues, similar to those raised in the broadband personal communications services (PCS) context, that must be resolved if we permit partitioning and disaggregation for LMDS. We address those issues separately in paragraphs 13 through 15, of the *Second Report and Order.*

Available License Area

5. In the *Partitioning and Disaggregation Report and Order,* (62 FR 653, January 6, 1997) we found that allowing partitioning of broadband PCS licenses along any service area defined by the parties is the most logical approach. We concluded that allowing the parties to define the partitioned PCS service area would allow licensees to design flexible and efficient partitioning agreements which would permit marketplace forces to determine the most suitable service areas. We also found that requiring PCS partitioning along county lines was too restrictive and might discourage partitioning.

6. We have decided to base LMDS licenses on Basic Trading Area (BTA) geographic service areas, finding that BTAs are logical licensing areas for LMDS because they comprise areas within which consumers have a community of interest. We tentatively conclude that a flexible approach to partitioned areas, similar to the one we adopted for broadband PCS, is appropriate for LMDS. We therefore propose to permit partitioning of LMDS licenses based on any license area defined by the parties. We seek comment on this proposal, and in particular on whether there are any technical or other issues unique to the LMDS service that might impede the adoption of a flexible approach to defining the partitioned license area.

Minimum or Maximum Disaggregation Standards

7. We seek comment as to whether we should augment our general rule permitting disaggregation of LMDS spectrum in order to establish minimum disaggregation standards. We seek to determine whether, given any unique characteristics of LMDS, technological and administrative considerations warrant the adoption of such standards. We seek comment as to whether we should adopt standards which would be flexible enough to encourage disaggregation while providing a standard which is consistent with our technical rules and by which we would be able to track disaggregated spectrum and review disaggregation proposals in an expeditious fashion.

Combined Partitioning and Disaggregation

8. We seek comment regarding whether combined partitioning and disaggregation should be permitted for LMDS. By ''combined'' partitioning and disaggregation we refer to circumstances

in which a licensee would be authorized, for example, to obtain a license for a portion of a BTA with only a portion of the 1,150 megahertz license or the 150 megahertz license involved in the disaggregation of spectrum. As another example, the licensee could obtain a license consisting of a partitioned portion of one or more other licenses held by other LMDS providers *and* a disaggregated portion of one or more other licenses held by other LMDS providers. We tentatively conclude that we should permit such combinations in order to provide carriers with the flexibility they need to respond to market forces and demands for service relevant to their particular locations and service offerings.

Construction Requirements

9. In paragraphs 266–272 of the Order we have adopted today we have promulgated a performance standard under which a licensee must make a showing of substantial service at the end of the license term. In the case of partitioned LMDS licenses, we propose that the partitionee must certify that it will satisfy the same construction requirements as the original licensee. The partitionee then must meet the prescribed service requirements in its partitioned area while the partitioner is responsible for meeting those requirements in the area it has retained.

10. In the case of disaggregated LMDS licenses, we propose to adopt rules for LMDS licensees similar to those disaggregation certification rules we have adopted for broadband PCS. (*See Partitioning and Disaggregation Report and Order,* at paras. 61–63.) Under such a certification approach, the disaggregating parties would be required to submit a certification, signed by both the disaggregator and disaggregatee, stating whether one or both of the parties will retain responsibility for meeting the performance requirement for the LMDS market involved. If one party takes responsibility for meeting the performance requirement, then actual performance by that party would be taken into account in a renewal proceeding at the end of the license term, but such performance would not affect the status of the other party's license. If both parties agree to share the responsibility for meeting the performance requirement, then the performance of each of the parties would be taken into account in the respective renewal proceedings.

License Term

11. In the Order we have adopted today we established a 10-year license term for LMDS licenses. In this Fifth NPRM we are proposing that LMDS licenses should be eligible for a license renewal expectancy based upon the criteria established in Section 22.940(a) of the Commission's Rules.

