

FCC FACT SHEET*

Expediting Initial Processing of Satellite and Earth Station Applications; Space Innovation
Notice of Proposed Rulemaking – IB Docket Nos. 22-411, 22-271

Background: In recent years, the Commission has received an unprecedented number of satellite applications proposing innovative, new systems and services that mark the new space age. Before satellite and earth station applications are accepted for filing and placed on public notice, they are reviewed for substantial completeness and compliance with Commission rules.

What the Notice of Proposed Rulemaking Would Do:

- Tentatively conclude that it is in the public interest to move promptly on license application processing and to begin building a public record on applications early in the evaluation process.
- Propose to revise a procedural rule to formally allow consideration of satellite applications and petitions that request waiver of the Table of Frequency Allocations to operate in a frequency band without an international allocation.
- Seek comment on amending the current limit of one unbuilt non-geostationary satellite system per licensee in a given frequency band to facilitate acceptance for filing of applications for additional non-geostationary systems.
- Seek comment on ways to reduce inconsistencies or omissions in applications, and whether Commission staff should assist applicants in correcting such defects or quickly dismiss the applications without prejudice to refile.
- Seek comment on typical processing timeframes for satellite and earth station applications.
- Seek comment on whether any rules, policies, or practices applied to other licensing activities at the Commission could helpfully be applied to satellite or earth station application processing.
- Seek comment broadly on other process updates, rule changes, or policy reforms the Commission could adopt to help streamline application processing.

* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in IB Docket Nos. 22-411 and 22-271, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR § 1.200 *et seq.*

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Expediting Initial Processing of Satellite and Earth) IB Docket No. 22-411
Station Applications)
Space Innovation) IB Docket No. 22-271

NOTICE OF PROPOSED RULEMAKING*

Adopted: []

Released: []

Comment Date: (45 days after date of publication in the Federal Register).
Reply Comment Date: (75 days after date of publication in the Federal Register).

By the Commission:

I. INTRODUCTION

1. In this Notice of Proposed Rulemaking, we seek comment on changes to our rules, policies, or practices to facilitate the acceptance for filing of satellite1 and earth station applications under part 25. We propose to revise a procedural rule to formally allow consideration of satellite applications and petitions that request waiver of the Table of Frequency Allocations to operate in a frequency band without an international allocation. We also seek comment on typical processing timeframes for satellite applications. This Notice will help Commission processing stay apace with the unprecedented number of innovative satellite applications in the new space age.

II. BACKGROUND

2. The Commission’s rules establish filing criteria for satellite and earth station applications submitted under part 25.2 An application that does not meet these criteria will be deemed unacceptable for filing and will be dismissed and returned to the applicant, with a brief statement identifying the omissions or discrepancies, unless the application requests a waiver of any conflicting rule or requirement

* This document has been circulated for tentative consideration by the Commission at its December 21, 2022 open meeting. The issues referenced in this document and the Commission’s ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairwoman has determined that, in the interest of promoting the public’s ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The FCC’s ex parte rules apply and presentations are subject to “permit-but-disclose” ex parte rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. See 47 CFR §§ 1.1200(a), 1.1203.

1 In referring to satellite applications generally, we also refer to petitions for declaratory ruling seeking access to the U.S. market, unless otherwise specified. See 47 CFR § 25.137.

2 47 CFR § 25.112.

or the Commission grants such a waiver on its own motion.³ A satellite application or petition that has been found defective and must be re-submitted will receive a later filing date under the Commission's first-come, first-served licensing process for geostationary-satellite orbit (GSO)-like satellite applications, or in some instances may result in an applicant missing the cut-off date of a processing round for non-geostationary satellite orbit (NGSO)-like satellite applications, both consequences that may negatively affect the ultimate spectrum sharing conditions of the satellite system.⁴ In general, a delay in acceptability for filing may result in a delay in action on the application. The Commission also adopted procedural safeguards against applications that are considered more likely to be speculative or intended to warehouse spectrum resources, including the prohibition on multiple NGSO-like applications or unbuilt NGSO system licenses in the same frequency band.⁵ Commission staff conducts an initial review of applications for acceptability for filing and compliance with procedural and substantive rules before they are placed on public notice for comment.⁶ Typical issues that prolong staff review and delay acceptance for filing include internal inconsistencies in the application, omission of information required by the rules, omission of waiver requests, missed filing deadlines, and novel issues being raised.

