

in which case a **Federal Register** notice will advise accordingly. The EPA's review of the States of Alabama's and the State of Georgia's pertinent laws, rules, and regulations at the time of original delegation indicate that adequate and effective procedures were in place for the implementation and enforcement of these Federal standards. NSPS requirements have been successfully implemented since that time for more than 20 years for applicable sources. This notice was written to inform the public of delegations made to the State of Alabama and the State of Georgia for which a **Federal Register** notice was not previously written and to inform the public of their new mechanism for delegation of future NSPS.

EFFECTIVE DATE: The effective date is March 25, 1999.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency,
Region 4, Air & Radiation Technology
Branch, 61 Forsyth Street, S.W.,
Atlanta, Georgia 30303.

Alabama Department of Environmental
Management-Air Division, 1751 Cong.
W. L. Dickinson Drive, Montgomery,
Alabama 36130.

Georgia Department of Natural
Resources, Environmental Protection
Division, 4244 International Parkway,
Suite 120, Atlanta, Georgia 30354

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the delegated standards should not be submitted to the Region 4 office, but should instead be submitted to the appropriate following address: Alabama Department of Environmental Management-Air Division, 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama 36130, or Georgia Department of Natural Resources, Environmental Protection Division, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354

FOR FURTHER INFORMATION CONTACT: Ms. Katy Forney, Air & Radiation Technology Branch, Environmental Protection Agency, Region 4, 61 Forsyth St. SW, Atlanta, Georgia 30303, 404-562-9130.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110 and 111(c)(1) of the Clean Air Act as amended November 15, 1990, authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards (NSPS).

On August 5, 1976, the EPA initially delegated the authority for implementation and enforcement of the NSPS program to the State of Alabama and on May 3, 1976, the NSPS program was initially delegated to the State of Georgia. These agencies have subsequently requested a delegation of authority for implementation and enforcement of the previously adopted, undelegated part 60 NSPS categories listed below as well as future NSPS categories codified in 40 CFR part 60.

State of Alabama

1. 40 CFR part 60, subpart VV, adopted August 17, 1997.

State of Georgia

Currently, no NSPS regulations are waiting delegation.

All current NSPS categories are delegated with the exception of the following sections within those subparts that may not be delegated. Future NSPS regulations will contain a list of sections that will not be delegated for that subpart.

1. Subpart A—Sec. 60.8(b) (1) thru (5), Sec. 60.11(e) (7) and (8), Sec. 60.13 (g), (i) and (j) (2)
2. Subpart B—Sec. 60.22, Sec. 60.27, and Sec. 60.29
3. Subpart Da—Sec. 60.45a
4. Subpart Db—Sec. 60.44b(f), Sec. 60.44b(g), Sec. 60.49b(a) (4)
5. Subpart Dc—Sec. 60.48c(a) (4)
6. Subpart Ec—Sec. 60.56(c) (i)
7. Subpart J—Sec. 60.105(a) (13) (iii), Sec. 60.106(i) (12)
8. Subpart Ka—Sec. 60.114a
9. Subpart Kb—Sec. 60.111b(f) (4), Sec. 60.114b, Sec. 60.116b(e) (3) (iii) and (iv), Sec. 60.116b(f) (2) (iii)
10. Subpart O—Sec. 60.153(e)
11. Subpart EE—Sec. 60.316(d)
12. Subpart GG—Sec. 60.334(b) (2), Sec. 60.335(f) (1)
13. Subpart RR—Sec. 60.446(c)
14. Subpart SS—Sec. 60.456(d)
15. Subpart TT—Sec. 60.466(d)
16. Subpart UU—Sec. 60.474(g)
17. Subpart VV—Sec. 60.482-1(c) (2) and Sec. 60.484
18. Subpart WW—Sec. 60.496(c)
19. Subpart XX—Sec. 60.502(e) (6)
20. Subpart AAA—Sec. 60.533, Sec. 60.534, Sec. 60.535, Sec. 60.536(i) (2), Sec. 60.537, Sec. 60.538(e), Sec. 60.539
21. Subpart BBB—Sec. 60.543(c) (2) (ii) (B)
22. Subpart DDD—Sec. 60.562-2(c)
23. Subpart III—Sec. 60.613(e)
24. Subpart NNN—Sec. 60.663(e)
25. Subpart RRR—Sec. 60.703(e)
26. Subpart SSS—Sec. 60.711(a) (16), Sec. 60.713(b) (1) (i), Sec. 60.713(b) (1) (ii), Sec. 60.713(b) (5) (i),

