

this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

62. *Satellite Telecommunications.* The category of Satellite Telecommunications “comprises establishments primarily engaged in providing 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.”²⁶⁸ The category has a small business size standard of \$15 million or less in average annual receipts, under SBA rules.²⁶⁹ For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year.²⁷⁰ Of this total, 307 firms had annual receipts of under \$10 million, and 26 firms had receipts of \$10 million to \$24,999,999.²⁷¹ Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

63. *All Other Telecommunications.* Satellite-related businesses within this category include “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.”²⁷² For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year.²⁷³ Of this total, 303 firms had annual receipts of under \$10 million and 15 firms had annual receipts of \$10 million to \$24,999,999.²⁷⁴ Consequently, we estimate that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

64. *Non-Licensee Tower Owners.* The Commission’s rules require that any entity proposing to construct an antenna structure over 200 feet or within the glide slope of an airport must register the antenna structure with the Commission on FCC Form 854.²⁷⁵ Thus, non-licensee tower owners may be subject to any new or additional requirements adopted in this proceeding. As of April 14, 2010, there were 103,444 registration records in a ‘Constructed’ status and 13,291 registration records in a ‘Granted, Not Constructed’ status in the Antenna Structure Registration (ASR) database. This includes both towers registered to licensees and towers registered to non-licensee tower owners. The Commission does not keep information from which we can easily determine how many of these towers are registered to non-licensees or how many non-licensees have registered towers.²⁷⁶ In addition, the Commission does not

²⁶⁸ U.S. Census Bureau, 2007 NAICS Definitions, “517410 Satellite Telecommunications”; <http://www.census.gov/naics/2007/def/ND517410.HTM>.

²⁶⁹ 13 C.F.R. § 121.201, NAICS code 517410.

²⁷⁰ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 4, NAICS code 517410 (issued Nov. 2005).

²⁷¹ *Id.* An additional 38 firms had annual receipts of \$25 million or more.

²⁷² U.S. Census Bureau, 2007 NAICS Definitions, “517919 All Other Telecommunications”; <http://www.census.gov/naics/2007/def/ND517919.HTM#N517919>.

²⁷³ U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, “Establishment and Firm Size Including Legal Form of Organization,” Table 4, NAICS code 517910 (issued Nov. 2005).

²⁷⁴ *Id.* An additional 14 firms had annual receipts of \$25 million or more.

²⁷⁵ 47 C.F.R. §§ 17.4(a), 17.7(a).

²⁷⁶ We note, however, that approximately 13,000 towers are registered to 10 cellular carriers with 1,000 or more employees.

keep data on businesses with annual revenue over \$25 million. Moreover, the SBA has not developed a size standard for small businesses in the category “Tower Owners.” Therefore, we are unable to estimate the number of non-licensee tower owners that are small entities. However, because these regulations impact tower owners, we are choosing a category related to our jurisdiction because of the nexus between our regulatory function and telecommunications with respect to towers. We will assume that nearly all non-licensee tower companies are small businesses under the SBA’s definition for “All Other Telecommunications”.²⁷⁷

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

65. This Notice proposes to amend Section 17.4(g) by requiring that the Antenna Structure Registration Number be displayed so that it is conspicuously visible and legible from every point of ingress/egress to the publicly accessible area nearest the base of the antenna structure, instead of only near the base of the structure as before. If Section 17.4(g) is amended, the owner of the structure would have to display the Antenna Structure Registration Number so that it is conspicuously visible and legible from potentially multiple locations near the base of the antenna structure instead of only at one location.

66. The Notice proposes to amend Section 17.48 by requiring antenna structure owners to provide continuously active notice to the FAA of lighting outages to allow the FAA to timely maintain Notices to Airmen (NOTAMs) or issue new NOTAMs, as necessary. Specifically, if the lights cannot be repaired within 15 days, the owner shall notify the FAA to extend the outage date and report a return to service date. The owner will repeat this process every 15 days until the lights are repaired. If the amendment to Section 17.48 is adopted, the owner of the structure would have to provide continuously active notice to the FAA of lighting outages, instead of the one time notice currently required.