A. Acceptability for Filing

3. Under the rules, an application filed under part 25 is considered unacceptable for filing if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, internal inconsistencies, execution, or other matters of a formal character;

(2) The application does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements;

(3) The application requests authority to operate a satellite in a frequency band that is not allocated internationally for such operations under the Radio Regulations of the International Telecommunication Union (ITU), unless the application is a streamlined small space station application filed pursuant to section 25.122 or a streamlined small spacecraft application filed pursuant to section 25.123; or

(4) The application is identical to a pending satellite application that was timely filed pursuant to the processing round procedure in section 25.157 or the first-come, first-served processing procedure in section 25.158.⁷

4. Applications found defective under criteria (1) or (2) may be accepted for filing if the application requests a waiver, with supporting rationale, of any rule or requirement with which the

³ 47 CFR § 25.112(a), (b). As discussed below, a satellite application requesting to operate in a frequency band without a corresponding international frequency allocation will be considered unacceptable for filing even if the application requests waiver of the Table of Frequency Allocations. In addition, the rules provide that duplicative satellite applications are always unacceptable for filing. 47 CFR § 25.112(b).

⁴ See 47 CFR §§ 25.157, 25.158.

⁵ 47 CFR § 25.159(b).

⁶ The public notice inviting comment on space station or earth station applications typically states that the applications have been found, upon initial review, to be acceptable for filing, and that the Commission reserves the right to return any of the applications if, upon further examination, it is determined that the application is not in conformance with the Commission's rules or policies. See, e.g., *Space Station Applications Accepted for Filing*, Public Notice, Report No. SAT-01678 (IB-SD rel. Nov. 4, 2022); *Satellite Radio Applications Accepted For Filing*, Public Notice, Report No. SES-02515 (IB-SD rel. Nov. 9, 2022).

⁷ 47 CFR § 25.112(a).

application is in conflict or if the Commission grants such a waiver upon its own motion.⁸ Satellite applications found defective under criteria (3) or (4), under current rules, will not be considered.⁹

5. Under our part 25 rules, the standard for determining whether an application is acceptable for filing is not “letter perfection.”¹⁰ The Commission may place on public notice applications with minor inaccuracies that are not material to the Commission’s or the public’s review.¹¹ However, the rules require all applications under part 25 to be substantially complete when they are filed.¹² As a practical matter, in some recent instances, staff has found it efficient to aid applicants to address discrepancies or omissions in their pending applications before placing them on public notice,¹³ resulting in fewer applications being dismissed prior to being accepted for filing.

B. Acceptability for Filing of Satellite Applications not in Conformance with International Frequency Allocations

6. As noted above, unlike most application defects, an application requesting authority to operate a satellite in a frequency band that is not allocated internationally for such operation under the ITU Radio Regulations is deemed unacceptable for filing regardless of whether a waiver of the Table of Frequency Allocations is requested.¹⁴ When the Commission adopted this rule in 2003, it explained that it would dismiss satellite applications without prejudice as “premature” if the application is filed before the ITU adopts a necessary frequency allocation because it can take several years for the ITU to adopt a new allocation.¹⁵ Furthermore, the Commission reasoned that when an applicant files its application “years before it will be possible to provide service,” it is likely that the application may be a “place holder.”¹⁶

7. Drawing on more recent experience, the Commission has observed that, in the context of small satellites, there may be benefits associated with operations not consistent with the current International Table of Allocations in certain circumstances.¹⁷ Accordingly, in 2019 the Commission modified the acceptability for filing rule to provide an exception, so that streamlined small satellite applications requesting to operate in bands not allocated internationally, and which include an appropriate

⁸ 47 CFR § 25.112(b).