Sec. 60.713(d), Sec. 60.715(a), Sec. 60.716

27. Subpart TTT—Sec. 60.723(b) (1), Sec. 60.723(b) (2) (i) (C), Sec. 60.723(b) (2) (iv), Sec. 60.724(e), Sec. 60.725(b)

28. Subpart VVV—Sec. 60.743(a) (3) (v) (A) and (B), Sec. 60.743(e), Sec. 60.745(a), Sec. 60.746

After a thorough review of the request, the Regional Administrator has determined that such a delegation request was appropriate for all source categories. All sources subject to the requirements of 40 CFR part 60 will now be under the jurisdiction of the State of Alabama or the State of Georgia, as appropriate.

Since review of the pertinent laws, rules, and regulations for the State of Alabama and the State of Georgia has shown them to be adequate for implementation and enforcement of existing, previously adopted, undelegated NSPS and future NSPS, EPA hereby notifies the public that it has delegated the authority for existing, previously adopted and undelegated NSPS as well as the mechanism for delegation of future NSPS source categories upon publication of this **Federal Register** notice.

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

Authority: This notice is issued under the authority of sections 101, 110, 111, 112 and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: March 8, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99-7333 Filed 3-24-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 61

[IB Docket No. 98-60; FCC 99-17]

Policies and Rules for Alternative Incentive-Based Regulation of Comsat Corporation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts a policy of incentive-based price regulation for Comsat Corporation in its provision of services in "non-competitive" INTELSAT markets. The Commission also adopts a streamlined process to determine in the future when Comsat INTELSAT markets should be redefined as non-dominant in response to the introduction of competition. In April 1998, the Commission reclassified Comsat as a non-dominant carrier for most of its services, on most of its routes, and eliminated all rate regulation regarding its provision of INTELSAT services in markets deemed "competitive". That decision eliminated rate regulation in markets accounting for approximately 92 percent of Comsat's INTELSAT revenues. Roughly eight-percent of Comsat's INTELSAT revenues—those derived from "non-competitive" INTELSAT services markets—remained subject to rate of return regulation. This document addresses the eight-percent.

EFFECTIVE DATE: February 9, 1999.

FOR FURTHER INFORMATION CONTACT: Michael McCain, International Bureau, Satellite Policy Branch, (202) 418-0774, or email at mmccoin@fcc.gov; Sande Taxali, International Bureau, Satellite Policy Branch, (202) 418-0786, or email at staxali@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in IB Docket No. 98-60, FCC 99-17, adopted February 4, 1999, and released February 9, 1999. The complete text of this Commission *Report and Order* is available for inspection and copying during the weekday hours of 9:00 a.m. to 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., or may be purchased from the Commission's duplicating contractor, International Transcription Service, (202) 857-3800, 2131 M Street, N.W., Washington, D.C. 20036. The complete text is also available under the file name [fcc99017.txt](#) or [fcc99017.wp](#) on the Commission's internet site at <http://www.fcc.gov/Bureaus/International/Orders/1999>.

Summary of the Report and Order

1. This *Report and Order* eliminates rate of return regulation and applies incentive-based price regulation to Comsat's provision of INTELSAT services in "non-competitive" markets. Customers immediately benefit by the lowering or capping of prices in Comsat's INTELSAT "non-competitive" switched-voice, private line, and occasional-use video services markets.