67. Although Section 17.49 of the rules requires antenna structure owners to maintain a record of observed or otherwise known extinguishments or improper functioning of structure lights, it does not currently specify how long the record should be kept or what is to be done with it. The Notice proposes that the record be kept for two years and that it be provided to the Commission upon request. If adopted, antenna structure owners would be required to keep their records for two years and provide them to the Commission upon request.

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

68. The Commission proposes to amend subsection 17.4(a) and Sections 17.21, 17.22 (redesignated as subsection 17.21(c)), and 17.23 and delete subsection 17.17(a) of the Commission's rules regarding antenna structure registration and painting and lighting specifications. The Commission also proposes conforming edits to Sections 1.61(a)(5) and 17.1(b). These proposed changes are intended both to promote aircraft navigation safety and also to reduce regulatory burdens on small entities by clarifying the relationship between the Commission's rules and procedures and those of the FAA and ensuring continued consistency in those rules and procedures. The Commission asks commenters to suggest alternatives that may further reduce the impact on small entities while achieving the above intended goals. The Commission specifically seeks comment on whether to further reduce regulatory burdens on small entities by amending Section 17.17(b) (redesignated as Section 17.24) to provide that a revised FAA Circular does not impose new obligations on already-approved antenna structures. The Commission seeks comment on whether such deregulatory action would unduly limit the Commission's flexibility and

²⁷⁷ 13 C.F.R. § 121.201, North American Industry Classification System (NAICS) code 517919. Under this category, a business is small if it has 1,500 or fewer employees.

whether it would afford appropriate deference to the FAA's expertise and how possible alternatives could further lessen the burden on small businesses while achieving these goals.

69. In order to clarify the obligations of antenna structure owners and conform the Commission's regulations to Commission and FAA practice, the Commission proposes adding new subsections to Section 17.4 specifying that any change in height of one foot or greater, any change in coordinates of one second or greater, or any change in marking and lighting specifications requires prior approval from the FAA and the Commission. These proposed changes are intended both to promote aircraft navigation safety and to ease regulatory burdens by streamlining regulations and reducing confusion. The Commission also proposes to consider whether to specify accuracy standards or survey methods in order to ensure consistency of data. The Commission seeks to hear about alternative rules that would achieve the same goals while reducing burdens to small business.

70. The Commission proposes to delete Sections 17.7 and 17.14 of the Commission's rules, which are restatements of FAA rules, and to substitute cross-references to relevant FAA rules in Section 17.4 of the Commission's rules. This change could ease burdens on regulated entities, including small businesses, by reducing the risk of confusion in the event the FAA were to change its criteria. The Commission seeks any alternatives to these proposed changes that would further reduce burdens on small business while achieving these goals.

71. The Commission proposes to amend its rules governing inspection and maintenance of lighting by: 1) amending Section 17.47 to eliminate or reduce requirements to perform inspections of lighting and light monitoring systems; 2) amending Section 17.48(a) to require antenna structure owners to provide continuously active notice to the FAA of lighting outages; and 3) deleting vague references to timely repair timeframes in Sections 17.48(b) and 17.56(a). The Commission seeks to receive suggestions as to possible alternatives in this area that would best balance the goal of eliminating unnecessary regulatory burdens with the imperative to preserve aircraft navigation safety, while reducing the burden on small entities.

72. The Commission proposes to delete Sections 17.45, 17.51, and 17.56(b), which set forth specific requirements for exhibiting and maintaining lights, because they are unnecessary and may create ambiguity in cases of conflict with FAA specifications. These proposed changes are intended both to promote aircraft navigation safety and to ease regulatory burdens on all regulated entities by streamlining regulations and reducing confusion. The Commission determined not to propose an exception to lighting requirements where lights are extinguished due to a loss of power beyond the owner's control because such an exception appears inconsistent with aircraft navigation safety. The Commission seeks alternative proposals, if any such proposals would reduce the burden on small entities.

73. Section 17.49 requires antenna structure owners to maintain a record of observed or otherwise known extinguishments or improper functioning of structure lights. The Commission proposes to add a requirement to maintain such records for two years and provide the records to the Commission upon request in order to balance the Commission's need to determine the compliance record against the burden of record retention on antenna structure owners. The Commission tentatively concludes that this proposal best balances the Commission's need for a compliance record against the burden of record retention. The Commission seeks to receive alternative proposals based on data regarding the burden this record retention would impose on antenna structure owners, including the alternative of eliminating the recordkeeping requirement entirely. Such alternative proposals should address the issue of reducing burdens on small business.

74. The Commission requests comment on whether to amend Section 17.50 to require use of the FAA's 'In Service Aviation Orange Tolerance Chart' to determine whether a structure needs to be cleaned or repainted and to specify how the chart is to be used. These changes may provide more

objective standards for gauging visibility. The Commission seeks alternative proposals that would achieve this goal while further reducing the burden on small business.

75. The Commission proposes to amend Section 17.2(a) of the Commission's rules to clarify both when a structure becomes, and when a structure ceases to be, an "antenna structure" under our rules. The Commission also proposes to amend Section 17.2(c) of the Commission's rules to clarify that the obligations of an "antenna structure owner" fall only on the owner of the underlying structure, and not on tenants, thus promoting clarity for all parties. The Commission seeks to receive alternate proposals that address the effects of these proposed rule changes in general, and more specifically on small entities.

76. The Commission asks commenters to address alternatives regarding whether the rules concerning antenna structures should be enforced against voluntarily registered structures, whether owners of antenna structures that do not require registration should be prohibited from registering their towers, and whether antenna structure owners who have voluntarily registered structures should be required to withdraw their registrations from the Commission's antenna structure database. Such action could reduce confusion by clarifying the regulatory status of these structures. The Commission seeks to receive alternate proposals addressing the benefits and drawbacks of such action, particularly with respect to its impact on antenna structure owners that are small businesses.

77. The Commission proposes to modify Section 17.4(g) to require that antenna structure owners display the ASR number so that it would be visible to a member of the general public who reaches the closest publicly accessible location near each point of access to the antenna structure. The Commission further proposes to delete the requirement that the ASR number be posted near the base of the antenna structure. The Commission tentatively concludes that amending the rule in this manner would clarify the obligations of antenna structure owners, promote timely remediation when lighting is observed to be malfunctioning or extinguished, and eliminate unnecessary postings. The Commission seeks alternate proposals that would best achieve these goals while reducing the burdens on small business.

78. Section 17.4(f) requires that antenna structure owners immediately provide copies of FCC Form 854R (antenna structure registration) to each tenant licensee and permittee. Sections 17.4(e) and 17.6(c) impose a similar requirement on the first licensee where the antenna structure owner is unable to file Form 854 because it is subject to a denial of Federal benefits under the Anti-Drug Abuse Act of 1988. The Commission proposes to amend these rules to allow the alternative of providing a link to the Commission's antenna structure registration website via paper or electronic mail. The Commission tentatively concludes that this proposal would best reduce the burden on regulated entities, including small businesses, while ensuring that tenant licensees and permittees remain informed. Thus, the Commission determined not to propose eliminating this requirement altogether or simply requiring antenna structure owners to provide their tenants with the ASR number. The Commission seeks alternative proposals that would achieve its goals.

79. The Commission determined not to propose eliminating Section 17.57 to increase to five days the time period for notifying the Commission of construction, dismantlement, and changes in height or ownership. The Commission notes that the existing time periods have not been shown to be inconsistent with FAA requirements and that they promote the accuracy of the Commission's information. The Commission seeks discussion of alternate proposals that will reduce burdens on small business, including discussion of any burdens the existing rule may impose.

80. The Commission proposes to delete Section 17.58, which was intended to promote compliance with procedures that are now obsolete. This change would streamline the antenna structure registration process, thereby easing the burden on regulated entities. The Commission seeks discussion of any alternative proposals that would also reduce burdens on small entities.

81. For each of the proposals in the Notice, we seek discussion, and where relevant, alternative proposals, on the effect that each prospective new requirement, or alternative rules, might have on small entities. For each proposed rule or alternative, we seek discussion about the burden that the prospective regulation would impose on small entities and how the Commission could impose such regulations while minimizing the burdens on small entities. For each proposed rule, we ask whether there are any alternatives the Commission could implement that could achieve the Commission's goals while at the same time minimizing the burdens on small entities. For the duration of this docketed proceeding, we will continue to examine alternatives with the objectives of eliminating unnecessary regulations and minimizing any significant economic impact on small entities.

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

82. None.