

APPENDIX E

FCC Form 312EZ Qualification Questions

For purposes of this form, "you" are an applicant for an earth station license. You must be able to answer YES to all of the following questions in order to use this form 312EZ to file an earth station application. If you cannot answer "YES" to any of the following questions, then you must use FCC Form 312.

01. Application, Frequency Bands, Satellites, and Service: Are you applying for a NEW earth station license (*i.e.*, one that has not been previously licensed)? Will you operate your proposed earth station ONLY within the C-band (3700-4200 MHz and 5925-6425 MHz) or Ku-band (11.7-12.2 GHz and 14.0-14.5 GHz)? Will you operate your proposed earth station ONLY with U.S.-licensed or Permitted List geostationary satellites? Will your proposed earth station be a fixed earth station or temporary-fixed earth station that will operate only in the Fixed Satellite Service?

YES _____ NO _____

02. Rules and Waivers: Does your proposed earth station and its operation conform to all technical, procedural, and operational requirements of the FCC Rules and Regulations (47 CFR) and therefore requires NO waivers or exemptions from any of the Commission's Rules?

YES _____ NO _____

03. Antenna Standard: Do(es) your proposed antenna(s) comply with the antenna gain standard specified in Section 25.209(a) and (b) as demonstrated by the manufacturer's qualification measurements?

YES _____ NO _____

04. Power Levels: Does your proposed earth station operation conform with all routine power and power density rules contained in Sections 25.211 and 25.212?

YES _____ NO _____

05. Frequency Coordination: If you will operate your proposed earth station in the C-band (3700-4200 MHz and 5925-6425 MHz), have you completed frequency coordination and attached Frequency Coordination Report to this application?

YES _____ NO _____

28. Environmental Policy: Do you certify that Commission grant of any proposal in this application will NOT have a significant environmental impact as defined by 47 CFR Section 1.1307?

YES _____ NO _____

06. Radiation Hazard: If you are asking for a transmit/receive or transmit-only earth station license, has a Radiation Hazard Study (refer to OET Bulletin 65) been completed and will this Radiation Hazard Study be attached as an exhibit to this application?

YES _____ NO _____

07. FAA Notification: Can you answer "yes" to one or more of the following questions?

- a. Have you completed FCC Form 854?
- b. Have you attached an FAA study regarding the potential hazard of the structure to aviation as an exhibit to this application?
- c. Can you certify that FAA notification is not required under 47 CFR Part 17 and 47 CFR Section 25.113(c)?
YES _____ NO _____

29. Alien Ownership: If you are a non-common carrier, can you answer "yes" to Questions a. through e.? If you are a common carrier, can you answer "yes" to Question a.?

- a. Do you certify that you are not a foreign government or a representative of a foreign government?
- b. Do you certify that you are not an alien, or the representative of an alien?
- c. Do you certify that you are not a corporation organized under the laws of any foreign government?
- d. Do you certify that you are not a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?
- e. Do you certify that you are not a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?
YES _____ NO _____

36. Revoked or Denied Authorization: Do you certify that the applicant or any party to this application has NOT had any FCC station authorization or license revoked or had any application for an initial, modification or renewal of FCC station authorization, license or construction permit denied by the Commission?
YES _____ NO _____

37. Felony Conviction: Do you certify that neither you nor any party to this application, nor any party directly or indirectly controlling your company, has EVER been convicted of a felony by any state or federal court?
YES _____ NO _____

38. Monopolizing Radio Communication: Do you certify that NO court has finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition?
YES _____ NO _____

39. Pending Matters: Do you certify that neither you nor any person directly or indirectly controlling the applicant is currently a party in any pending matter referred to in the preceding two items?
YES _____ NO _____

41. Denial of Federal Benefits: Does the undersigned certify that neither the applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Act of 1988, 21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance? See 47 CFR Section 1.2002(b) for the meaning of "party to the application" for these purposes.
YES _____ NO _____

[Note: Questions 28, 29, 36, 37, 38, 39, and 40 are related to questions with the same numbers on the Main Form of FCC Form 312.]

