

**List of Subjects 40 CFR Part 98**

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: January 12, 2011.

**Elizabeth Craig,**

*Acting Director, Office of Atmospheric Programs.*

[FR Doc. 2011-996 Filed 1-18-11; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 90**

[PS Docket No. 09-19; RM-11514; RM-11531; FCC 10-203]

**Travelers Information Stations**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Notice of Proposed Rulemaking (NPRM) solicits comment on whether to modify the existing rules governing the licensing and operation of Travelers' Information Stations (TIS) to expand the scope of permitted operations. By initiating this proceeding, the Federal Communications Commission (the Commission) grants petitions for rulemaking filed by Highway Information Systems, Inc. (HIS) and the American Associations of State Highway and Transportation Officials (AASHTO) requesting the commencement of a proceeding to amend the TIS rules.

**DATES:** Submit comments on or before February 18, 2011. Submit reply comments March 7, 2011.

**ADDRESSES:** Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments.

Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number

appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Eric Ehrenreich, Public Safety and Homeland Security Bureau, at (202) 418-1726, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554; or via the Internet to [Eric.Ehrenreich@fcc.gov](mailto:Eric.Ehrenreich@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order and Notice of Proposed Rulemaking* in PS Docket No. 09-19, adopted on December 29, 2010, and released on December 30, 2010. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com). Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities or by sending an e-mail to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or calling the Consumer and Governmental Affairs Bureau at (202) 418-0530, TTY (202) 418-0432. This document is also available on the Commission's Web site at <http://www.fcc.gov>.

**I. Introduction**

1. In this NPRM, the Commission solicits comment on whether to modify the existing rules governing the licensing and operation of TIS to expand the scope of permitted operations. Since the inception of TIS in 1977, the Commission has authorized TIS operations to permit Public Safety Pool eligible entities to transmit noncommercial travel-related information to motorists on a localized basis. However, certain parties and licensees have sought to expand the scope of TIS operations in order to transmit more general alerts and public safety-related information to the public, including non-motorists. By initiating this proceeding, the Commission grants petitions for rulemaking filed by HIS and the AASHTO requesting the commencement of a proceeding to amend the TIS rules. The Commission denies the petition for declaratory ruling regarding TIS filed by American Association of Information Radio Operators (AAIRO), but incorporate the issues raised in AAIRO's petition into this rulemaking proceeding.

**II. Background**

2. The Commission promulgated TIS operations in 1977 in order to "establish an efficient means of communicating certain kinds of information to travelers over low power radio transmitters licensed to Local Government entities." The Commission specifically noted that such stations had been used to reduce traffic congestion and to transmit "road conditions, travel restrictions, and weather forecasts to motorists." Further, the Commission anticipated that such stations also would be used to "transmit travel related emergency messages concerning natural disasters (e.g., forest fires, floods, etc.), traffic accidents and hazards, and related bulletins affecting the immediate welfare of citizens."

3. Commercial broadcasters opposed the creation of TIS, claiming that it would duplicate information provided by commercial broadcasts, including "comprehensive weather reports, reports of traffic conditions, names of gasoline stations, restaurants, and lodging conveyed through advertising." The broadcasters worried that this would siphon off advertising revenues. Other licensees averred that TIS operations would cause impermissible interference with their operations.

4. To address these concerns, the Commission prohibited TIS operators from transmitting "commercial" messages and emphasized that strict limits would be placed on other operational aspects of TIS licenses,

including authorized power levels. Regarding the former, the Commission stated that: "No commercial operation of these stations is intended or permitted." The Commission also adopted power and transmitter coverage limitations to ensure that TIS operations typically would be confined to the immediate vicinity of specified, travel-related areas. The Commission imposed this transmitter location restriction with the objective of limiting service to "the traveler in the immediate vicinity of the station." Although the Commission did not preclude TIS operations from multiple transmitters, each TIS site is expected to provide specifically targeted information restricted to the immediate vicinity of certain areas specified by the rules. Multiple TIS site operations working on a network concept would not be allowed. Additionally, TIS licensees operate predominantly on a secondary basis, and their operations may "be suspended, modified, or withdrawn by the Commission without prior notice or right to hearing if necessary to resolve interference conflicts."

