

however, that many radio stations are affiliated with much larger corporations with much higher revenue, and, that in assessing whether a business concern qualifies as small under the above definition, such business (control) affiliations<sup>23</sup> are included.<sup>24</sup> Our estimate, therefore, likely overstates the number of small businesses that might be affected by our action.

50. *Cable Antenna Relay Service (CARS)*. CARS includes transmitters generally used to relay cable programming within cable television system distribution systems. The SBA has developed a small business size standard for Cable and other Program Distribution, which consists of all such companies having annual receipts of no more than \$12.5 million. According to Census Bureau data for 1997, there were 1,311 firms within the industry category Cable and Other Program Distribution, total, that operated for the entire year.<sup>25</sup> Of this total, 1,180 firms had annual receipts of under \$10 million, and an additional 52 firms had receipts of \$10 million to \$24,999,999.00.<sup>26</sup> Thus, under this standard, the majority of firms can be considered small.

51. *Geostationary, Non-Geostationary Orbit, Fixed Satellite, or Mobile Satellite Service Operators (including 2 GHz MSS systems)*. The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit, fixed-satellite or mobile-satellite service operators. The SBA has developed a small business size standard for Satellite Telecommunications Carriers, which consists of all such companies having \$12.5 million or less in annual receipts.<sup>27</sup> According to Census Bureau data for 1997, there were 324 firms that operated for the entire year.<sup>28</sup> Of this total, 273 firms had annual receipts under \$10 million, and an additional twenty-four firms had annual receipts of \$10 million to \$24,999,990.<sup>29</sup> Thus,

under this size standard, the majority of firms can be considered small.

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

52. The *Third Report and Order and Third Memorandum Opinion and Order* modifies relocation rules that were originally adopted in the *Second Report and Order and Second Memorandum Opinion and Order* in this docket. To a large degree, the item contains no new reporting, recordkeeping, or other compliance requirements. For example, we retain the requirement that all BAS operations in markets 1–30 be relocated prior to the initiation of MSS in the band; decline to change the qualifications by which a BAS licensee is eligible for relocation; continue to permit BAS licensees to operate on a 17-megahertz wide channel plan within the reduced BAS spectrum band if all licensees within a market so choose; and do not alter the relocation process for FS licensees (such as adding provisions to permit self-relocation or adopting “rolling” negotiation periods). Because we previously addressed the reporting, recordkeeping, and other compliance requirements associated with these matters as part of the FRFA adopted in the *Second Report and Order and Second Memorandum Opinion and Order*, we incorporate by reference those aspects of the reporting and other compliance requirements that remain unchanged.

53. Our decision, however, modifies several dates associated with the relocation of BAS and FS incumbents. Specifically, the duration of the mandatory negotiation period for BAS markets 1–30, FS stations, and the sunset date are all based on the publication date of the item in the **Federal Register**. We previously froze the mandatory negotiation period for BAS relocation—originally scheduled to end on September 6, 2003—because unresolved issues relating to MSS deployment had limited the negotiations between MSS and BAS licensees.<sup>30</sup> Because the *Third Report and Order and Third Memorandum Opinion and Order* adopts rules and procedures that will allow the relocation of BAS and FS licensees to continue, we establish new dates associated with relocation of BAS and FS incumbents. Because the new dates are designed to afford parties that are involved in the relocation with time

frames that are substantially similar to those that were previously adopted, the change in dates will have no adverse impact on all parties involved in the relocation, including smaller entities.

54. The initiation of Phase II of the BAS relocation and the requirement that all fixed BAS stations operating on channels 1 and 2 be relocated prior to the initiation of MSS operations both have the potential to affect the compliance burdens associated with relocation. The initiation of Phase II of the relocation process will reduce the overall relocation burdens for MSS by eliminating the expense and reporting requirements that are associated with Phase I. There will be no disruption and no uncertainty for BAS licensees because the rules adopted herein provide sufficient time for fixed facilities to relocate without losing their ability to operate on their existing primary status.

#### *E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

55. The RFA requires an agency to describe any significant alternatives that it has considered in developing its 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 and reporting requirements under the rule for such 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 such small entities.”<sup>31</sup>

56. In response to Petitions for Reconsideration of the *Second Report and Order and Second Memorandum Opinion and Order*, we concluded that the temporary loss of BAS channels 1 and 2 during relocation would have the potential to disrupt fixed BAS operations and uniquely burden licensees. For example, loss of the studio-to-transmitter links would likely necessitate television broadcast stations to obtain alternate facilities to transport their signal to their transmitter for broadcast. Otherwise, these licensees would have to wait for as many as five years before their facilities would be relocated. Because we are reluctant to impose such a delay which would unacceptably jeopardize television operations that rely on fixed BAS facilities on channels 1 and 2, we decline to exempt smaller entities from

<sup>23</sup> “Concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.” 13 CFR 121.103(a)(1).

<sup>24</sup> “SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size.” 13 CFR 121.103(a)(4).

<sup>25</sup> 13 CFR 121.201, NAICS code 517510 (changed from 513220 in October 2002).

<sup>26</sup> Id.

<sup>27</sup> 13 CFR 121.201, NAICS code 517410 (changed from 513340 in October 2002).

<sup>28</sup> U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Receipt Size of Firms Subject to Federal Income Tax: 1997,” Table 4, NAICS code 513340 (issued October 2000).

<sup>29</sup> Id.

<sup>30</sup> Amendment of Section 2.106 of the Commission’s Rules to Allocate Spectrum at 2 GHz for use by the Mobile-Satellite Service, ET Docket No. 95–18, *Order*, 17 FCC Rcd 15141 (2002).

<sup>31</sup> 5 U.S.C. 603(c)(1)–(c)(4).