12. In the *Partitioning and Disaggregation Report and Order,* we found that allowing parties acquiring a partitioned license or disaggregated spectrum to ''re-start'' the license term from the date of the grant of the partial assignment application could allow parties to circumvent our established license term rules and unnecessarily delay service. We seek comment as to whether our LMDS rules should similarly provide that parties obtaining partitioned LMDS licenses or disaggregated spectrum hold their license for the remainder of the original licensee's 10-year license term. In addition, we seek comment as to whether LMDS partitionees and disaggregatees should be afforded the same renewal expectancy as we have proposed for other LMDS licensees. We tentatively conclude that limiting the license term of the partitionee or disaggregatee is necessary to ensure that there is maximum incentive for parties to pursue available spectrum as quickly as practicable.

Competitive Bidding Issues

13. Competitive bidding issues similar to those in broadband PCS arise in the context of LMDS partitioning and disaggregation. Our competitive bidding rules for the LMDS service include provisions for installment payments and bidding credits for small businesses and businesses with average annual gross revenues not exceeding $75 million. We also adopted rules to prevent unjust enrichment by such entities that seek to transfer licenses obtained through use of one of these special benefits.

14. We tentatively conclude that LMDS partitionees and disaggregatees that would qualify for installment payments should be permitted to pay their *pro rata* share of the remaining Government obligation through installment payments. We seek comment on this tentative conclusion. We further invite comment as to the exact mechanisms for apportioning the remaining Government obligation between the parties and whether there are any unique circumstances that would make devising such a scheme for LMDS more difficult than for broadband PCS. Since LMDS service areas are allotted on a geographic basis, in a manner similar to broadband PCS, we propose using population as the objective measure to calculate the relative value of the partitioned area and amount of spectrum disaggregated as the objective measure for disaggregation, and we seek comment on this proposal.

15. We seek comment regarding whether to apply unjust enrichment rules to small business LMDS licensees, or LMDS licensees with average annual gross revenues not exceeding $75 million, that partition or disaggregate to larger businesses. Commenters should address how to calculate unjust enrichment payments for LMDS licensees paying through installment payments and those that were awarded bidding credits that partition or disaggregate to larger businesses. Commenters should address whether the unjust enrichment payments should be calculated on a proportional basis, using population of the partitioned area and amount of spectrum disaggregated as the objective measures. We propose using methods similar to those adopted for broadband PCS for calculating the amount of the unjust enrichment payments that must be paid in such circumstances, and we seek comment on this proposal. (*See Partitioning and Disaggregation Report and Order* at paras. 34–35).

Licensing Issues

16. We propose that all LMDS licensees who are parties to disaggregation or partitioning arrangements must comply with our technical and service rules established in the Order we are adopting today. We also propose that coordination and negotiation among licensees must be maintained and applied in licensing involving disaggregated or partitioned licenses.

17. We propose to treat the disaggregation and partitioning of LMDS licenses to be types of assignments requiring prior approval by the Commission. We therefore propose to follow existing assignment procedures for disaggregation and partitioning. Under this proposal, the licensee must file FCC Form 702 signed by both the licensee and qualifying entity. The qualifying entity would also be required to file an FCC Form 430 unless a current FCC Form 430 is already on file with the Commission.

Administrative Matters

18. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR Sections 1.415 and 1.419, interested parties may file comments on or before April 21, 1997, and reply comments on or before May 5, 1997. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each

Commissioner to receive personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554.

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

Initial Regulatory Flexibility Analysis

20. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this *Fifth NPRM,* but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this *Fifth NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

Initial Regulatory Flexibility Act Statement

21. *Need for and Objectives:* Our objectives are to afford licensees the flexibility to disaggregate and partition their licenses so as to: (1) promote efficient use of LMDS spectrum by leaving determinations regarding the correct size of licenses to the licensees, who are in the best position to analyze their business plans, assess new technology, and determine customer demand, (2) encourage more rapid deployment of services in the LMDS spectrum, (3) enable licensees to concentrate on core areas or to deliver services to isolated complexes, such as rural towns or university campuses, that do not lie within major market areas, and (4) provide opportunities for small businesses seeking to enter the multichannel video programming distribution and local telephony marketplaces.

22. *Legal Basis for Proposed Rules:* The proposed action is authorized under the Administrative Procedure Act, 5 U.S.C. § 553; and §§ 4(i), 257, 303(g), 303(r), 309(j) and 332(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 257, 303(g), 303(r), 309(j), 332(a).

23. *Description and Estimate of Small Entities Subject to the Rules:* The service regulations we adopt to implement LMDS would apply to all entities seeking an LMDS license, including small entities. In addition, the in-region, temporary eligibility restrictions we adopt would apply to qualifying LECs and cable companies. Finally, the rules we adopt to designate additional spectrum for LMDS in the 31.0–31.3 GHz band would apply to all entities providing incumbent services under existing rules for 31 GHz services. We consider these three groups of affected entities separately below.

Estimates of Potential Applicants of LMDS

24. SBA has developed definitions applicable to radiotelephone companies and to pay television services. We are using these definitions that SBA has developed because these categories approximate most closely the services that may be provided by LMDS licensees. The definition of radiotelephone companies provides that a small entity is a radiotelephone company employing fewer than 1,500 persons. (*See* 13 CFR 121.201, Standard Industrial Classification (SIC) 4812.) The definition of a pay television service is one which has annual receipts of $11 million or less. (SIC 4841)

25. The size data provided by SBA do not enable us to make an accurate estimate of the number of telecommunications providers which are small entities because it combines all radiotelephone companies with 500 or more employees. We therefore use the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. This document shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Likewise, the size data provided by SBA do not enable us to make a meaningful estimate of the number of cable and pay television providers which are small entities because it combines all such providers with revenues of $11 million or less. We therefore use the 1992 Census of Transportation, Communications, and Utilities (Table 2D), conducted by the Bureau of the Census, which is the most recent information available. This document shows that only 36 of 1,788 firms providing cable and pay television service have a revenue of greater than $10 million. Therefore, the majority of LMDS entities to provide video distribution and telecommunications services may be small businesses under SBA's definition.

26. The Commission has not developed a definition of small entities applicable to LMDS licensees, which is a new service being licensed in the Order. The RFA amendments were not in effect until shortly before the Fourth Notice of Proposed Rulemaking (*Fourth NPRM*) was released, and no data has been received establishing the number of small businesses associated with LMDS. However, in the Third Notice of Proposed Rulemaking (*Third NPRM*) we proposed to auction the spectrum for assignment and requested information regarding the potential number of small businesses interested in obtaining LMDS spectrum, in order to determine their eligibility for special provisions such as bidding credits and installment payments to facilitate participation of small entities in the auction process. In the Order we adopt criteria for defining small businesses for purposes of determining such eligibility. We will use this definition for estimating the potential number of entities applying for auctionable spectrum that are small businesses.

27. As discussed in Section II.D.2.e of the Order, we adopt criteria for defining small businesses and other eligible entities for purposes of defining eligibility for bidding credits and installment payments. We define a small business as an entity that, together with affiliates and controlling principals, has average gross revenues not exceeding $40 million for the three preceding years (paras. 345 and 348 of the Order). Additionally, bidding credits and installment payments are available to applicants that, together with affiliates and controlling principals, have average gross revenues for the three preceding years of more than $40 million but not more than $75 million (paras. 349 and 358 of the Order).

28. SBREFA was not in effect until the record in the *Third NPRM* closed, and we did not seek comment on the potential number of prospective applicants for LMDS that might qualify as small businesses. Therefore, we are unable to predict accurately the number of applicants for LMDS that would fit the definition of a small business for competitive bidding purposes. However, using the definition of small business we adopted for auction eligibility, we can estimate the number of applicants

that are small businesses by examining the number of applicants in similar services that qualified as small businesses. For example, MDS authorizes non-common carrier services similar to what may be developed through LMDS. The MDS rules provide a similar definition of a small business as an entity that, together with its affiliates, has annual gross revenues for the three proceeding years not in excess of $40 million. A total of 154 applications were received in the MDS auction, of which 141, or 92 percent, qualified as small businesses.

29. We plan to issue 2 licenses for each of the 492 BTAs, excluding New York, that are the geographic basis for licensing LMDS. Thus, 984 licenses will be made available for authorization in the LMDS auction. Inasmuch as 92 percent of the applications were received in the MDS auction were from entities qualifying as small businesses, we anticipate receiving at least the same from LMDS applicants interested in providing non-common carrier services.

30. There is only one company, CellularVision, that is currently providing LMDS video services. Although the Commission does not collect data on annual receipts, we assume that CellularVision is a small business under both the SBA definition and our proposed auction rules.

31. *Reporting, Recordkeeping, and Other Compliance Requirements:* Under the proposal contained in the Fifth NPRM: (1) acquisitions by partitioning or disaggregation will be treated as assignments of a license and will require the parties to seek prior approval of the Commission; (2) the parties will be required to identify which of them will be responsible for complying with the construction requirements set forth in the Second Report and Order we have adopted today, and to submit a certification to that effect, signed by both parties, (3) parties failing to meet their construction requirement obligations will be subject to forfeiture of their license; and (4) licensees afforded bidding preferences and other benefits available to small entities will be subject to the Commission's unjust enrichment rules should they partition or disaggregate to entities that are not small businesses. If adopted, this proposal would apply to all LMDS licensees and all entities that attempt to acquire an LMDS license by means of partitioning or disaggregation. We request comment on how these requirements can be modified to reduce the burden on small entities and still meet the objectives of the proceeding.

32. *Significant Alternatives Minimizing the Significant Economic Impact on a Substantial Number of Small Entities Consistent with the Stated Objectives:* We have not identified any significant alternatives that would minimize the significant economic impact on small entities that are consistent with the stated objectives to allow a flexible approach to partitioning and disaggregation of LMDS. We tentatively conclude that a flexible approach affords providers, including small businesses, the ability to respond to market forces and demands for service relevant to their particular locations and service offerings.

The regulatory burdens we have imposed on LMDS licensees with respect to assignments and buildout certifications, as well as unjust enrichment, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner. We seek comment on any significant alternatives that are consistent with the objectives in the NPRM.

33. *Federal Rules That Overlap, Duplicate, or Conflict with These Proposed Rules:* None.

List of Subjects in 47 CFR Part 101

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–8775 Filed 4–4–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB73

Endangered and Threatened Wildlife and Plants, Notice of Reopening of Comment Period on Proposed Endangered Status for the Peninsular Ranges Population of the Desert Bighorn Sheep

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, notice of reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of reopening of the comment period for the proposed endangered status for the Peninsular Ranges population of desert bighorn sheep (*Ovis canadensis*). The comment period has been reopened to acquire additional information from interested parties, and to resume the proposed listing action. In addition, the Service is seeking public comment on various articles and reports concerning the distinctiveness and status of bighorn sheep in the Peninsular Ranges.

DATES: The public comment period closes May 7, 1997. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: Written comments, materials and data, and available reports and articles concerning this proposal should be sent directly to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Peter Sorensen, at the address listed above (telephone 760/431–9440, facsimile 760/431–9618).

SUPPLEMENTARY INFORMATION:

Background

The Peninsular Ranges population of the desert bighorn sheep occurs along desert slopes of the Peninsular Ranges from the vicinity of Palm Springs, California, into northern Baja California, Mexico. Depressed recruitment, habitat loss and degradation, disease, loss of dispersal corridors, and random events (e.g., drought) affecting small populations threaten the desert bighorn sheep in the Peninsular Ranges.

On May 8, 1992, the Service published a rule proposing endangered status for the Peninsular Ranges population of the desert bighorn sheep (57 FR 19837). The original comment period closed on November 4, 1992. The Service was unable to make a final listing determination regarding the bighorn sheep because of a limited budget, other endangered species assignments driven by court orders, and higher listing priorities. In addition, a moratorium on listing actions (Public Law 104–6), which took effect on April 10, 1995, stipulated that no funds could be used to make final listing or critical habitat determinations. Now that funding has been restored, the Service is proceeding with a final determination for the Peninsular Ranges population of the desert bighorn sheep.

Due to the length of time that has elapsed since the close of the initial comment period, changing procedural