5. TIS stations are authorized on a primary basis on 530 kHz and on a secondary basis in the 535–1705 kHz band, all of which is receivable with an AM radio. TIS operates on a low power basis: maximum output power is 50 watts with a cable antenna and 10 watts with a traditional radiating antenna. TIS stations may only transmit "noncommercial voice information pertaining to traffic and road conditions, traffic hazard and travel advisories, directions, availability of lodging, rest stops and service stations, and descriptions of local points of interest." Finally, TIS transmitting sites are restricted to "the immediate vicinity of \* \* \* [a]ir, train, and bus transportation terminals, public parks and historical sites, bridges, tunnels, and any intersection of a Federal Interstate Highway with any other Interstate, Federal, State, or local highway."

6. The Commission has not undertaken a major amendment of the TIS rules since their inception. However, in an effort to address apparent operational limitations imposed by the current TIS rules, a few TIS operators have acted on their own accord to expand the scope of TIS content and operations. This has resulted in at least one Commission enforcement action. Other TIS operators and their sponsors have sought to expand the scope of TIS operations through rule waiver requests. In this proceeding, the Commission considers the petitions filed by HIS, AAIRO, and AASHTO that seek rule changes or

clarification of the scope of the Commission's current TIS rules.

7. On July 16, 2008, HIS filed a petition for rulemaking (HIS Petition) to amend the TIS rules. The HIS Petition requests that the Commission: (1) Re-title TIS as the "Local Government Radio Service;" (2) expand the permissible use rule in section 90.242(a)(7) to "provide that stations in the local government radio service may be used to broadcast information of a non-commercial nature as determined by the government entity licensed to operate the station and other government entities with which the licensee cooperates;" and (3) "eliminate the limitation on the sites for local government radio stations that confines such stations to areas near roads, highways and public transportation terminals."

8. On September 9, 2008, AAIRO filed a petition for declaratory ruling (AAIRO Petition). The AAIRO Petition asks for (1) a "[r]uling that any message concerning the safety of life or protection of property that may affect any traveler or any individual in transit or soon to be in transit, may be transmitted on Travelers' Information Stations, at the sole discretion of officials authorized to operate such stations;" and (2) "a clear directive that such messages, by definition, are expressly included in the permissible content categories defined by 47 CFR 90.242(a)(7)." In its petition, AAIRO states that such a declaration would allow the broadcast of a wide range of information over TIS, including NOAA Weather Radio retransmissions, AMBER Alerts, alternate phone numbers when local 911 systems fail, terror threat alert levels, public health warnings "and all manner of civil defense announcement." AAIRO, however, does not seek any expansion of TIS operational limitations currently imposed by the Commission's rules.

9. On March 16, 2009, AASHTO filed a petition for rulemaking seeking revision of the TIS rules to permit the transmission of AMBER Alerts and information regarding the availability of 511 services.

10. On February 13, 2009, the Public Safety and Homeland Security Bureau (Bureau) released a public notice seeking comment on the HIS and AAIRO Petitions. The comment period on those petitions closed on March 30, 2009, with 61 comments received. On April 23, 2009, the Bureau released a public notice seeking comment on the AASHTO Petition. The comment period on that petition closed on June 8, 2009, with 11 comments received.

### III. Order

11. The Commission first addresses the AAIRO petition for declaratory ruling. As noted above, AAIRO seeks (1) a "[r]uling that any message concerning the safety of life or protection of property that may affect any traveler or any individual in transit or soon to be in transit, may be transmitted on Travelers' Information Stations, at the sole discretion of officials authorized to operate such stations;" and (2) "a clear directive that such messages, by definition, are expressly included in the permissible content categories defined by 47 CFR 90.242(a)(7)." Under AAIRO's proposed interpretation the current TIS rules would allow the broadcast of a wide range of information over TIS, including NOAA Weather Radio retransmissions, AMBER Alerts, alternate phone numbers when local 911 systems fail, terror threat alert levels, public health warnings, and other civil defense announcements.