⁹ *Id.*

¹⁰ *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Second Report and Order, 30 FCC Rcd 14713, 14798, para. 258 (2015) (*Part 25 Streamlining Second Report and Order*).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ 47 CFR § 25.112(a)(3), (b). Exempt from this provision are applications for streamlined small space station authorization under section 25.122 and applications for streamlined small spacecraft authorization under section 25.123.

¹⁵ *Amendment of the Commission’s Space Station Licensing Rules and Policies*, First Report and Order, 18 FCC Rcd 10760, 10809, para. 124 (2003) (*Space Station Licensing Reform Order*).

¹⁶ *Id.* The Commission also noted that such applications were not necessary for the United States to develop a position in support of a future allocation at a World Radiocommunication Conference. *Id.* at 10783, para. 49, 10809, para. 124.

¹⁷ *Streamlining Licensing Procedures for Small Satellites*, Notice of Proposed Rulemaking, 33 FCC Rcd 4152, 4182, para. 72 (2018). For example, the Commission observed that there may be benefits from use of inter-satellite links in alleviating some of the difficulties faced by small satellite operators in identifying frequencies for Earth-to-space and space-to-Earth links and building or seeking out ground station infrastructure. *Id.*

waiver request, can be considered on their merits without being deemed unacceptable for filing.¹⁸

8. If a waiver is granted for satellite operations not in conformance with the International Table of Frequency Allocations, international provisions also apply. Specifically, Article 4.4 of the ITU Radio Regulations states that an administration shall not assign any frequency in derogation of the International Table of Frequency Allocations except on the express condition that the station shall not cause harmful interference to, and shall not claim protection from harmful interference caused by, a station operating in accordance with the provisions of the ITU Constitution, Convention and Radio Regulations.¹⁹ In addition, ITU Rule of Procedure 1.6 provides that an administration, prior to bringing into use any frequency assignment to a transmitting station operating under No. 4.4, shall determine: a) that the intended use of the frequency assignment to the station under No. 4.4 will not cause harmful interference into the stations of other administrations operating in conformity with the Radio Regulations; and b) what measures it would need to take in order to comply with the requirement to immediately eliminate harmful interference.²⁰

C. Limit on Unbuilt NGSO Systems

9. Another provision that may forestall or delay processing of NGSO applications is the limit on unbuilt NGSO systems. This rule prevents a party from applying for an additional NGSO-like satellite system²¹ license in a particular frequency band if that party already has an application for an NGSO-like satellite system license on file or a licensed-but-unbuilt NGSO-like satellite system in the band.²² The rule was adopted, in addition to bond and milestone requirements, as a means to restrain speculation without restricting applicants' business plans and to give licensees an incentive to turn in licenses for satellite systems that they do not intend to build.²³

D. Application Processing Timelines

10. In 2015, before the recent surge in applications for NGSO systems,²⁴ the Commission noted the following expected processing periods for what it described as "straightforward" satellite applications that are not contested, barring any complication:²⁵

(1) applications for initial space station authorization or for modification of authorization will be placed on public notice within 45 days of receipt, and acted upon within 60 days after close of the comment period; and

¹⁸ *Streamlining Licensing Procedures for Small Satellites*, Report and Order, 34 FCC Rcd 13077, 13124, para. 115 (2019).

¹⁹ ITU Radio Regulations, Article 4.4, Edition of 2020.

²⁰ ITU Rules of Procedure, 1.6, Rules Concerning Article 4 of the ITU R.R., Edition of 2021 (+rev.2).

²¹ An NGSO-like satellite system refers to an NGSO satellite system or an GSO MSS satellite communicating with earth stations with non-directional antennas. See 47 CFR § 25.157(a).

²² 47 CFR § 25.159(b). This rule does not prevent the filing of an application for transfer of control or assignment of licenses, even if the combined entities would not meet the limits on pending applications and unbuilt stations. See *Amendment of the Commission's Space Station Licensing Rules and Policies*, Second Order on Reconsideration, 31 FCC Rcd 9398, 9409, para. 22 (2016).

²³ *Space Station Licensing Reform Order*, 18 FCC Rcd at 10847, para. 230.