This incentive-based regulation is administratively less burdensome to both Comsat and the Commission. Additionally, the *Report and Order* adopts a more expedient process by which newly "competitive" markets may be redefined as non-dominant.

2. Since 1985, the Commission has regulated Comsat as a dominant carrier in its provision of INTELSAT services in all markets. In April 1998, in the *Comsat Non-Dominant Order & NPRM*, 63 FR 25811, the Commission partially granted Comsat's request by reclassifying it as non-dominant in INTELSAT markets deemed "competitive". The Commission denied, however, Comsat's request for reclassification as a non-dominant carrier in its INTELSAT services markets deemed "non-competitive". The Commission stated, nevertheless, that it would consider the adoption of an alternative incentive-based regulation in the ensuing *Report and Order*, in lieu of continuing rate of return regulation. In 1998, Comsat's "non-competitive" INTELSAT service markets accounted for roughly eight-percent or \$19 million of Comsat's INTELSAT revenue.

3. The *Comsat Non-Dominant Order & NPRM* tentatively concluded that any alternative incentive-based price regulation should (a) remain in effect for an indefinite period, (b) allow all users of Comsat's service to "non-competitive" markets to benefit from a "competitive" or "transaction" rate rather than the non-discounted tariff rate that would result from Comsat's uniform pricing commitment, and (c) allow all users of Comsat's service to "non-competitive" markets to benefit from reduced rates due to increases in efficiency and productivity. Comsat offers high volume users, like AT&T, Sprint, and MCI, significantly discounted tariff and contract rates for switched-voice service. These discounted rates may reflect both the economies of scale inherent in providing high volume service and increased pressure on Comsat to match the lower rates offered by its competitors in "competitive" markets. It is unclear whether users seeking service in "non-competitive" markets are in a position to take advantage of such discounted or transaction rates or whether they generally must pay the higher non-discounted tariff rates. Thus, Comsat's uniform pricing for switched-voice service, even if adopted as a commitment, would not necessarily lead to lower, more competitive rates for all users in "non-competitive" markets. *Comsat Non-Dominant Order & NPRM*, 13 FCC Rcd. 14083 at paragraph 165. In

addition, the Commission said that an "alternative incentive-based" price procedure should be simple to implement and noncumbersome. A regulatory policy here should; promote proper efficiency incentives for Comsat; benefit consumers through lower rates in the dominant markets; and relieve the Commission from administratively burdensome rate of return regulation of Comsat in these markets. All parties commenting in the proceeding generally agreed with these principles expressed by the Commission, including the need for a simple and less administratively burdensome regulation.

4. The specific alternative incentive-based price regulation plan adopted for Comsat's "non-competitive" INTELSAT markets consists of the following: First, Comsat will institute an immediate four-percent annual rate reduction for switched-voice services in "non-competitive" markets. This actually decreases rates below those currently charged in "competitive" switched-voice markets. Existing switched-voice tariff rates remain in place as an option for those customers whose aggregate circuit volume would otherwise result in a lower rate. Second, current tariff rates for private line service in "non-competitive" markets are capped indefinitely. This follows a recent across-the-board rate reduction of eight-percent in Comsat's private line service market. Third, an immediate one-time rate reduction of four-percent in Comsat's "non-competitive" and "competitive" occasional-use video service markets is enacted. Moreover, the incentive-based regulation adopted further requires Comsat to refrain from raising rates for an indefinite period in all of its "non-competitive" INTELSAT markets. Finally, it mandates that Comsat apply any tariff reduction in its "competitive" INTELSAT markets to its "non-competitive" INTELSAT markets.

5. Overall, the alternative incentive-based regulation adopted in the *Report and Order* guarantees certain rate reductions and caps rates as long as Comsat is regulated as a dominant carrier in the respective markets at issue. In effect, customers receive the benefits of potential increases in productivity regardless of whether such productivity increases actually occur. This benefit to customers should provide Comsat with a real incentive to increase efficiency and productivity.