12. The Commission concludes that a declaratory ruling is not the appropriate vehicle to decide the issues raised by AAIRO, and it therefore denies the AAIRO Petition. Pursuant to section 1.2 of the Commission's rules, the Commission may issue a declaratory ruling for purposes of "terminating a controversy or removing uncertainty." However, a declaratory ruling may not be used to substantively change a policy. Section 90.242(a)(7) states that TIS stations may only transmit "noncommercial voice information pertaining to traffic and road conditions, traffic hazard and travel advisories, directions, availability of lodging, rest stops and service stations, and descriptions of local points of interest." The Commission concludes that accepting AAIRO's proposed interpretation of the current rules would expand the scope of permitted communications so significantly as to constitute a change in policy. While some of the types of communications AAIRO cites could arguably fall within the scope of the existing rules, other examples cited in the petition—such as NOAA transmissions, alternate phone numbers to 911, terror threat alert levels, and public health warnings—do not appear to be "travel related" as contemplated by the plain language of the TIS rules. Indeed, the Commission previously issued a notice of violation for retransmission of NOAA broadcasts over a TIS transmitter.

13. For these reasons, the Commission denies AAIRO's petition. AAIRO's petition, however, raises matters that are relevant to the general thrust of this proceeding to consider expanding the

travel-related scope of the TIS rules. In fact, these issues overlap with issues raised by the HIS and AASHTO petitions concerning possible changes to the scope of information content transmitted by TIS. Accordingly, the Commission finds that it is in the public interest to address the issues raised by the AAIRO Petition and, on its own motion, it does so as part of the NPRM below.

#### IV. Notice of Proposed Rulemaking

14. In this NPRM, the Commission seeks to determine whether expansion of the content and location restrictions in the TIS rules would create significant public benefit. To varying degrees, AAIRO, HIS, and AASHTO all contend that conditions have sufficiently changed since the Commission promulgated the TIS rules in 1977 that some expansion of the rules would be in the public interest. However, the changes proposed by the three organizations differ from one another in scope. The Commission therefore seeks comment on the specific changes to the TIS rules proposed by each petitioner, and on the overall approach that the Commission should take. Should the Commission significantly expand the scope of permitted communications and alerts by local governments on TIS stations, or should it adopt more limited changes that are consistent with the traditional travel-related focus of TIS?

##### A. Issues Raised by the AAIRO Petition

15. Initially, the Commission seeks comment on AAIRO's suggestion that the Commission should allow TIS stations to broadcast information including NOAA Weather Radio retransmissions, AMBER Alerts, alternate phone numbers when local 911 systems fail, terror threat alert levels, public health warnings, and civil defense announcements. Many commenters, most of them emergency managers and first responders, supported the AAIRO petition. Many of these commenters also indicate their desire to utilize TIS transmitters for the uses suggested by AAIRO, as well as a number of other uses. The Commission seeks comment on expanding the scope of the TIS rules to allow a broader array of government information and alerts. Should the Commission identify specific services, such as AMBER Alerts and NOAA weather broadcasts, in the TIS services rules? What limits, if any, should the Commission place on information allowed to be transmitted over TIS?

16. The Commission also seeks comment on whether expansion of the TIS rules as proposed by AAIRO would

have any adverse effect on commercial broadcasting. AAIRO states that allowing the uses it proposes will not lead to any competition with commercial broadcasters. The National Association of Broadcasters (NAB), however, opposes the uses proposed by AAIRO, stating that the AAIRO petition does "not provide sufficient evidence to justify approval of their requests for a fundamental transformation of [TIS] operations."

17. AASHTO also raises concerns about expanding the scope of information transmitted over TIS. AASHTO notes that since the original TIS rules were adopted in 1977, "there has been an explosion in the amount of information to which travelers may have access," and proposes that the Commission should re-focus the type of information that should be permitted on TIS stations to include information intended to promote situational awareness \* \* \*."