²⁴ See *Revising Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems, Revision of Section 25.261 of the Commission's Rules to Increase Certainty in Spectrum Sharing Obligations Among Non-Geostationary Orbit Fixed-Satellite Service Systems*, Order and Notice of Proposed Rulemaking, FCC 21-123, para. 2 (2021).

²⁵ *Part 25 Streamlining Second Report and Order*, 30 FCC Rcd at 14761, para. 134.

(2) applications for special temporary authority (STA) for a space station will be placed on public notice within 14 days of receipt, if public notice is required, and acted upon within 30 days after close of the comment period. For space-station STA requests that do not require public notice, we expect to act within 30 days of receipt.

11. In 2016, the Satellite Division of the International Bureau announced the following expected processing times for straightforward, uncontested earth station applications, barring any complication:²⁶

(1) Applications for an initial earth station authorization or for a modification of authorization will be placed on public notice within 45 days of confirmation of receipt of payment, if not defective per section 25.112 of the Commission's rules, and acted upon within 60 days after close of the comment period.

(2) Applications for initial registration of receive-only earth stations or for a modification of registration will be placed on public notice within 30 days of confirmation of receipt of payment, if not defective per section 25.112 of the Commission's rules, and acted upon within 45 days after close of the comment period.

(3) Applications for special temporary authority for earth stations will be placed on public notice within 14 days of confirmation of receipt of payment, if not defective per section 25.112 of the Commission's rules and if compliant with section 25.120 of the Commission's rules, and acted upon within 30 days after close of the comment period. For such requests that do not require notice to the public before action, if they are not defective per section 25.112 of the Commission's rules and are compliant with section 25.120 of the Commission's rules, we expect to act within 30 days of receipt subject to confirmation of receipt of payment. The Commission has not subsequently updated estimates on processing times, although the volume and complexity of applications has increased.

III. DISCUSSION

12. As the Commission experiences increasing satellite licensing activity we must keep pace with demand and reassess our processes to identify opportunities for streamlining. We tentatively conclude that it is in the public interest to move quickly on license application processing and specifically to begin building a public record on applications early in the process of evaluating them.²⁷ In this respect, we note that placing an application on public notice as accepted for filing should not be seen as implying that the Commission has no questions regarding the application or that the application is being looked upon favorably for grant.

13. We propose one initial action to streamline the acceptability for filing of satellite applications. As the Commission concluded in the context of small satellites, we believe there are some cases in which a waiver of the Table of Frequency Allocations is warranted to permit operations not in conformance with current international allocations. These may, for example, be receiving operations that can be conducted immediately on an unprotected basis and do not represent a "placeholder" for future service after a new international allocation is adopted. We believe waiver requests for satellite operations not in conformance with the International Table of Frequency Allocations, with sufficient supportive reasoning, should be considered on their merits rather than being automatically deemed unacceptable for filing as under current rules. Therefore, we propose to amend the acceptability criteria to place these waiver requests on an equal procedural footing with other requests for waiver of substantive rules, and allow them to be accepted for filing. We invite comment on this proposal, and on any alternatives.

²⁶ *International Bureau Announces Expected Processing Times for Earth Station Applications*, Public Notice, 31 FCC Rcd 6854 (IB-SD rel. June 14, 2016).

²⁷ We note that in some instances, interested parties may object to the Commission's accepting a particular application for filing.

14. In addition, while we anticipate that these types of non-conforming uses under part 25 would be extremely limited, we seek comment on whether to provide guidance, in a rule or otherwise, on the conditions under which a waiver of the International Table of Frequency Allocations is more likely. For example, we could specify that waiver applicants should provide a sufficient electromagnetic compatibility analysis to support a Commission finding that the intended use of the frequency assignment will not cause harmful interference to all other stations operating in conformance with the ITU Radio Regulations. We could also specify that an applicant should state its willingness to accept an assignment on a non-interference, unprotected basis. We could additionally indicate that waiver is more likely if there are ongoing, favorable studies and activities in the relevant ITU study group in support of a potential future allocation at a World Radiocommunication Conference. We seek comment on these proposals, and on whether there is other information applicants should submit in support of a waiver request, on other limitations that should be adopted, or alternative means to ensure that the Commission has a full record on which to evaluate requests for waiver of the Table of Allocations in these instances.

