

definitions, compliance, permits for new or existing stationary sources, voluntary operating permits, permits by rule, and testing and sampling methods.

These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards, ensure consistency between the State and Federally approved rules, and ensure Federal enforceability of the state's air program rule revisions according to section 110.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

**DATES:** Comments on this proposed action must be received in writing by April 3, 2002.

**ADDRESSES:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: February 15, 2002.

**William W. Rice,**

*Acting Regional Administrator, Region 7.*  
[FR Doc. 02-4937 Filed 3-1-02; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[IA 0126-1126; FRL-7151-8]

#### Approval and Promulgation of Operating Permits Program; State of Iowa

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve revisions to the Iowa Operating Permits Program for air pollution control. This revision approves numerous rules adopted by the state in 1998, 1999, and 2001. This includes rules pertaining to issuing permits, Title V operating permits, voluntary operating permits, and operating permits by rule for small sources. These revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revisions.

In the final rules section of the **Federal Register**, EPA is approving the state's operating permits program revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

**DATES:** Comments on this proposed action must be received in writing by April 3, 2002.

**ADDRESSES:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: February 15, 2002.

**William W. Rice,**

*Acting Regional Administrator, Region 7.*  
[FR Doc. 02-4939 Filed 3-1-02; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[IB Docket 02-19; FCC 02-30]

#### Non-geostationary Satellite Orbit, Fixed Satellite Service in the Ka-band

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, we initiate a proceeding to determine the means by which multiple satellite network systems will be licensed to operate in spectrum designated on a primary basis for the non-geostationary satellite orbit, fixed-satellite service ("NGSO FSS"), and to determine service rules deferred in previous orders that will apply to Ka-band NGSO FSS applicants. Our goals in this proceeding are similar to those we have pursued for other satellite services: to promote competition through opportunities for new entrants and to provide incentives for prompt commencement of service to the public using state-of-the-art technology. The NGSO FSS applications in the current processing round Second Round Ka-Band ("Second Round") propose to provide—through a variety of system designs—services such as high-speed Internet and on-line access, as well as other high-speed data, video and telephony services. As a result of the first processing round First Round Ka-Band ("First Round") there is one NGSO FSS system authorized to provide service in the Ka-band. Thus, implementation of these Second Round NGSO FSS systems will introduce additional means of providing advanced broadband services to the public and will increase satellite and terrestrial services competition.

**DATES:** Comments are due on or before April 3, 2002; Reply Comments are due on or before April 3, 2002.

**ADDRESSES:** All filings must be sent to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, The Portals, 445 Twelfth

Street, SW., Room TW-A325, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this rulemaking proceeding contact: Alyssa Roberts at (202) 418-7276, Internet: [aroberts@fcc.gov](mailto:aroberts@fcc.gov), or Robert Nelson at (202) 418-2341, Internet: [rnelson@fcc.gov](mailto:rnelson@fcc.gov), International Bureau, Federal Communications Commission, Washington, DC 20554.

**SUPPLEMENTARY INFORMATION:** We propose to license all five of the Second Round Ka-band applicants seeking access to the spectrum designated on a primary basis to NGSO FSS systems, specifically the 18.8-19.30 GHz and 28.60-29.10 GHz frequency bands. Our preference is to have an outcome dictated by the service market rather than by regulatory decision. We seek comment on the best means to accommodate all of the applicants within the available spectrum, bearing in mind the Commission's previous authorization to Teledesic to operate domestically in the 500 megahertz of paired spectrum designated for primary NGSO FSS services. We propose four possible options for spectrum sharing as a starting point for comment. These proposed options are based on features of the pending applications, a proposal received from one of the applicants, and upon sharing mechanisms we have previously employed with other satellite services.

In adopting this Notice of Proposed Rulemaking (NPRM), we intend to allow expeditious deployment of NGSO FSS in the United States for the benefit of consumers by establishing a spectrum sharing plan and service rules so that systems can be implemented in compliance with International Telecommunication Union (ITU) deadlines, and by allowing market forces to play a role in the implementation of these systems. We believe it is in the public interest to provide opportunities for multiple systems to compete, providing more service choices and competitive prices in the marketplace. Our expectation is that NGSO FSS providers will provide a vigorous, additional source of broadband service for consumers, in competition with existing satellite and terrestrial services. This NPRM puts forth several options for assigning shared NGSO FSS spectrum resources, including incentives for rapid implementation of service. We believe that the proposals in this NPRM are sufficiently flexible to accommodate the NGSO FSS systems set forth by the pending applicants. We seek comment on these and other possible sharing

proposals. Finally, we request any other suggestions commenters might set forth with respect to sharing or service rules for NGSO FSS systems.