18. AASHTO also asserts that routine rebroadcast of NOAA weather information would "have a severe affect on the [TIS] service's ability to carry official urgent information in the event of an emergency." AASHTO, however, states that it "supports the ability of a TIS licensee to transmit information regarding [non-routine] adverse conditions." In that regard, AASHTO urges the Commission to clarify that current FCC rules allow rebroadcast of NOAA weather radio on TIS only if "initiated through the reception of an encoded SAME transmission containing a weather message event code" which will terminate on the earlier of (1) receipt of an encoded SAME message canceling the event code, or (2) the passage of six hours.

19. The Commission seeks comment on AASHTO's position and the distinction it makes between the rebroadcast over TIS of routine versus non-routine NOAA weather reports. The Commission asks commenters to frame their comments in the context of: (1) The TIS service rules and whether they should be expanded to make a clear accommodation for non-routine NOAA reports; and (2) sections 90.405(a)(1) and 90.407 of the Commission's rules, which allow for, respectively, the transmission over the TIS service of "emergency communications" under certain circumstances and "any communications related directly to the imminent safety-of-life or property." Are the existing part 90 rules sufficient for the Commission to clarify that non-routine NOAA reports over TIS permitted, as AASHTO requests? The Commission clarifies that it is not proposing to declare permissible under

its existing rules anything that would be within the scope of its previous enforcement action against retransmission of NOAA broadcasts.

##### B. HIS Petition

20. The HIS Petition asks that the Commission (1) Re-title the TIS service rules as "Local Government Radio Service," (2) expand the permissible use rule in section 90.242(a)(7) to "provide that stations in the local government radio service may be used to broadcast information of a non-commercial nature as determined by the government entity licensed to operate the station and other government entities with which the licensee cooperates," and (3) "eliminate the limitation on the sites for local government radio stations that confines such stations to areas near roads, highways and public transportation terminals."

21. In support of these proposed changes to the TIS rules, HIS states that the Commission actively promotes policies to "enhance the reliability, resiliency, and security of emergency alerts to the public by requiring that alerts be distributed over diverse communications platforms," and that "TIS stations provide a means of communicating with all Americans since only an AM radio is necessary to receive these communications. \* \* \* TIS stations provide a communications channel that is diverse and redundant." HIS further notes that many "TIS stations are solar-powered and/or have battery backup systems and as a result they continue to operate during a power blackout."

22. Eleven of seventeen commenters supported the HIS Petition. The majority of the supporting commenters provide additional perspectives on how the TIS service could be used should the Commission determine to revise the rules per the HIS petition.

23. "Local Government Radio Service." HIS urges the Commission to re-title the TIS service rules as "Local Government Radio Service," because it is "more consistent with the broader interests and responsibilities of the government." HIS states that given "the highly localized nature of these stations, the particular content broadcast on a station will be best determined by the government entity with jurisdiction over that specific location." Middletown Township also supports a change of the service's name to reflect "less restrictive transmitter siting" as well as expanded content.

24. APCO opposes the proposed name change to "Local Government Radio Service," as this was the previous name of a part 90, land mobile radio service.

As an alternative, APCO suggests "Local Government AM Radio Service." Texas DOT states that "we do not support changing the radio service name to 'Local Government Radio Service' as \* \* \* some agencies may be tempted to broadcast programming which may belong on news media broadcasts rather than a government warning or alert system." The Commission seeks comment on whether it should retain or change the name of the TIS service. Could a name change inadvertently induce TIS licensees to broadcast messages more appropriately delivered by local media broadcasters?

25. *Section 90.242(a)(7)(permissible use rule)*. Given the highly localized content of TIS broadcasts, HIS also urges amendment of section 90.242(a)(7) to ensure that editorial control over the content of TIS broadcasts rests squarely with the government entity licensed to operate the station. HIS states that the government entity licensed to operate the station should have discretion to use the TIS service to broadcast any information of a noncommercial nature. HIS's proposal would appear to expand the existing scope of TIS to encompass information pertinent to non-travelers.