15. We also seek comment on whether the limit on unbuilt NGSO systems rule may be a hinderance to the acceptability of legitimate satellite applications and if so, whether it should be amended. For example, given that this rule was adopted in the context of processing rounds for NGSO applications, should we revise our rules such that it will not apply to NGSO applications that are granted outside of a processing round? Are there other ways in which the rules limiting unbuilt systems should be updated to reflect the current state of development of NGSO systems? Are the rationales underlying the rules equally relevant today? We seek comment generally on updates to our unbuilt NGSO systems rules.

16. In the context of overall application processing under part 25, in recent years Commission staff have assisted applicants to correct certain omissions or inconsistencies in their applications that need to be corrected in order for an application to be deemed complete and acceptable for filing under our rules. We seek comment on this approach in several respects. Would it speed application review and ultimately encourage better-prepared applications if we instead dismiss applications containing internal inconsistencies or omissions under section 25.112(a)(1)? These applications would be dismissed without prejudice to refiling. We note that in those cases where we do dismiss applications, our approach has been to issue a decision detailing the specific deficiencies in the application. We seek comment on the benefits and drawbacks of the alternative approaches. Alternatively, if we were to loosen the standards for acceptability for filing, would this result in a faster overall processing time for applications? For instance, how should we balance the speed of processing with the completeness and coherence of an application when it is placed on public notice for comment? Is there information that applicants should be able to correct or cure during the public notice period, and how would such an approach affect the ability of interested parties to review and comment on applications? Should we provide additional specificity in our acceptability for filing criteria? Given that internal inconsistencies and omissions are a source of delay in initial application processing, are there any part 25 application rules or application filing guidance that would assist applicants in overcoming this hurdle? For instance, if applicants were to submit relevant technical and other information in only one place in an application, would that reduce the risk of inconsistency? Would any such changes lower the reliability of information provided to the Commission? Is there any technical information currently required to be provided which is more likely to be overlooked or omitted from applications, and therefore delay their processing, that actually is not necessary for Commission or public evaluation of the application? Should certain inconsistencies, for example, in the description of frequency bands being requested, result in dismissal? Is there additional guidance or other assistance we should provide to applicants to avoid required information being omitted in their initial filings? Should applications omitting necessary waiver requests be dismissed? How well-supported should a waiver request need to be to overcome the acceptability for filing requirements, including waivers of filing deadlines or waivers that raise novel issues? Are there rules, policies, or practices for other licensing activities at the Commission that could helpfully be applied to satellite or earth station application processing? We also seek comment broadly on other process updates, rule changes, or policy reforms the Commission could adopt to help streamline application processing.

17. Finally, we invite comment on the anticipated processing times for straightforward, uncontested satellite and earth station applications noted above, which types of applications the Commission should consider “straightforward,” and therefore fall under these guidelines, and whether, given the rapidly changing environment of operations in space and associated requests for Commission satellite authorizations, it would make sense to codify or otherwise better highlight our expected processing times for such applications. Or, given the pace of change in space activities and corresponding number of applications presenting unique or complex issues, would identification of a limited number of “straightforward” or “routine” applications result in improved processing times overall? Or would a more flexible approach to processing timeframes allow for the Commission to take into consideration other factors such as anticipated launch dates, and whether the request is an extension of a previously-granted application? We seek comment generally on these issues, and on any other guidance that may assist applicants and speed application processing.

18. *Digital Equity and Inclusion.* Finally, the Commission, as part of its continuing effort to advance digital equity for all,²⁸ including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations²⁹ and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission’s relevant legal authority.

IV. PROCEDURAL MATTERS

19. *Ex Parte Rules – Permit-But-Disclose.* The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte*

²⁸ Section 1 of the Communications Act of 1934 as amended provides that the FCC “regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex.” 47 U.S.C. § 151.

²⁹ The term “equity” is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. See Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021).

³⁰ 47 CFR §§ 1.1200 *et seq.*

presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

20. *Filing Requirements – Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.³¹

21. *Initial Regulatory Flexibility Act Analysis.* The Regulatory Flexibility Act of 1980, as amended (RFA), 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."³² The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.³³ 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).³⁴

22. With respect to this Notice of Proposed Rulemaking, an Initial Regulatory Flexibility Analysis (IRFA) under the RFA is contained in Appendix B. Written public comments are requested on the IFRA and must be filed in accordance with the same filing deadlines as comments on this Notice of

³¹ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

³² 5 U.S.C. § 603.

³³ *Id.* § 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).

³⁴ 15 U.S.C. § 632.

Proposed Rulemaking, with a distinct heading designating them as responses to the IRFA. In addition, a copy of this Notice of Proposed Rulemaking and the IRFA will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the Federal Register.

23. *Paperwork Reduction Act.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

24. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

V. ORDERING CLAUSES

25. IT IS ORDERED, pursuant to Sections 4(i), 7(a), 303, and 308(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 157(a), 303, 308(b), that this Notice of Proposed Rulemaking IS ADOPTED.

26. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center will send a copy of this Order and Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A
Proposed Rule Changes

The Federal Communications Commission proposes to amend title 47 of the Code of Federal Regulations, 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. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

2. Amend § 25.112 by removing and reserving paragraph (a)(3) and revising the introductory text of paragraph (b) to read as follows:

§ 25.112 Dismissal and return of applications.

(a) * * *

(3) [Reserved]

* * * * *

(b) Applications for space station authority found defective under paragraph (a)(4) of this section will not be considered. Applications for authority found defective under paragraphs (a)(1) or (a)(2) of this section may be accepted for filing if:

* * * * *

APPENDIX B

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),³⁵ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice. We request written public comments on this IRFA. Commenters must identify their comments as responses to the IRFA and must file the comments by the deadlines provided on the first page of the Notice and as instructed above in paragraph 21. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.³⁶ In addition, the Notice and IRFA (or summaries thereof) will be published in the Federal Register.³⁷

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

This Notice of Proposed Rulemaking seeks comment on ways to facilitate the acceptance for filing of satellite and earth station applications under part 25 to keep pace with growing demand for satellite services. The Notice specifically inquires whether to change the acceptability rules regarding satellite applications that request to operate a service in a frequency band for which there is no international allocation, and whether to alter the limit of one unbuilt, non-geostationary system application or license in a particular frequency band.

B. Legal Basis

The proposed action is authorized under sections 4(i), 7(a), 303, 308(b), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 157(a), 303, 308(b), 316.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will 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.³⁸ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³⁹ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁴⁰ 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).⁴¹

Satellite Telecommunications. This category comprises firms "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

³⁵ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

³⁶ See 5 U.S.C. § 603(a).

³⁷ *Id.*

³⁸ 5 U.S.C. § 603(b)(3)

³⁹ 5 U.S.C. § 601(6).

⁴⁰ 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).

⁴¹ Small Business Act, 15 U.S.C. § 632 (1996).

satellite telecommunications.”⁴² Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of \$35 million or less in average annual receipts, under SBA rules.⁴³ For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year.⁴⁴ Of this total, 299 firms had annual receipts of less than \$25 million.⁴⁵ Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

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

The NPRM invites comment on potential changes to the acceptability for filing requirements for satellite and earth station applicants in order to expedite their processing. Rule changes adopted as a result of this inquiry would be likely to decrease, or leave unaffected, the compliance requirements for small entities due to any streamlining of the Commission’s application processing rules.

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

The RFA requires an agency to describe any significant, specifically small business, 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 and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”⁴⁶

The NPRM invites comment on ways to expedite and streamline the initial processing of satellite and earth station applications, which might also benefit small entities such as earth station operators.

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

None.

⁴² See U.S. Census Bureau, *2017 NAICS Definition*, “517410 Satellite Telecommunications,” <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

⁴³ See 13 CFR § 121.201, NAICS Code 517410.

⁴⁴ See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 517410, <https://data.census.gov/cedsci/table?text=EC1251SSSZ4&n=517410&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false&vintage=2012>.

⁴⁵ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁴⁶ 5 U.S.C. § 603(c)(1)-(c)(4).