FCC 312-EZ

APPLICANT INFORMATION

1. Legal Name of Applicant		2. Voice Telephone Number		FCC Use Only File Number:	
3. Other Name Used for Doing Business (if any)		4. Fax Telephone Number		Call Sign:	
5. Mailing Street Address or P.O. Box		E-mail Address:		File Number:	
6. City		8. Zip Code			
7. State / Country (if not U.S.A.)		10. Voice Telephone Number			
ATTENTION:		12. Fax Telephone Number			
9. Name of Contact Representative (if other than applicant)		E-mail Address:			
11. Firm or Company Name		14. City			
13. Mailing Street Address or P.O. Box		15. State / Country (if not U.S.A.)		16. Zip Code	
ATTENTION:					

TYPE OF APPLICATION, SERVICE, AND STATION

17. Classification of Earth Station Filing. Mark only one. b1. Application for License of New Station b2. Application for Registration of New Domestic Receive-Only Station	20. NATURE OF SERVICE: a. Fixed Satellite b. Non-Common Carrier	21. STATUS: a. Common Carrier b. Non-Common Carrier	22. Satellites to be accessed on the Permitted List a. Using Only GSO satellites b. Transmit-Only c. Receive-Only
24. FREQUENCY BAND(S): Mark all applicable frequency band(s). a. C-Band (4/6 GHz) b. Ku-Band (12/14 GHz)	25. CLASS OF STATION: Mark only one class. a. Fixed Earth Station b. Temporary/Fixed Earth Station	26. TYPE OF EARTH STATION FACILITY: Mark only one class. a. Transmit/Receive b. Transmit-Only c. Receive-Only	

43. Description. (Summarize the nature of the application and the services to be provided.)

Exhibit No.	Identify all exhibits that are attached to this application

CERTIFICATION

The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. The applicant certifies that grant of this application would not cause the applicant to be in violation of the spectrum aggregation limit in 47 CFR Part 20. All statements made in exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that all statements made in this application and in all attached exhibits are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.

44. Applicant is a (an): (Place an "X" in the box next to applicable response.)
 a. Individual
 b. Unincorporated Association
 c. Partnership
 d. Corporation
 e. Governmental Entity (Please specify)
 f. Other

45. Typed Name of Person Signing
 46. Title of Person Signing

47. Signature
 48. Date

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001), AND/OR REVOCATION OF ANY STATION AUTHORIZATION (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).

FCC 312-EZ

B1. Location of Earth Station Site. If temporary-fixed specify area of operation and point of contact.

B1a. Station Call Sign: _____ B1b. Site Identifier*: _____ B1c. Telephone Number: _____
 B1d. Street Address of Station or Area of Operation: _____ B1e. Name of Contact Person: _____
 B1f. City: _____ B1g. County: _____ B1h. State: _____ B1i. Zip Code: _____
 B1j. Geographic Coordinates: _____ B1k. Lat./Lon. Coordinates are: _____
 Lat. _____ Lon. _____
 B1l. Site Elevation (AMSL): _____ meters

B3. Destination points for communications using non-U.S. licensed satellites, N/A

B4. Earth Station Antenna Facilities:

(a) Site ID*	(b) Antenna ID**	(c) Quantity	(d) Manufacturer	(e) Model	(f) Antenna Size (meters)	(g) Antenna Gain Transmit and/or Receive (dBi at _____ GHz)

B5. Antenna Heights and Maximum Power Limits: (The corresponding Antenna ID in tables B4 and B5 applies to the same antenna)

(a) Antenna ID**	(b) Antenna Structure Registration No.	Maximum Antenna Height		(e) Building Height Above Ground Level (meters)***	(f) Total ERP Power at antenna flange (Watts)	(g) Total ERP for all carriers (dBW)
		(c) Above Ground Level (meters)	(d) Above Mean Sea Level (meters)			

Notes: ** Identify the site (Item B1b) where each antenna is located.
 *** Identify each antenna in multi-antenna station with a unique identifier, such as A1, A2, 10M, 12M, 7M, etc. Use this same antenna ID throughout tables B4, B5, B6, and B7 when referring to the same antenna.
 **** Attach sketch of site or exemption, See 47 CFR Part 17.

B6. Frequency Coordination Limits:

(a) Antenna ID*	(b) Frequency Limits (MHz)	(c) Range of Satellite Arc Eastern Limit**	(d) Range of Satellite Arc Western Limit**	(e) Antenna Elevation Angle Eastern Limit	(f) Antenna Elevation Angle Western Limit	(g) Earth Station Azimuth Angle Eastern Limit	(h) Earth Station Azimuth Angle Western Limit	(i) Maximum EIRP Density toward the Horizon (dBW/4kHz)

Notes: * Provide the ANTENNA-ID from table B4 to identify the antenna to which each frequency band and orbital arc range is associated.
 ** For with geostationary satellites, give the orbital arc limits and the associated elevation and azimuth angles.

B7. Particulars of Operation (Full particulars are required for each r.f. carrier):

(a) Antenna ID*	(b) Frequency Bands (MHz)	(c) TR Mode**	(d) Antenna Polarization (H,V,L,R)	(e) Emission Designator	(f) Maximum Power per Carrier (dBW)	(g) Maximum Power Density per Carrier (dBW/4kHz)	(h) Description of Modulation and Services

Notes: * Provide the ANTENNA-ID from table B4 to identify the antenna to which each frequency band and emission is associated.
 ** Indicate whether the earth station transmits or receives in each frequency band.

APPENDIX F

FINAL REGULATORY FLEXIBILITY ANALYSIS

As required by the Regulatory Flexibility Act (RFA),¹ Initial Regulatory Flexibility Analyses (IRFAs) were incorporated in the *Space Station Reform NPRM and First R&O* in IB Docket No. 02-34,² and the *Part 25 Earth Station Streamlining NPRM* in IB Docket No. 00-248.³ 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.⁴

A. Need for, and Objectives of, the Report and Order

The objective of the rules proposed in the *Space Station Reform NPRM and First R&O* is to enable the Commission to process applications for satellite licenses more quickly than it can under its current rules. These rule revisions are needed because delays in the current satellite licensing process may impose economic costs on society, and because recent changes in the International Telecommunication Union procedures require us to issue satellite licenses more quickly in order to meet U.S. international treaty obligations. In addition, the current satellite licensing process is not well suited to some satellite systems employing current technology. Finally, revision of the satellite licensing process will facilitate the Commission's efforts to meet its spectrum management responsibilities. By establishing a standardized form for space station applications, the Commission will be able to review and act on those applications more quickly than is now possible.

The objective of the *Part 25 Earth Station Streamlining NPRM* is to repeal or modify any rules in Part 25 that are no longer necessary in the public interest, as required by Section 11 of the Communications Act of 1934, as amended. Section 11 was added to the Communications Act by the Telecommunications Act of 1996, which requires the Commission in every even-numbered year beginning in 1998 to review all regulations that apply to the operations or activities of any provider of telecommunications service and to determine whether any such regulation is no longer necessary in the public interest due to meaningful economic competition. By adopting a streamlined form for routine earth station license applications, we modify some earth station information requirements that are no longer necessary in the public interest.

B. Summary of Significant Issues Raised by Public Comments In Response to the IRFAs

No comments were submitted directly in response to the IRFAs.

C. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

¹ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² Amendment of the Commission's Space Station Licensing Rules and Policies, *Notice of Proposed Rulemaking*, IB Docket No. 02-34, 17 FCC Rcd 3847 (2002) (*Space Station Reform NPRM and First R&O*).

³ 2000 Biennial Regulatory Review - Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations, *Notice of Proposed Rulemaking*, IB Docket No. 00-248, 15 FCC Rcd 25128 (2000) (*Part 25 Earth Station Streamlining NPRM*).

⁴ See 5 U.S.C. § 604.

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.⁵ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁶ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁷ 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).⁸ A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."⁹ Nationwide, as of 1992, there were approximately 275,801 small organizations.¹⁰ "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."¹¹ As of 1992, there were approximately 85,006 such jurisdictions in the United States.¹² This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.¹³ 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 the *Space Station Reform NPRM and First R&O* 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.¹⁴ This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.¹⁵ 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 \$24,999,990.¹⁶

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

⁵ 5 U.S.C. § 603(b)(3).

⁶ *Id.* § 601(6).

⁷ 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).

⁸ Small Business Act, 15 U.S.C. § 632 (1996).

⁹ 5 U.S.C. § 601(4).

¹⁰ 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).

¹¹ 5 U.S.C. § 601(5).

¹² U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

¹³ *Id.*

¹⁴ 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.

¹⁵ 13 C.F.R. § 120.121, NAICS code 513340.

¹⁶ U.S. Census Bureau, 1997 Economic Census, Subject Service: Information, "Establishment and Firm Size," Table 4, NAICS 513340 (Issued Oct. 2000).

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.

Below, we further describe and estimate the number of small entity licensees that may be affected by the rules proposed in the *Part 25 Earth Station Streamlining NPRM*:

1. Cable Services. The Commission has developed its own small business size standard for a small cable operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.¹⁷ Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable companies at the end of 1995.¹⁸ Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small cable companies that may be affected by the proposed rules.

The Communications Act of 1934, as amended, also contains a size standard for a "small cable operator," which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."¹⁹ The Commission has determined that there are 67,700,000 subscribers in the United States.²⁰ Therefore, an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.²¹ Based on available data, we estimate that the number of cable operators serving 677,000 subscribers or less totals approximately 1,450.²² We do not request or collect information on whether cable operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,²³ and therefore are unable to estimate accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

2. Satellite Telecommunications Services. The rules proposed in this *Further Notice* would affect providers of satellite telecommunications services, if adopted. Satellite telecommunications service providers include satellite operators and earth station 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

¹⁷ 47 C.F.R. § 76.901(e). The Commission developed this definition based on its determinations that a small cable company is one with annual revenues of \$100 million or less. See *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, MM Doc. Nos. 92-266 and 93-215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408-7409 ¶¶ 28-30 (1995).

¹⁸ Paul Kagan Assocs., Inc., Cable TV Investor, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

¹⁹ 47 U.S.C. § 543(m)(2).

²⁰ See *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (2001).

²¹ 47 C.F.R. § 76.1403(b).

²² See *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (2001).

²³ We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.901(f) of the Commission's rules. See 47 C.F.R. § 76.990(b).

applicable to Satellite Telecommunications.²⁴ This definition provides that a small entity is expressed as one with \$12.5 million or less in annual receipts.²⁵ 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 \$24,999,990.²⁶

3. Auxiliary, Special Broadcast and other program distribution services. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radio broadcasting stations (NAICS 513112) and television broadcasting stations (NAICS 513120). These definitions provide that a small entity is one with either \$6.0 million or less in annual receipts for a radio broadcasting station or \$12.0 million in annual receipts for a TV station. 13 C.F.R. § 121.201. As of September 1999, there were 3,237 FM translators and boosters, 4913 TV translators.²⁷ The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (as noted, either \$6.0 million for a radio station or \$12.0 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.

4. Microwave Services. Microwave services include common carrier,²⁸ private-operational fixed,²⁹ and broadcast auxiliary radio services.³⁰ The proposed rules could affect all common carrier and private operational fixed microwave licensees who are authorized under Part 101 of the Commission's Rules. There is currently no definition of small entities applicable to these specific licensees. Therefore the applicable small business size standard is the SBA size standard for "Cellular and Other Wireless Telecommunications," which provides that a

²⁴ "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.

²⁵ 13 C.F.R. § 120.121, NAICS code 513340.

²⁶ U.S. Census Bureau, 1997 Economic Census, Subject Service: Information, "Establishment and Firm Size," Table 4, NAICS 513340 (Issued Oct. 2000).

²⁷ FCC News Release, Broadcast Station Totals as of September 30, 1999, No. 71831 (Jan. 21, 1999).

²⁸ See 47 CFR § 101 *et seq.* (formerly, part 21 of the Commission's Rules).

²⁹ Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

³⁰ Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's Rules. See 47 CFR part 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

small entity in this category is one employing no more than 1,500 persons.³¹ For 1997, there were 2,872 firms in this category, total, which operated for the entire year. Of this total, only 25 had 1,000 or more employees.³²

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

The rules adopted in this Order are not expected to result in any overall increase in the reporting, record keeping and other compliance requirements of any licensee. The new reporting requirements we adopt in this Order are generally minor, such as providing slightly more detail in the power flux density (PFD) information space station license applicants are already required to provide. These increases should be offset at least in part by the fact that standardizing some information requirements should make it easier to provide that information.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

In this Order, we adopt a streamlined earth station application form designed to reduce the economic impact on all earth station applicants, including small entities.

We considered and rejected a proposal to eliminate our space station application information requirements and rely instead on information submitted to the ITU because we have no direct control over those information requirements and there is no guarantee that information submitted to the ITU rules will be adequate for U.S. operations.

F. Report to Congress

The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A). In addition, the Commission will send a copy of this Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order and FRFA (or summaries thereof) will also be published in the Federal Register. *See* 5 U.S.C. § 604(b).

³¹ 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

³² U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Employment Size of Establishments of Firms subject to Federal Income Tax: 1997," Table 5, NAICS code 51332 (issued October, 2000).

APPENDIX G

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),³³ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice of Proposed Rulemaking provided above in Section VI. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. § 603(a). In addition, the Notice of Proposed Rulemaking and IRFA (or summaries thereof) will be published in the Federal Register. See *id.*

A. Need for, and Objectives of, the Proposed Rules

In this NPRM, we propose to revise our rules to require electronic filing for those earth station and space station license applications for which the Commission has not adopted an electronic filing requirement, and comments filed in response to those applications. We propose these mandatory electronic filing requirements to increase the number of satellite and earth station license applicants and associated parties may file documents with greater speed and efficiency. The system will also make license information more accessible to the Commission's staff, as well as the satellite industry and the general public. Furthermore, it is expected that the cost of filing applications or obtaining information will be reduced.

B. Legal Basis

The proposed action is supported by 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).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May 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.³⁴ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³⁵ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.³⁶ A small business concern is one which: (1) is independently owned and

³³ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601, *et. seq.*, has been amended by the Contract With American Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

³⁴ 5 U.S.C. § 603(b)(3).

³⁵ *Id.* § 601(6).

³⁶ 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

are only two SDARS providers authorized to provide service in the DARS spectrum band, XM Radio, Inc. and Sirius Satellite Radio, Inc. While neither has implemented nationwide service, both entities have financing of over \$100 million. In addition, the DARS licensees have significant partnership interests with large corporations: General Motors in XM Radio, Inc. and DaimlerChrysler in Sirius Satellite Radio. Because of the above and the high implementation and operating costs for SDARS systems, we do not believe either DARS licensee qualifies as a small entity.

3. Fixed Satellite Transmit/Receive Earth Stations. As of the adoption date of this NPRM, there are about 10480 authorized operational fixed satellite transmit/receive earth stations. Of these, approximately 6875 are routine earth stations in the conventional C-band, and about 3469 are routine earth stations in the conventional Ku-band. Thus, only about 136 fixed satellite service earth stations, or between 1 and two percent, are "non-routine" earth stations. Accordingly, we estimate that between 1 and 2 percent of future earth station license applicants will be "non-routine" applicants potentially affected by the rules proposed in the NPRM. We do not request or collect annual revenue information, and thus are unable to estimate the number of these earth stations that would constitute a small business under the SBA definition.

4. Mobile Satellite Earth Stations. As of the adoption date of this NPRM, we have issued about 32 licenses for mobile satellite service earth stations currently in operation. We do not request or collect annual revenue information, and thus are unable to estimate the number of these earth stations that would constitute a small business under the SBA definition.

5. Auxiliary, Special Broadcast and other program distribution services. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radio broadcasting stations (NAICS 513112) and television broadcasting stations (NAICS 513120). These definitions provide that a small entity is one with either \$6.0 million or less in annual receipts for a radio broadcasting station or \$12.0 million in annual receipts for a TV station. 13 C.F.R. § 121.201. As of September 1999, there were 3,237 FM translators and boosters, 4913 TV translators.⁴⁶ The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (as noted, either \$6.0 million for a radio station or \$12.0 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.

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

None of the proposed rules in this notice are expected to increase the reporting, record keeping and other compliance requirements of any party.

⁴⁶ FCC News Release, Broadcast Station Totals as of September 30, 1999, No. 71831 (Jan. 21, 1999).

E. 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.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

STATEMENT OF
CHAIRMAN MICHAEL K. POWELL

Re: Amendment of the Commission's Space Station Licensing Rules and Policies; IB Docket No. 02-34; 2000 Biennial Regulatory Review—Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations; IB Docket No. 00-248 (adopted June 26, 2003)

A pillar of my strategic vision for the Agency is a modernized Commission that is more responsive, more efficient, and more effective in light of the technological and economic opportunities of the new millennium. That commitment is embodied in today's streamlining of our space and earth station license application processes. Schedule S, as revised today, will expedite our review of satellite applications and will allow us to develop a database that will enhance public access to information on satellite policy and licensing. Likewise, we expect that our adoption of Form 312EZ, along with revisions to existing forms, will expedite our review of routine earth station applications. We look forward to drawing important lessons from the electronic filing requirements for earth stations that we adopt today. We hope to apply these requirements more broadly in a transition to complete electronic filing for satellites. More efficient processes mean more rapid licensing and, ultimately, fewer regulatory restraints in the digital migration towards next generation satellite platforms. This reform would not have been possible but for the leadership and dedication of the International Bureau staff that has worked for so long to bring the International Bureau Filing System (IBFS) to us today.