

of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted.² The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁴ 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).⁵ A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."⁶ Nationwide, as of 1992, there were approximately 275,801 small organizations.⁷ "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."⁸ As of 1992, there were approximately 85,006 such jurisdictions in the United States.⁹ This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.¹⁰ 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 proposed in this Notice of Proposed Rulemaking would affect satellite operators, if adopted. 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.¹¹ This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.¹² 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 \$24,999,990.¹³

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 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 Further Notice of Proposed Rulemaking, the Commission invites comment on whether to revise the bond requirement adopted in the First Report and Order in this proceeding. None of the proposed revisions are intended to increase the projected reporting, record keeping, or other compliance requirements associated with the bond requirement.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design,

standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c).

We have attempted not to foreclose any option. In addition, we invite comment on allowing licensees to create an escrow account as an alternative to a bond requirement. We also invite interested parties to propose alternatives for a standard for a waiver of the bond requirement for licensees providing public safety services, including small entities.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules. None.

Summary of Further Notice of Proposed Rulemaking: In the First Report and Order in this proceeding, the Commission adopted a bond requirement for new satellite licensees. Under this requirement, licensees of geostationary satellite orbit (GSO) satellites must post a bond of \$5 million, payable upon failure to meet a milestone. Licensees of non-geostationary satellite orbit (NGSO) satellite systems must post a bond of \$7.5 million. Non-U.S.-licensed satellite operators seeking access to the U.S. market through a letter of intent must also post bonds in these amounts.

The Commission adopted these bond amounts on an interim basis pending additional comment. Accordingly, parties are invited to comment on the bond amount. Parties are also invited to comment on whether to allow satellite licensees to create an escrow account in lieu of posting a bond. Finally, the Commission solicited comment on revising the bond requirements for non-U.S.-licensed satellite operators to be consistent with the requirements for U.S. licensees.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), 303(r), that this Further Notice of Proposed Rulemaking in IB Docket No. 02-34 is hereby *adopted*.

It is further ordered that the Consumer Information Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking in IB Docket No. 02-34, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

² 5 U.S.C. 603(b)(3).

³ *Id.* 601(6).

⁴ 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).

⁵ Small Business Act, 15 U.S.C. 632 (1996).

⁶ 5 U.S.C. 601(4).

⁷ 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

⁸ 5 U.S.C. 601(5).

⁹ U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

¹⁰ *Id.*

¹¹ "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.

¹² 13 CFR 120.121, NAICS code 513340.

¹³ U.S. Census Bureau, 1997 Economic Census, Subject Service: Information, "Establishment and Firm Size," Table 4, NAICS 513340 (Issued Oct. 2000).