We also request comment on additional service rules for NGSO FSS licensees. We start with our existing satellite service rules for Ka-band FSS systems adopted in the Third Report and Order.<sup>1</sup> While that order resolved service rules and licensing qualifications for First Round applicants, the Commission deferred consideration of certain requirements for future NGSO FSS systems to a later processing round.

### Initial Regulatory Flexibility Certification

The Regulatory Flexibility Act (RFA),<sup>2</sup> requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."<sup>3</sup> The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>4</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>5</sup> A small business concern is one which: (a) Is

<sup>1</sup> Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Services and for Fixed Satellite Services, Third Report and Order, 62 FR 61448 November 18, 1997, 12 FCC Rcd 22310 (1997) ("Third Report and Order"). In May 2001, the Commission issued a Memorandum Opinion and Order disposing of petitions for clarification or reconsideration of the Third Report and Order filed by Motorola Global Communications, Inc. and Hughes Communications Galaxy, Inc. In this order, the Commission noted that a petition for reconsideration or clarification of the Third Report and Order filed by Teledesic would be addressed in notice and comment proceedings pertaining to a second licensing round for Ka-band satellite systems. 16 FCC Rcd 11464 (2001) Section 18.

<sup>2</sup> The RFA, 5 U.S.C. 601 et. seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>3</sup> 5 U.S.C. 605(b).

<sup>4</sup> Id. at 601(6).

<sup>5</sup> Id. at 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), 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."

independently owned and operated; (b) is not dominant in its field of operation; and (c) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>6</sup>

This Notice of Proposed Rulemaking (NPRM) seeks comment on proposed options for spectrum sharing among the second round Ka-Band non-geostationary satellite orbit fixed-satellite service (NGSO FSS) applicants. The Commission proposes to license all five of the applicants and seeks comment on which option may best accommodate the applicants. Implementation of these NGSO FSS systems will introduce additional means of providing broadband services to consumers as quickly as possible. This NPRM also seeks comment on our proposals for service rules to apply to NGSO FSS systems.<sup>7</sup> These actions are necessary for the Commission to evaluate these proposals and seek comment from the public on any other alternatives. The objective of this proceeding is to assign the NGSO FSS spectrum in an efficient manner and create rules to ensure systems implement their proposals in a manner that serves the public interest and enables the U.S. to preserve its ITU international coordination priority. We believe that adoption of the proposed rules will reduce regulatory burdens and, with minimal disruption to existing FCC permittees and licensees, result in the continued development of NGSO FSS and other satellite services to the public. If commenters believe that the proposed rules discussed in the Notice require additional RFA analysis, they should include a discussion of this in their comments.

The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary satellite orbit fixed-satellite or mobile satellite service operators. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services "Not Elsewhere Classified." This definition provides that a small entity is one with \$11.0 million or less in annual receipts.<sup>8</sup> This Census Bureau category is very broad, and commercial satellite services constitute only a subset of the total number of entities included in the category.

The rules proposed in this document apply only to entities providing NGSO FSS. Small businesses will not likely have the financial ability to become

<sup>6</sup> Small Business Act, 15 U.S.C. 632.

<sup>7</sup> See paragraphs 37-44, *supra*.

<sup>8</sup> 13 CFR 121.201, North American Industry Classification System (NAICS) Code 51334.

NGSO FSS system operators because of the high implementation costs associated with satellite systems and services. Since there is limited spectrum and orbital resources available for assignment, we estimate that only five applicant entities, whose applications are pending, will be authorized by the Commission to provide these services. We expect that none of these would be considered small businesses under the SBA definition. Thus, the rules proposed in this Notice of Proposed Rulemaking, if adopted, would not have a significant economic impact on a substantial number of small entities.

The Commission will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy will also be published in the **Federal Register**. See 5 U.S.C. 605(b).

#### *Ordering Clauses*

Pursuant to sections 4(1), 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) and 303(r), this Notice of Proposed Rulemaking is hereby ADOPTED.

*Service Rules.* Because our *Third Report and Order* focused on First Round GSO and NGSO systems, we deferred consideration of several NGSO FSS rules to a later processing round. We now seek comment on the following licensing and service rules in light of the decisions made in prior orders, our goal of ensuring expedited licensing, and considering the NGSO FSS spectrum sharing proposals presented in this *Notice*.

*Financial qualifications.* As noted above, the Commission waived the financial qualification requirement for the First Round Ka-band applicants, but deferred consideration of the applicability of this rule to Second Round applicants to a later processing round. Historically, the Commission has fashioned financial requirements for satellite services on the basis of entry opportunities in the particular service being licensed.<sup>9</sup> In cases where it can accommodate all pending applications and future entry is possible, the Commission has not looked to current financial ability as a prerequisite to a license grant. But in situations where potential applicants appear to have requirements that exceed the available spectrum or orbital resources, the Commission has invoked a strict financial qualifications standard. This policy is designed to make efficient use

of spectrum by preventing underfinanced applicants from depriving another fully capitalized applicant of the opportunity to provide service to the public. Since this *NPRM* proceeds from the assumption that a spectrum sharing plan can be devised to accommodate all the pending applicants' proposed systems and future entry, we are not proposing a strict financial qualification standard for this service with respect to the Second Round NGSO FSS applicants. If, however, the record developed in this proceeding indicates that the allocated spectrum cannot accommodate all applicants, we may impose a strict financial qualifications standard.

Should we determine the need to impose strict financial qualifications, we seek comment on whether to modify our existing financial qualifications requirement. Presently, NGSO FSS applicants are required to demonstrate internal assets or committed financing sufficient to cover construction, launch, and first-year operating costs of its entire system. We propose to require the commitment of funds not previously committed for any other purpose. If strict financial qualifications are invoked, applicants for NGSO FSS licenses will be required to demonstrate that they have assets or committed financing for their NGSO FSS systems that are separate and apart from any funding necessary to construct and operate any other licensed satellite systems. We request comment on this proposal, and ask whether there are alternative means of oversight we can employ to ensure that licensees will be able to commence timely service to the public.

*Implementation milestones.* As with all other satellite services, we propose that all NGSO FSS Ka-band licensees adhere to a strict timetable for system implementation. Milestones are intended to ensure that licensees are building their systems in a timely manner and that the spectrum resources are not being held by licensees unable or unwilling to proceed with their plans to the detriment of other operators who might benefit the public interest by implementing satellite systems. We propose implementation milestones that track schedules recently imposed on other NGSO systems.<sup>10</sup> Specifically, we propose that NGSO FSS Ka-band licensees must enter into a non-contingent satellite manufacturing contract for the system within one year

of authorization, complete critical design review within two years of authorization, begin physical construction of all satellites in the system within two and half years of authorization, and complete construction and launch of the first two satellites within three and a half years of grant. The entire system will have to be launched and operational within six years of authorization. As is consistent with our practice in other services, we propose to require operators to submit certifications of milestone compliance, or file a disclosure of non-compliance, within 10 days following a milestone specified in the system authorization.

Alternatively, we propose to modify the implementation milestones for NGSO FSS licensees by tying the milestones to the ITU bring into use date.<sup>11</sup> For example, we could require applicants to demonstrate that they are on a launch manifest at a designated point some months before the ITU bringing into use date. In addition, we could require licensees to also meet the intermediate milestones noted above, that is, enter into a non-contingent contract, complete critical design review and begin physical construction of all satellites within a specified time frame prior to the ITU bringing into use date. We seek comment on what time frames would be appropriate. We seek comment on these or other possible approaches to implementation milestones.<sup>12</sup>

*Reporting requirements.* We propose a slight modification to § 25.145 of our rules, which governs reporting requirements for FSS systems. FSS licensees are required to file an annual report with the Commission describing: the status of satellite construction and anticipated launch dates, including any major delays or problems encountered; and a detailed description of the use made of each satellite in orbit.<sup>13</sup> Licensees should request an extension of time if they anticipate delays in these schedules. We propose to apply these requirements to NGSO FSS systems. We do not, however, propose to apply a requirement to report unscheduled satellite outages.<sup>14</sup> The outage reporting requirement was a means of spectrum management instituted to ensure that

<sup>11</sup> The ITU deadline for putting these U.S. systems into use is May 18, 2003. A two-year extension may be granted under certain circumstances, thus the latest date to bring into use at least one satellite by each of the second round applicants is May 18, 2005.

<sup>12</sup> We plan to undertake an investigation of milestones issues in a separate, broader proceeding, not limited to NGSO FSS service.

<sup>13</sup> 47 CFR 25.210(l)(1) and (3).

<sup>14</sup> 47 CFR 25.210(l)(2).

<sup>10</sup> The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, Report and Order, 15 FCC Rcd 16127 (2000) ("2 GHz Report and Order").

<sup>9</sup> 47 CFR 25.140(c), 25.142(a)(4), and 25.143(b)(3).

satellite spectrum resources were not warehoused in orbit. We believe that the operational characteristics of NGSO systems obviate the need for this reporting requirement. One of the second round applicants, @Contact, suggests that applicants be required to file quarterly reporting requirements to enable the Commission to monitor more closely milestone compliance. We request comment on these proposals. We also seek comment on a proposal to require NGSO FSS operators to file affidavits certifying whether milestone requirements are met following the appropriate milestone deadlines.<sup>15</sup> The Commission would retain the right to request additional information (e.g., copies of construction contracts), as required to ensure compliance with milestones. Failure to file a timely certification or disclosure of non-compliance would result in automatic cancellation of an operator's system authorization, with no further action required on the Commission's part.<sup>16</sup> We seek comment on this proposal.

**Orbital Debris Mitigation.** Currently, the FCC addresses concerns regarding orbital debris of satellite systems on a case-by-case basis. The Commission analyzes such concerns under the general "public interest, convenience, and necessity," standard in the Communications Act. In our 2 GHz Report and Order,<sup>17</sup> we adopted a requirement that applicants for 2 GHz MSS authorizations disclose their orbital debris mitigation plans. Like the Ku-band Notice of Proposed Rulemaking<sup>18</sup> we propose to apply that requirement to NGSO FSS applicants as well, and seek comment on its application to this service. We also intend to commence a separate rulemaking proceeding to consider whether to adopt filing requirements for all FCC-licensed satellite services, including orbital debris mitigation issues, the selection of safe flight profiles and operational configurations, as well as post-mission disposal practices.

**System License and License Terms.** NGSO systems historically consist of constellations of technically identical satellites that may be launched and retired at different times. Consequently, existing NGSO satellites in other bands and services have been authorized under blanket licenses.<sup>19</sup> Under this

approach, licensees are issued a single blanket authorization for the construction, launch and operation of a specified number of technically identical space stations that constitute the satellite network constellation. The authorization covers all construction and launches necessary to implement the complete constellation and to maintain it until the end of the license term, including any replacement satellites necessitated by launch or operational failure, or by retirement of satellites prior to the end of the license period. All replacement satellites, however, must be technically identical to those in service, including the same orbital parameters, and may not cause a net increase in the number of operating satellites. The license terms runs from the date on which the first space station in the system begins transmitting and receiving radio signals, and is valid for 10 years from that point in time. There is a filing window for system replacement applications prior to the expiration of the license that allows sufficient time for the Commission to act upon replacement system applications. We believe it is appropriate to continue using this model of licensing for the NGSO FSS. We propose to require that replacement applications be filed no earlier than three months prior to, and no later than one month after, the end of the eighth year of the existing system license. We request comment on this proposal.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be

submitted to: William F. Caton, Acting Secretary, Office of the Secretary, Federal Communications Commission, The Portals, 445 Twelfth Street, SW., Room TW-A325, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Microsoft Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, IB Docket No. 02-19, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554.

Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 voice, (202) 418-7365 TTY, or [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This NPRM can also be downloaded in Microsoft Word and ASCII formats at <http://www.fcc.gov/ib>.

This Notice of Proposed Rulemaking (Notice) seeks comment on proposed options for spectrum sharing among the second round Ka-Band non-geostationary satellite orbit fixed-satellite service (NGSO FSS) applicants. The Commission proposes to license all five of the applicants and seeks comment on which option may best accommodate the applicants. Implementation of these NGSO FSS systems will introduce additional means of providing broadband services to consumers as quickly as possible. This document also seeks comment on our proposals for service rules to apply to NGSO FSS systems.<sup>20</sup> These actions are necessary for the Commission to evaluate these proposals and seek comment from the public on any other alternatives. The objective of this proceeding is to assign the NGSO FSS spectrum in an efficient manner and create rules to ensure systems implement their proposals in a manner that serves the public interest and enables the U.S. to preserve its ITU international coordination priority. We believe that adoption of the proposed rules will reduce regulatory burdens and, with minimal disruption to

<sup>15</sup> This requirement currently applies to Big LEO and 2 GHz operators.

<sup>16</sup> See 47 CFR 25.161.

<sup>17</sup> 2 GHz Report and Order, 65 FR 54555, 15 FCC Rcd at 16187-88, Section 135-138.

<sup>18</sup> Ku-Band NPRM, Section 66-67.

<sup>19</sup> See, e.g., Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to

Mobile Satellite Service in the 1610-1626/2483.5-2500 MHz Frequency Bands, Report and Order, 66 FR 30361, 9 FCC Rcd 536 (1994).

<sup>20</sup> See paragraphs 37-44, supra.

existing FCC permittees and licensees, result in the continued development of NGSO FSS and other satellite services to the public. If commenters believe that the proposed rules discussed in the NPRM require additional RFA analysis, they should include a discussion of this in their comments.

The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary satellite orbit fixed-satellite or mobile satellite service operators. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to Communications Services "Not Elsewhere Classified." This definition provides that a small entity is one with \$11.0 million or less in annual receipts.<sup>21</sup> This Census Bureau category is very broad, and commercial satellite services constitute only a subset of the total number of entities included in the category.

The rules proposed in this Notice apply only to entities providing NGSO FSS. Small businesses will not likely have the financial ability to become NGSO FSS system operators because of the high implementation costs associated with satellite systems and services. Since there is limited spectrum and orbital resources available for assignment, we estimate that only five applicant entities, whose applications are pending, will be authorized by the Commission to provide these services. We expect that none of these would be considered small businesses under the SBA definition. Thus, the rules proposed in this Notice of Proposed Rulemaking, if adopted, would not have a significant economic impact on a substantial number of small entities.

The Commission will send a copy of this Notice of Proposed Rulemaking, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy will also be published in the **Federal Register**. See 5 U.S.C. 605(b).

#### List of Subjects in 47 CFR Part 25

Communications common carriers, Reporting and recordkeeping requirements, Satellites, Telecommunications.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

#### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 25 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 Sec. 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 "and" at the end of paragraph (c)(1), by removing the period at the end of paragraph (c)(2) and adding "; and" in its place, by removing "and" at the end of paragraph (g)(1)(ii), by removing the period at the end of paragraph (g)(1)(iii) and adding "; and" in its place, adding paragraphs (c)(3), (g)(1)(iv), (i), (j) and (k) and revising paragraph (f) 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) *Implementation milestone schedule.* Each NGSO FSS licensee in the 18.8–19.3 GHz and 28.6–29.1 GHz frequency bands will be required to enter into a non-contingent satellite manufacturing contract for the system within one year or authorization, to complete critical design review within two years of authorization, to begin physical construction of the satellites in the system within two and a half years of grant, and to launch and operate its entire authorized system within six years of authorization.

(g) \* \* \*

(1) \* \* \*

(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 persons 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.

\* \* \* \* \*

(i) *Financial requirements.* Each NGSO FSS applicant must demonstrate, on the basis of the documentation contained in its application, that it is financially qualified to meet the estimated costs of the construction and/or launch and any other initial expenses of all proposed space stations in its system and the estimated operating expenses for one year after the launch of the proposed space station(s). Financial qualifications must be demonstrated in the form specified in §§ 25.140(c) and 25.140(d). In addition, applicants relying on current assets or operating income must submit evidence that those assets are separate and apart from any funding necessary to construct or operate any other licensed satellite system. Failure to make such a showing will result in the dismissal of the application.

(j) *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 licensee to exceed the total number of operating space stations authorized by the Commission.

(k) *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.

[FR Doc. 02–5081 Filed 2–27–02; 4:02 pm]

**BILLING CODE 6712-01-P**

<sup>21</sup> 13 C.F.R. 121.201, North American Industry Classification System (NAICS) Code 51334.