

to existing FCC permittees and licensees, result in the continued development of NGSO FSS and other satellite services to the public.

10. Neither the Commission nor the U.S. Small Business Administration has developed a small business size standard specifically for NGSO FSS licensees. The appropriate size standard is therefore the SBA standard for Satellite Telecommunications, which provides that such entities are small if they have \$12.5 million or less in annual revenues.<sup>6</sup>

11. The rules adopted in the *Report and Order* apply only to entities providing NGSO FSS. Small businesses will not have the financial ability to become NGSO FSS system operators because of the high implementation costs, including construction of satellite space stations and rocket launch, associated with satellite systems and services.<sup>7</sup> Since the spectrum and orbital resources available for assignment are not open to new entrants, we estimate that only the four applicants whose applications are pending will be authorized by the Commission to provide these services. None of the seven applicants is a small business because each has revenues in excess of \$12.5 million annually or has parent companies or investors that have revenues in excess of \$12.5 million annually.<sup>8</sup>

12. Therefore, we certify that the rules adopted in this *Report and Order* will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of this *Report and Order*, including this Final Regulatory Flexibility, in a report to Congress pursuant to the Congressional Review Act.<sup>9</sup> In addition, the *Report and Order* and this final certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.<sup>10</sup>

#### Ordering Clauses

13. 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. Sections 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r),

this *Report and Order* is hereby ADOPTED.

14. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the *Report and Order*, including the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A); and shall also send a copy of this *Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 605(b). A copy of this *Report and Order*, including the Final Regulatory Flexibility Certification, will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

#### List of Subjects 47 CFR Part 25

Satellites.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

#### Rule Changes

■ For the reasons set forth in the preamble, part 25 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 2. Section 25.145 is amended by removing paragraph (f) and redesignating paragraphs (g) and (h) as (f) and (g) and by adding paragraphs (c)(3), (f)(1)(iv), (h) and (i) to read as follows:

#### § 25.145 Licensing conditions for the Fixed-Satellite Service in the 20/30 GHz bands.

\* \* \* \* \*

(c) \* \* \*

(3) A description of the design and operational strategies that it will use, if any, to mitigate orbital debris. Each applicant must submit a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the spacecraft.

\* \* \* \* \*

(f) *Reporting requirements.*

\* \* \* \* \*

(iv) All operators of NGSO FSS systems in the 18.8–19.3 GHz and 28.6–29.1 GHz bands shall, within 10 days after a required implementation

milestone as specified in the system authorization certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or person with knowledge thereof) to demonstrate that the milestone has been met. Failure to file a timely certification of milestones, or filing disclosure of non-compliance, will result in automatic cancellation of the authorization with no further action required on the Commission's part.

\* \* \* \* \*

#### (h) *Replacement of Space Stations within the System License Term.*

Licensees of NGSO FSS systems in the 18.8–19.3 GHz and 28.6–29.1 GHz frequency bands authorized through a blanket license pursuant to paragraph (b) of this section need not file separate applications to launch and operate technically identical replacement satellites within the term of the system authorization. However, the licensee shall certify to the Commission, at least thirty days prior to launch of such replacement(s) that:

(1) The licensee intends to launch a space station into the previously-authorized orbit that is technically identical to those authorized in its system authorization and

(2) Launch of this space station will not cause the license to exceed the total number of operating space stations authorized by the Commission.

(i) *In-Orbit Spares.* Licensees need not file separate applications to operate technically identical in-orbit spares authorized as part of the blanket license pursuant to paragraph (b) of this section. However, the licensee shall certify to the Commission, within 10 days of bringing the in-orbit spare into operation, that operation of this space station did not cause the licensee to exceed the total number of operating space stations authorized by the Commission.

■ 3. Section 25.261 is added to read as follows:

#### § 25.261 Procedures for avoidance of in-line interference events for Non Geostationary Satellite Orbit (NGSO) Satellite Network Operations in the Fixed Satellite Service (FSS) Bands.

(a) *Applicable NGSO FSS Bands.* The coordination procedures in this section apply to non-Federal-Government NGSO FSS satellite networks operating in the following assigned frequency bands: The 28.6–29.1 GHz or 18.8–19.3 GHz frequency bands.

<sup>6</sup> 13 CFR 121.201, North American Industry Classification System ("NAICS") code 517410.

<sup>7</sup> *See e.g.*, Final Analysis Communication Services, Inc., 13 FCC Rcd 6618, 6644 (1998) (non-geostationary satellite applicant estimated that "cost of construction, launch and first-year operating costs for two satellites was approximately \$6.22 million").

<sup>8</sup> 13 CFR 121.201, North American Industry Classification System ("NAICS") code 517410.

<sup>9</sup> *See* 5 U.S.C. 801(a)(1)(A).

<sup>10</sup> *See* 5 U.S.C. 605(b).