6. Additionally, this *Report and Order* establishes a streamlined process for declaring Comsat's INTELSAT markets non-dominant and no longer subject to price regulation as they become "competitive". The process, particularly, requires Comsat to file a

petition with the Commission requesting that a particular market or markets be reclassified as non-dominant. For the "non-competitive" switched-voice and private line service markets, Comsat must include evidence that the market is served by a United States carrier through submarine cable facilities. For occasional-use video markets, Comsat must include evidence that another satellite carrier is providing transmit and receive (uplink and downlink) occasional-use video service. The specific type of information required in this showing includes the (a) name of the cable or satellite provider, (b) the country or countries where the new cable circuit or occasional-use video services provision exists, and (c) the estimated capacity available from the competitor. In our recent decision approving the World Com/MCI merger, we noted that upgrades in recently constructed underseas fiber cables can substantially increase transport capacity on existing cables and can be implemented in less than a year. While we found that the World Com/MCI merger would increase concentration in each of three international transport market regions, we also found that it was unlikely to result in anticompetitive effects, given the low barriers to entry and substantial amounts of transport capacity not controlled by MCI or World Com. See Memorandum Opinion and Order, CC Docket No. 97-211, FCC 98-255, 13 FCC Rcd. 21520 (1998) at paragraphs 100-101. Comsat must support its filing with an affidavit. For switched-voice and private line services, a country listed as being served by cable on the Circuit Status Reports is considered *prima facie* evidence that the market is competitive since the capacity available on a submarine cable can be rapidly expanded to meet demand. The showing requirements of this process is consistent with the analysis in the *Comsat Non-Dominant Order & NPRM*, in which evidence of a cable circuit for switched-voice and private line service, and evidence of another carrier for occasional-use video service, provided the standard from which to assess Comsat's market power. Parties would have the opportunity to challenge a Comsat petition for reclassification by either refuting the evidence submitted by Comsat or showing that the particular market at issue has unique characteristics that would allow Comsat to exercise market power, despite the presence of a cable circuit for switched-voice and private line service or service being provided by another satellite carrier for occasional-use video service.

Final Regulatory Flexibility Analysis

7. As required by section 603 of the Regulatory Flexibility Act ("RFA"), an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the *Comsat Non-Dominant Order & NPRM*. See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"). See *Comsat Corporation*, Order and Notice of Proposed Rulemaking, 13 FCC Rcd 14083 (1998) at Appendix C. The Commission then sought written public comment in that proceeding, including comments on the IRFA. No party filed comments in response to the IRFA. This *Report and Order* promulgates no new rules and our action here does not affect the previous analysis in the *Comsat Non-Dominant Order & NPRM*. The Commission certifies that there will be no significant effect on a substantial number of small entities.

A. Need for and Objectives of Rules

8. In this *Report and Order*, the Commission eliminates cumbersome rate of return regulation and replaces it with an alternative incentive-based price regulation. In addition, the Commission streamlines the process whereby Comsat's INTELSAT markets may be reclassified as non-dominant. Currently, revenue from its markets that are still classified as dominant account for approximately eight-percent of its INTELSAT revenues. The modification to these processes will result in administratively less burdensome and more efficient procedures for both the Commission and Comsat.

B. Summary of Significant Issues Raised by Public Comments in Response to the Regulatory Flexibility Analysis

9. No comments were submitted in direct response to the RFA.

C. Description and Estimates of the Number of Small Entities to Which the Rules Will Apply

10. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business", "small organization", and "small governmental jurisdiction". See 5 U.S.C. 601(6). The RFA has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). See 5 U.S.C. 601 *et seq.* Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"). In

addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. See 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3). 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").