26. Middletown Township supports the HIS Petition and notes possible benefits to an expansion of section 90.242(a)(7):

While the primary purpose of the TIS station is for emergency travel notifications and evacuation information when other media are limited or unavailable, the station also could effectively provide, to non-traveling residents, emergency readiness information related to the county-wide programs noted above, advice on preparation for emergencies, local-area relevant safety announcements related to approaching weather and developing hazards, power outage and restoration information, community announcements, tourist information, and information about the township's history, environment and parks. This latter public interest information would serve to develop listener awareness of the station so that when an emergency develops, the public is already attuned to this valuable information source.

Conversely, NAB opposes the HIS Petition, stating that, "HIS Inc. cites only two instances in which licensees sought unsuccessfully to use TIS operations for prohibited purposes [energy conservation message and NWS forecast loop]. \* \* \* Two examples do not establish that the Commission's long-standing regulations on TIS operations are unwarranted and certainly do not justify wholesale changes to this service." NAB further argues that given the "low-power service with an extremely limited, highly targeted reception area \* \* \* contrary to HIS

Inc.'s suggestion that [its proposed amendments] would improve emergency alerting, [they] would not have any significant benefit for the public." Similarly, AASHTO opposes the HIS Petition, stating that "the changes proposed by \* \* \* HIS would inadvisably broaden the type of information that TIS licensees may transmit, potentially diluting the value of the service."

27. The Commission seeks comment on whether and to what extent the changes proposed by HIS would or should alter the Commission's requirement for a nexus between TIS transmissions and traveling motorists. Several commenters contend that the changes proposed by HIS would amount to a *de facto* elimination of the TIS service as presently constituted. The Commission seeks comment on whether the public interest would be served by expanding the scope to include the broadcast of all non-commercial information or whether it is preferable to limit the scope of the changes to emergency alerts only, or some other subset of permissible content. Would it be possible to expand the scope of TIS as proposed by HIS while retaining the travel-nexus requirement? If not, would any subsequent restrictions placed on the scope of permissible TIS transmissions by government entities licensed to use TIS diminish their ability to communicate information of local concern to travelers? Would an expansion of the TIS service to include all non-commercial information affect the reliability of emergency alerts transmitted via TIS? Does continuing to require a traveler-related nexus serve the public interest? With respect to Middletown Township's argument that TIS stations could provide tourist information and information on local landmarks, the Commission notes that the TIS rules already expressly allow for the broadcasting of tourist information, such as directions, availability of lodging, and points of interest. If the travel-related nexus should be retained, the Commission seeks comment on the extent, if any, to which the type of information broadcast over the TIS service might be broadened without "diluting" the value of the service to travelers.

28. *Operational Limitations*. HIS asks that "the Commission eliminate the limitation on the sites for local government radio stations that confines such stations to areas near roads, highways and public transportation terminals." HIS states that the local government licensee should have the discretion to determine site locations, provided that the interference criteria

are met with respect to commercial AM radio station.

29. Hatfield & Dawson Consulting Engineers raise interference concerns regarding HIS's proposal to eliminate the TIS transmitter site limitation, claiming that it:

seeks a change in the rules which almost surely would result in substantial numbers of additional TIS facilities. The result would be a general increase in the background or ambient radio frequency noise levels in the medium wave "AM" broadcast band. This has a potential for increasing the overall level of interference to nighttime operation in the medium wave "AM" broadcasting band.

With regard to interference concerns from expanded TIS operations, HIS indicates that there has been "[no] showing of harmful interference" were the Commission to implement its requested changes to the TIS service. The Commission seeks comment on HIS's assertion. Do the section 90.242 interference protection standards adequately protect AM stations? Should the Commission adopt specific second- and third-adjacent channel protection standards to ensure lack of interference to AM stations? To what extent could TIS broadcast locations be expanded without resulting in harmful interference to other licensees? Even if the risk of harmful interference resulting from expanded TIS broadcast operations is minimal, to what extent would those changes be of any practical usefulness given the limitations on power output presently established in the TIS rules? Would those power output limitations also need to be relaxed in order to provide local governments with any benefits? If power output limitations are relaxed, what rule changes are necessary to ensure that AM stations are adequately protected? Are there any other technical rules that would need to be changed?

30. *Ribbon Systems*. AASHTO suggests that "instead of changing the geographic limitations as HIS suggest, the FCC should consider the elimination of the TIS rules' restriction on 'ribbon systems.'" AASHTO argues that "such ribbon systems could be useful in providing alternative route information to alleviate congestion and manage the flow of traffic during emergencies," such as "in the event of an evacuation due to a natural or manmade disaster." AASHTO continues, "[t]emporary TIS stations could be installed along evacuation routes to provide critical information regarding the availability of temporary emergency facilities and information regarding evacuation areas." The Commission seeks comment on AASHTO's suggestion regarding ribbon systems in response to the HIS Petition.

31. The Commission notes that it currently “precludes an applicant from setting up a ‘network,’ or ‘ribbon’ of transmitting stations along a highway for the purpose of continuously attracting a motorist with what could be superfluous information.” Do users envision a ribbon system of TIS stations transmitting unique information applicable to each transmitter’s immediate area, or a system of stations transmitting in a synchronized mode, where all TIS stations transmit the same message in unison? In the latter scenario, it would not be possible for information to be tailored to the immediate area of each TIS transmitter. How is the latter scenario justified in light of the Commission’s intent to ensure that the TIS service is not used to attract travelers with what could be superfluous or redundant information? On the other hand, could AASHTO’s examples and other potential uses for ribbons systems provide benefits that outweigh the Commission’s original intent?

32. AASHTO argues that “the Commission should recognize that the rules should be modified to permit transmission over broader areas than now permitted.” It notes, for example, that “the area encompassed by NOAA SAME [Specific Area Message Encoder] broadcasts generally exceeds the current coverage area of a TIS station.” Section 90.242(b)(4)(iv) specifies that the field strength of TIS stations may “not exceed 2 mV/m when measured with a standard field strength meter at a distance of 1.50 km (0.93 miles) from the transmitting antenna system.” AASHTO notes that “[w]hen the Commission set the field strength requirements for this service, the national speed limit was 55 miles per hour.” AASHTO contends that “[a] vehicle traveling at this speed would be within the effective service area for approximately two (2) minutes.” AASHTO notes that “[s]ince 1977, the national speed limit was rescinded with the last states reverting to 65–70 mile per hour speed limits.” Given higher speeds, vehicles would be within TIS service areas for shorter durations. AASHTO asserts that “the 2mV/M radiated power limitation effectively limits the amount of information that may be transmitted by a single location to approximately 90 seconds including station identification.”

33. The Commission notes that its Public Safety and Homeland Security Bureau has issued waivers of the field strength limit to permit TIS transmitters to reach broader areas. The Commission seeks comment on AASHTO’s suggestion regarding field strength in

response to the HIS Petition. Is the field strength limit necessary to protect AM broadcast stations and other TIS stations from interference when other technical limitations exist in the rules, such as power limits, antenna height limits, and minimum spacing requirements between TIS transmitters and AM broadcaster contours? Is the field strength limit only needed because of the present requirement to provide specific information to the “immediate vicinity” of areas listed in section 90.242(a)(5)? Would this limit be unnecessary if TIS stations were to be permitted to provide more general information that is applicable to broader areas? If the Commission allows TIS stations to serve broader areas, what should the new field strength limit be, if any? Would a relaxed field strength limit frustrate the purpose of the Commission’s spacing requirements between co-channel TIS stations as set forth in section 90.242(b)(5) of the Commission’s rules? Would additional technical or operational changes be necessary if the field strength limits were amended?

34. *Low-Power FM*. In comments, the Local Government Licensees (Wilmington, Delaware; Fairfax, Virginia; and Hanover County, Virginia) contend that the Commission’s rules should be expanded to permit TIS stations to transmit a broader scope of noncommercial information, such as “official notices and related communications,” similar to government-operated low-power FM stations. The Commission seeks comment on this viewpoint.

#### C. AASHTO Petition

35. AASHTO’s petition seeks expansion of the present scope of the TIS rules to allow the broadcasting of AMBER Alerts and information about the availability of 511 services. The Commission received eleven comments on the AASHTO Petition. Nine comments were in full support, and one was neutral. AAIRO was the sole commenter in opposition, contending that the relief sought by AASHTO could be obtained by granting AAIRO’s declaratory ruling petition.

36. The Commission seeks further comment on AASHTO’s proposal to allow AMBER alerts and 511 service information. As noted above in denying AAIRO’s petition, these issues are not appropriate for resolution by declaratory ruling, but they are suitable for action by rulemaking. The Commission therefore seeks comment on whether it should amend the TIS rules to allow these specific applications.

## V. Procedural Matters

### A. Paperwork Reduction Act

37. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. 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* 47 U.S.C. 3506(c)(4).

### B. Ex Parte Presentations

38. The inquiry this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission’s rules.

### C. Comment Filing Procedures

39. Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1 (1998).

- *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

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Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
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- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

40. *People with Disabilities*: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

## VI. Ordering Clauses

41. Accordingly, *it is ordered* that pursuant to sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, this Notice of Proposed Rulemaking is adopted.

42. *It is further ordered* that pursuant to sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, the petitions for rulemaking filed by Highway Information Systems, Inc., on July 16, 2008, and the American Association of State Highway and Transportation Officials on March 16, 2009, are granted to the extent indicated herein.

43. *It is further ordered* that pursuant to sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, the petition for ruling filed by the American Association of Information Radio Operators filed on September 9, 2008, is denied.

44. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

45. *It is further ordered* that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested

parties may file comments on this Notice of Proposed Rulemaking on or before 30 days after publication in the **Federal Register**, and interested parties may file reply comments on or before 45 days after publication in the **Federal Register**.

**Bulah P. Wheeler,**

*Deputy Manager, Federal Communications Commission.*

[FR Doc. 2011-938 Filed 1-18-11; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R8-ES-2011-0005; 92220-1113-0000-C5]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Delist or Reclassify From Endangered to Threatened Six California Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition findings and initiation of status reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to delist *Oenothera californica (avita)* subsp. *eurekensis* (Eureka Valley evening-primrose) and *Swallenia alexandrae* (Eureka Valley dunegrass), and reclassify the tidewater goby (*Eucyclogobius newberryi*), *Acmispon dendroideus (Lotus scoparius)* subsp.) var. *traskiae* (San Clemente Island broom), *Malacothamnus clementinus* (San Clemente Island bush-mallow), and *Castilleja grisea* (San Clemente Island Indian paintbrush) from endangered to threatened under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this notice, we are initiating status reviews of these taxa to determine if the respective actions of delisting and reclassifying are warranted. Section 4(c)(2)(A) of the Act also requires a status review of listed species at least once every 5 years. We are therefore electing to conduct these reviews simultaneously. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these species and subspecies.

Based on these status reviews, we will issue 12-month findings on the petition, which will address whether the petitioned actions are warranted under section 4(b)(3)(B) of the Act.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before March 21, 2011. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** section, below), the deadline for submitting an electronic comment is Eastern Standard Time on this date.

**ADDRESSES:** You may submit information by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. In the box that reads "Enter Keyword or ID," enter the Docket number for this finding, which is [insert docket number]. Check the box that reads "Open for Comment/ Submission," and then click the Search button. You should then see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.

*U.S. mail or hand-delivery:* Public Comments Processing, Attn: [FWS-insert docket number]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

After March 21, 2011, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT**). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

**FOR FURTHER INFORMATION CONTACT:** For information regarding *Acmispon dendroideus (Lotus scoparius)* subsp.) var. *traskiae*, *Malacothamnus clementinus* and *Castilleja grisea*, contact Jim Bartel, Field Supervisor, by mail at U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92009; by telephone at (760-431-9440); or by facsimile at (760-431-9624).

For information regarding *Oenothera californica (avita)* subsp. *eurekensis*, *Swallenia alexandrae*, and the tidewater goby, contact Diane Noda, by mail at Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003; by telephone (805-644-1766); or by facsimile (805-644-3958). If you use