

(e), and 25.165 which will become effective September 11, 2003. The Commission has adopted a freeze on new satellite applications. This freeze is terminated as of August 27, 2003.

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**SUPPLEMENTARY INFORMATION:** This summary of the Commission's First Report and Order, IB Docket Nos. 02-34 & 02-54, FCC 03-102, adopted April 23, 2003, and released on May 19, 2003. The complete text of this First Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898 or via e-mail [qualexint@lol.com](mailto:qualexint@lol.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

**Paperwork Reduction Act Analysis:** The actions taken in the First Report and Order have been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13, and §§ 25.137(d)(4), 25.164(c) through (e), and 25.165 have been found to impose new or modified reporting requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements has been approved by the Office of Management and Budget (OMB). OMB granted approval for this information collection by means of a Notice of Action for collection number 3060-1007 dated August 13, 2003.

**Regulatory Flexibility Analysis:** As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rule Making (NPRM) in IB Docket No. 02-34.<sup>2</sup> The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

**Need for, and Objectives of, the Proposed Rules.** The objective of the proposed rules is to discourage parties from filing "speculative" satellite applications, i.e., applying for a satellite license without intending to construct the satellite facilities. These rule revisions are needed because speculative satellite applications can delay or preclude other parties from obtaining a satellite license and providing service to the public.

**Summary of Significant Issues Raised by Public Comments in Response to the IRFA.** No comments were submitted in response to the IRFA.

**Description and Estimate of the Number of Small Entities To Which Rules Will Apply.** The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted.<sup>4</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>5</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>6</sup> 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).<sup>7</sup> A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."<sup>8</sup> Nationwide, as of 1992, there were approximately 275,801 small organizations.<sup>9</sup> "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."<sup>10</sup> As of 1992, there were approximately 85,006 such jurisdictions in the United

States.<sup>11</sup> This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees that may be affected by the proposed rules, if adopted.

The rules adopted in this *First Report and Order* affect satellite operators. The Commission has not developed a definition of small entities applicable to satellite operators. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Satellite Telecommunications.<sup>12</sup> This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.<sup>13</sup> 1997 Census Bureau data indicate that, for 1997, 273 satellite communication firms had annual receipts of under \$10 million. In addition, 24 firms had receipts for that year of \$10 million to \$24,999,990.<sup>14</sup>

In addition, Commission records reveal that there are approximately 240 space station operators licensed by this Commission. We do not request or collect annual revenue information, and thus are unable to estimate of the number of licensees that would constitute a small business under the SBA definition. Small businesses may not have the financial ability to become space station licensees because of the high implementation costs associated with satellite systems and services.

**Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.** In this *First Report and Order*, the Commission adopts a mandatory electronic filing requirement for space station license applicants. The Commission believes that filing satellite license applications electronically is no more burdensome than submitting paper applications, because a majority

<sup>4</sup> 5 U.S.C. 604(a)(3).

<sup>5</sup> *Id.* 601(6).

<sup>6</sup> 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**."

<sup>7</sup> Small Business Act, 15 U.S.C. 632 (1996).

<sup>8</sup> 5 U.S.C. 601(4).

<sup>9</sup> 1992 Economic Census, U.S. Business of the Census, Table 6 (special tabulation of data under contract to Office of the Advocation of the U.S. Small Business Administration).

<sup>10</sup> 5 U.S.C. 601(5).

<sup>11</sup> U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

<sup>12</sup> "This industry comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." Small Business Administration, 1997 NAICS Definitions, NAICS 513340.

<sup>13</sup> 13 CFR 120.121, NAICS code 513340.

<sup>14</sup> U.S. Census Bureau, 1997 Economic Census, Subject Service: Information, "Establishment and Firm Size," Table 4, NAICS 513340 (Issued Oct. 2000).

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> Amendment of the Commission's Space Station Licensing Rules and Policies, *Notice of Proposed Rulemaking*, IB Docket No. 02-34, 67 FR 12498 (Mar. 19, 2002) (NPRM).

<sup>3</sup> See 5 U.S.C. 604.