11. The Commission has not developed a definition of small entities specifically applicable to this situation. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services, "Not Elsewhere Classified." This definition provides that a small entity is one with no more than \$11.0 million annual receipts. 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899. According to the Census Bureau data, there were a total of 848 communications services in operation in 1992 that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of \$9.999 million or less and qualify as small entities. 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration). The census report does not provide more precise data. Comsat Corporation is the only business effected by the policy enacted in this *Report and Order*. Its annual receipts are in excess of \$11.0 million and, therefore, it does not fall into the classification of a "small business". Accordingly, the number of small businesses impacted by the policy change here is zero.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. The Commission adopts no new reporting requirements in this *Report and Order*.

E. Steps Taken To Minimize Significant Economic Burden on Small Entities, and Significant Alternatives Considered

13. This *Report and Order* promulgates no new rules or policies that would effect small business concerns. The policies it does advance, however, should positively impact the effectiveness and efficiency of Comsat Corporation, the only business entity effected.

F. Report to Congress

14. The Commission shall send a copy of this *Report and Order*, including the status of the FRFA in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). Since this *Report and Order* promulgates no new rules and does not affect the IRFA in the *Comsat Non-Dominant Order and NPRM*, it is not necessary to publish an FRFA in the **Federal Register**.

Ordering Clauses

15. Accordingly, *it is ordered*, that Comsat Corporation's proposal in IB Docket 98-60, to establish an alternative incentive-based price regulation in lieu of rate of return regulation in "non-competitive" INTELSAT service markets for the provision of switched-voice, private line, and occasional-use video, is granted, to the extent indicated herein, and Comsat shall be subject to an alternative incentive-based price regulation in the markets for which it remains dominant, as described in this *Report and Order*.

16. *It is further ordered*, pursuant to authority contained in sections 4(i), 201(b), and 203-205 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 201(b), and 203-205, respectively, and sections 201(c)(5), 201(c)(11), and 401 of the Communications Satellite Act, as amended, 47 U.S.C. 721(c)(5), 721(c)(11), and 741, respectively, we adopt the incentive-based price regulation to the extent indicated herein.

17. *It is further ordered*, that the International Bureau shall have delegated authority to approve petitions from Comsat to redefine any markets served by Comsat from a dominant to a non-dominant status.

18. Comsat Corporation is afforded 30 days from the date of release of this *Report and Order* to decline the alternative incentive-based price regulation as specified herein. Failure to respond within this period will constitute formal acceptance of the requirements in this *Report and Order*.

List of Subjects

47 CFR Part 25

Satellites communication.

47 CFR Part 61

Tariffs.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-7253 Filed 3-24-99; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No.97-45, RM-8961]

Radio Broadcasting Services; Tylertown, MS.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Reconsideration and Motion for Stay filed by Guaranty Broadcasting Corporation directed to the *Report and Order* in this proceeding. See 63 FR 3833, published January 27, 1998. The *Report and Order* had allotted Channel 297A to Tylertown, Mississippi. With this action the proceeding is terminated.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418-2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No.97-45, adopted March 10, 1999, and released March 19, 1999. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3805, 1231 M Street, NW, Washington, D.C. 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles W. Logan,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-7305 Filed 3-24-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE

48 CFR Parts 203 and 252

[DFARS Case 97-D020]

Defense Federal Acquisition Regulation Supplement; Employment Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to expand the list of positions in which contractors may not allow persons convicted of fraud or other defense-contract-related felonies to serve, and to provide that the period of such a prohibition on service may exceed 5 years.

EFFECTIVE DATE: March 25, 1999.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Pelkey, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 97-D020.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 203.570-2 and 252.203-7001 to expand the list of positions in which a person convicted of a felony arising out of a DoD contract may not serve, and to provide that the period of such a prohibition on service may exceed 5 years.

A proposed rule with request for comments was published in the **Federal Register** on October 2, 1997 (62 FR 51623). Two sources submitted comments on the proposed rule. All comments were considered in the development of the final rule.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule applies only to the employment of persons convicted of a felony arising out of a DoD contract.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval