

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

In the Matter of :	)	
	)	
	)	
1998 Biennial Regulatory Review –	)	CS Docket No. 98-132
Streamlining of Cable Television Services	)	
Part 76 Public File and Notice Requirements	)	
	)	
	)	
	)	

**SECOND REPORT AND ORDER**

**Adopted: October 22, 2001**

**Released: October 31, 2001**

By the Commission:

**I. INTRODUCTION**

1. In this Second Report and Order ("*Second Order*"), the Commission addresses portions of Part 76 of the cable television rules pertaining to the public file, notice, recordkeeping, and reporting requirements. First, we reinstate, as a final rule, Section 76.1700(a), which was vacated in the *1998 Biennial Regulatory Review -- Streamlining of Cable Television Services Part 76 Public File and Notice Requirements, Order on Reconsideration and Further Notice of Proposed Rulemaking* ("*Further NPRM*").<sup>1</sup> Second, the Commission clarifies certain provisions in the Part 76 rules in order to more clearly set forth the compliance requirements and regulatory process for cable operators, franchising authorities, and the public. Finally, we make non-substantive rule changes to correct errors in the publication of Part 76 of the Commission's rules. With this action, we complete the Commission's biennial review of the public file and notice requirements applicable to cable operators under Part 76 of the Commission's rules.

**II. BACKGROUND**

2. The Part 76 cable television rules contained numerous public file, notice, recordkeeping, and reporting requirements scattered throughout Part 76. In connection with the *1998 Biennial Regulatory Review -- Streamlining of Cable Television Services Part 76 Public File and Notice Requirements, Report and Order* ("*Report and Order*"), the Commission revised and streamlined the public file and notice requirements set forth in the Commission's Part 76 cable television rules.<sup>2</sup> The reorganization created three new subparts in Part 76 -- subparts T, U, and V. Subpart T contains notice requirements, subpart U contains recordkeeping requirements, and subpart V contains reporting and filing

<sup>1</sup> 15 FCC Rcd 9298 (2000).

<sup>2</sup> 14 FCC Rcd 4653 (1999).

requirements. The *Report and Order* reduced the regulatory burden faced by cable operators with regard to public file requirements by (1) providing cable operators with an alternative to maintaining a paper public file; (2) eliminating outdated public file requirements; and (3) expanding the definition of small cable systems for purposes of the public inspection rules. The reorganization and streamlining of the Part 76 rules was intended to create simpler and more uniform requirements to reduce confusion and improve the regulatory process.

### III. RECORDKEEPING REQUIREMENTS

3. The *Report and Order* was adopted as part of the Commission's biennial review process, which is used to repeal or modify any regulation determined to be no longer in the public interest.<sup>3</sup> However, the Notice of Proposed Rulemaking in this proceeding inadvertently was not published in the Federal Register. Nonetheless, because most of the rules adopted in the *Report and Order* were procedural in nature, they fell within the purview of the prior notice exemption contained in Section 1.412(b)(5) of the Commission's rules.<sup>4</sup> One rule adopted in the *Report and Order* however, Section 76.1700(a), was determined to alter the substantive public file requirements for a subset of cable operators and to be subject to the prior public notice requirement.<sup>5</sup> Thus, the Commission vacated Section 76.1700(a) in the *Further NPRM* and gave notice of, and sought comment on, the Commission's intent to reinstate the rule.<sup>6</sup> Vacated Section 76.1700(a) was published subsequently in the Federal Register as an "interim rule," and interested parties were afforded an opportunity to comment upon it.<sup>7</sup> No comments were filed.

4. In this proceeding, we adopt Section 76.1700(a) as a final rule. Prior to the *Report and Order*, Section 76.305(a) provided an exemption from certain recordkeeping requirements for cable operators with fewer than 1000 subscribers.<sup>8</sup> In the *Report and Order*, the Commission redesignated the rule as new rule Section 76.1700(a), maintained the exemption, and added a limited exemption for cable operators with 1000 or more subscribers, but fewer than 5000 subscribers.<sup>9</sup> New Section 76.1700(a) provides as follows:

**§76.1700 Records to be maintained by cable system operators.**

(a) *Recordkeeping requirements.* The operator of every cable television system having fewer than 1,000 subscribers is exempt from the public inspection requirements contained in § 76.1701 (political file); §76.1715 (sponsorship identification); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); and §76.1706 (signal leakage logs and repair records). The operator of every cable television system having 1000 or more subscribers but fewer than 5000

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<sup>3</sup> 47 U.S.C. § 161.

<sup>4</sup> See *Further NPRM*, 15 FCC Rcd 9298 (2000); 47 C.F.R. § 1.412(b)(5).

<sup>5</sup> See *Further NPRM*, 15 FCC Rcd at 9299; see also 47 C.F.R. § 1.412.

<sup>6</sup> *Further NPRM*, 15 FCC Rcd at 9299.

<sup>7</sup> See 65 FR 53610 (2000).

<sup>8</sup> 47 C.F.R. § 76.305(a).

<sup>9</sup> *Report and Order*, 14 FCC at 4665.

subscribers shall, upon request, provide the information required by §76.1715 (sponsorship identification); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); and §76.1706 (signal leakage logs and repair records) but shall maintain for public inspection a file containing a copy of all records required to be kept by §76.1701 (political file). The operator of every cable television system having 5000 or more subscribers shall maintain for public inspection a file containing a copy of all records which are required to be kept by §76.1701 (political file); §76.1715 (sponsorship identification); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); and §76.1706 (signal leakage logs and repair records).

We reaffirm our conclusion in the *Report and Order* that relieving certain recordkeeping requirements applicable to small systems serving 1000 or more, but fewer than 5000, subscribers strikes an appropriate balance amongst competing interests.

#### IV. PART 76 RULE CLARIFICATION

5. We now consider on our own motion, specific rules adopted in Part 76 relating to the public file, notice, recordkeeping, and reporting requirements requiring clarification.

6. **Section 76.1700(a).** Section 76.1700(a), entitled, "Records To Be Maintained Locally By Cable System Operators," provides, in part, that cable operators having 1000 or more subscribers but fewer than 5000 subscribers shall, upon request, make public file information available. This provision gives such operators an alternative to maintaining paper files and increases flexibility in complying with the public file maintenance requirements and responding to information requests. Since operators meeting this particular subscriber requirement must produce public file information only upon request, records need not be maintained at a particular local site, provided they are made promptly available once a request is received.<sup>10</sup> Therefore, we clarify the title of Section 76.1700 to be more consistent with this particular aspect of the rule. We delete the word "locally" from the title to more accurately depict the fact that records need not be maintained locally where the cable system operator meets the specified subscriber limits, so long as the information can be made available "upon request;" access should not be delayed. Although the title of the rule section changes, with regard to those cable operators that have 5000 or more subscribers and that are required to maintain a public inspection file, we reiterate that documents required to be included in the public inspection file must be available, readily accessible and sited locally.

7. In the *Report and Order*, we concluded that the Commission would maintain the exemption for small systems serving fewer than 1000 subscribers from the recordkeeping requirements contained in former Section 76.305(a), which is redesignated as Section 76.1700(a).<sup>11</sup> Therefore, we

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<sup>10</sup> We emphasize that operators of cable systems that have 1000 or more subscribers but fewer than 5000 subscribers shall maintain for public inspection a file containing a copy of all records required to be kept by Section 76.1701 (political file). As we stated in the *Report and Order*, it is crucial that information from the political file be immediately available to the public. *See Report and Order*, 14 FCC Rcd at 4665.

<sup>11</sup> *See id.*

clarify that Section 76.1700(a) totally exempts systems serving fewer than 1000 subscribers from the Commission's recordkeeping requirements contained in §§ 76.1701 (political file); 76.1715 (sponsorship identification); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance tests data); and 76.1706 (signal leakage logs and repair records). These records do not need to be maintained or produced by systems meeting the subscriber limitation.

8. **Section 76.1705.** Section 76.1705 provides that each cable system is required to maintain at its local office a current listing of the cable television channels that the system delivers to its subscribers. Although the rule states that channel listing information should be maintained, no mention is made of exactly where such lists should be located at the local office. In implementing this provision, the Commission stated that such information would be useful to consumers.<sup>12</sup> To the extent necessary, we clarify that the operator of each cable television system subject to the public file requirements of Section 76.1700(a) shall maintain as part of its public inspection file a current list of the cable television channels that the system delivers to its subscribers. Cable operators that are exempt from the public file requirement shall maintain the channel lineup information in a location that is readily accessible by the general public.

9. **Section 76.1715.** Section 76.1715 requires that whenever sponsorship announcements are omitted, the cable system operator must maintain for public inspection a file listing the name, address, and telephone number of the advertiser of the commercial announcement. The length of time that such information should be retained is not provided. However, pursuant to Section 73.1212, a similar collection of information from broadcast stations is required whenever sponsorship announcements are omitted.<sup>13</sup> In the broadcast context such advertiser information must be retained for a period of two years from the date of broadcast. We interpret Section 76.1715 in this *Second Order* to operate consistently with Section 73.1212. Provided that it retains the required advertiser information for a period of at least two years after the airing of the commercial announcement, a cable operator will be in compliance with the record retention requirement of Section 76.1715. This interpretation will ensure that operators have notice of their responsibilities regarding sponsorship announcement recordkeeping while accommodating the public by ensuring access to such information for an adequate period of time.

## V. MISCELLANEOUS CORRECTIONS

10. In the *Report and Order*, Section 76.305 was redesignated as 47 C.F.R. § 76.1700.<sup>14</sup> However, Section 76.305 remained in the Federal Register publication of the Commission's rules. To address this issue, Section 76.305 is eliminated.

11. In the *Report and Order* the Commission created new rule Section 76.1711 to replace Section 76.305(a)(1).<sup>15</sup> Section 76.1711 concerns records regarding the test and activation of Emergency Alert System procedures. As discussed, when Section 76.305 was redesignated as 76.1700, former

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<sup>12</sup> See *Amendment of Part 74, Subpart K, of the Commission's Rules and Regulations Relative to Community Antenna Television Systems*, 36 FCC 2d 141 (1972); *Cable Television Technical and Operational Requirements – Review of the Technical and Operational Requirements of Part 76, Cable Television*, 7 FCC Rcd 2021 (1992).

<sup>13</sup> See 47 C.F.R. § 73.1212.

<sup>14</sup> See *Report and Order*, 14 FCC Rcd at 4665.

<sup>15</sup> See *id.* at 4708.

Section 76.305(a)(1) was redesignated as 76.1700(a)(1). Whereas Section 76.1700(a)(1) should have been eliminated because it duplicates Section 76.1711, it was not, due to an inadvertent error. We hereby delete Section 76.1700(a)(1).

12. In the most recent Code of Federal Regulations there are two separate versions of Sections 76.1702 and 76.1802. As a result of an inadvertent error, the older version of each rule was not deleted. For each rule, the version that is printed first represents the proper Section 76.1702 and Section 76.1802. We hereby remove the second printed version of Sections 76.1702 and 76.1802.

13. Section 76.1510 of the Commission's rules applies certain Part 76 rules to open video systems. The rule, in part, states that the Equal Employment Opportunity ("EEO") Requirements shall apply to open video systems and specifically cites the Commission's cable EEO rule provisions that are applicable, including §§ 76.71, 76.73, 76.75, 76.77, and 76.79. As discussed, to better enable cable operators to comply with the Part 76 public file requirements, the Commission reorganized the requirements into three new subparts. Subpart U contains the recordkeeping requirements.<sup>16</sup> The Commission's cable EEO public file rules are contained in Sections 76.1702 and 76.1802. Because of the recent change in the Commission's rules, and inadvertent error, there is no reference in Section 76.1510 to the Section 76.1702 and 76.1802 EEO provisions. To ensure that open video systems are subject to the EEO public file rules, we modify Section 76.1510 of our rules by referencing Sections 76.1702 and 76.1802 as rule requirements within Part 76, which shall apply to open video systems.<sup>17</sup>

14. Cable operators are prohibited from scrambling or encrypting signals carried on the basic tier; however, waivers of this prohibition may be requested. Section 76.630(a) provides that cable operators are required to inform subscribers by mail of any such waiver request within 30 days from the date the request is filed with the Commission. The operator is required to include a brief summary of the request, and indicate to their subscribers that a copy of the request for waiver is on file for public inspection at the cable operator's local place of business.<sup>18</sup> To ensure that cable operators and the public are aware of the public file requirements of Section 76.630, an additional Note is added to the end of the section, and reads as follows:

NOTE 4 TO § 76.630: Cable operators must comply with the notification requirements pertaining to the waiver of the prohibition against scrambling and encryption, and must comply with the public file requirements in connection with such waiver.

15. Section 76.309 removed provisions in (c)(3)(i) and (c)(3)(ii) governing notification with regard to subscriber services, rate and service changes, and subscriber billing information. These notification provisions are relocated to Sections 76.1602, 76.1603, and 76.1619, respectively. To ensure that the public is aware of the existence and location of these notification requirements an additional Note is added to the end of Section 76.309 and reads as follows:

NOTE 2 TO § 76.309: Section 76.1602 contains notification requirements for cable operators with regard to operator obligations to subscribers and general information to be provided to

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<sup>16</sup> See *id.* at 4653.

<sup>17</sup> We note that the Commission temporarily suspended the effectiveness of Sections 76.1702 and 76.1802 of the Commission's rules. See *Suspension of the Broadcast and Cable Equal Employment Opportunity Outreach Program Requirements*, Memorandum Opinion and Order, FCC 01-34 (rel. Jan. 31, 2001).

<sup>18</sup> 47 C.F.R. § 76.630(a).

customers regarding service. Section 76.1603 contains subscriber notification requirements governing rate and service changes. Section 76.1619 contains notification requirements for cable operators with regard to subscriber bill information and operator response procedures pertaining to bill disputes.

#### VI. PAPERWORK REDUCTION ACT OF 1995 ANALYSIS

16. This *Second Order* has been analyzed with respect to the Paperwork Act of 1995 and has been found to contain no new or modified information requirements on the public.

#### VII. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED**, pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), that the public file rule provisions **ARE HEREBY AMENDED and CLARIFIED** as indicated in Appendix A.

18. **IT IS FURTHER ORDERED** that pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), Section 76.1700(a) of the Commission's rules **IS ADOPTED** as a final rule.

19. **IT IS FURTHER ORDERED** that rule Section 76.1700(a), which has received OMB approval, and the amendments and rule corrections adopted herein, **SHALL BECOME EFFECTIVE** no sooner than thirty days after publication in the Federal Register. A Public Notice announcing the effective date of these regulations will be published in the Federal Register.

20. **IT IS FURTHER ORDERED** that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *Second Report and Order*, including the Final Regulatory Flexibility Analysis set forth in attached Appendix B, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary

## Appendix A

### Rule Changes

Part 76 of Title 47 of the Code of Federal Regulations is amended as follows:

#### **PART 76 -- MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE**

1. The authority citation for Part 76 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.305 is eliminated.

3. Section 76.309 is amended by adding a NOTE to read as follows:

#### **§ 76.309 Customer service obligations.**

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NOTE 2 TO § 76.309: Section 76.1602 contains notification requirements for cable operators with regard to operator obligations to subscribers and general information to be provided to customers regarding service. Section 76.1603 contains subscriber notification requirements governing rate and service changes. Section 76.1619 contains notification requirements for cable operators with regard to subscriber bill information and operator response procedures pertaining to bill disputes.

4. Section 76.630 is amended by adding NOTE 4 to read as follows:

#### **§ 76.630 Compatibility with consumer electronic equipment.**

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NOTE 4 TO § 76.630: Cable operators must comply with the notification requirements pertaining to the waiver of the prohibition against scrambling and encryption, and must comply with the public file requirements in connection with such waiver.

5. Section 76.1510 is revised to read as follows:

#### **§ 76.1510 Application of certain Title VI provisions**

The following sections within Part 76 shall also apply to open video systems; §§ 76.71, 76.73, 76.75, 76.77, 76.79, 76.1702, and 76.1802 (Equal Employment Opportunity Requirements); §§ 76.503 and 76.504 (ownership restrictions); § 76.981 (negative option billing); and §§ 76.1300, 76.1301 and 76.1302 (regulation of carriage agreements); provided, however, that these sections shall apply to open video systems only to the extent that they do not conflict with this subpart S. Section 631 of the Communications Act (subscriber privacy) shall also apply to open video systems.

6. Section 76.1700 is amended by removing the word “locally” from the title, to read as follows:

**§76.1700 Records to be maintained by cable system operators.**

(a) *Recordkeeping requirements.* The operator of every cable television system having fewer than 1,000 subscribers is exempt from the public inspection requirements contained in § 76.1701 (political file); §76.1715 (sponsorship identification); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); and §76.1706 (signal leakage logs and repair records). The operator of every cable television system having 1000 or more subscribers but fewer than 5000 subscribers shall, upon request, provide the information required by §76.1715 (sponsorship identification); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); and §76.1706 (signal leakage logs and repair records) but shall maintain for public inspection a file containing a copy of all records required to be kept by §76.1701 (political file). The operator of every cable television system having 5000 or more subscribers shall maintain for public inspection a file containing a copy of all records which are required to be kept by §76.1701 (political file); §76.1715 (sponsorship identification); §76.1702 (EEO records available for public inspection); §76.1703 (commercial records for children's programming); §76.1704 (proof-of-performance test data); and §76.1706 (signal leakage logs and repair records).

7. Section 76.1700(a)(1) is eliminated.

8. Section 76.1702 is corrected by removing the second printed version of Section 76.1702, which is a duplication error.

9. Section 76.1802 is corrected by removing the second printed version of Section 76.1802, which is a duplication error.

## Appendix B

## FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by Section 603 of the Regulatory Flexibility Act (“RFA”),<sup>19</sup> the Commission incorporated an Initial Regulatory Flexibility Analysis (“IRFA”) into its *Order on Reconsideration and Further Notice of Proposed Rulemaking (“Further NPRM”)*.<sup>20</sup> The Commission sought written public comments on the possible impact of the proposed rule on small entities, including comments on the IRFA. This Final Regulatory Flexibility Analysis (“FRFA”) incorporated into the *Second Report and Order (“Second Order”)* conforms to the RFA.<sup>21</sup>

2. **Need for, and Objectives of, the Second Report and Order.** The Commission adopted the *1998 Biennial Regulatory Review – Streamlining of Cable Television Services Part 76 Public File and Notice Requirements, Report and Order (“Order”)* pursuant to Section 11 of the 1996 Telecommunications Act which requires the Commission to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest.<sup>22</sup> The initial Notice of Proposed Rulemaking (“NPRM”) in this proceeding was not published in the Federal Register. Consequently, the Commission adopted the *Further NPRM* which found that, with the exception of one provision, the rules adopted in the *Order* were procedural in nature and subject to the prior notice exemption contained in Section 1.412(b)(5) of the Commission’s rules.<sup>23</sup> The *Further NPRM* also vacated that portion of the *Order*, Section 76.1700(a), which contained a substantive rule change for which prior notice was required but not given and gave notice of, and sought comment on, the Commission’s intent to reinstate the vacated rule. No comments were received in response to the *Further NPRM*. The *Second Order* reinstates Section 76.1700(a) as contained in the *Order*.

3. **Summary of Significant Issues Raised by Public Comments in Response to the IRFA.** No comments were filed specifically in response to the IRFA.

4. **Description and Estimate of the Number of Small Entities To Which the Rule Applies.** 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 rule here adopted.<sup>24</sup> The RFA defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction” under Section 3 of the Small Business Act.<sup>25</sup> A small business concern

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<sup>19</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>20</sup> *Order on Reconsideration and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 9298 (2000).

<sup>21</sup> See 5 U.S.C. § 604.

<sup>22</sup> 47 U.S.C. § 161; FCC News Release (Nov. 18, 1997).

<sup>23</sup> 47 C.F.R. § 1.412(b)(5).

<sup>24</sup> 5 U.S.C. § 603(b)(3).

<sup>25</sup> 5 U.S.C. § 601(3).

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.<sup>26</sup>

5. The *Second Order* adopts Section 76.1700(a), a rule that applies to cable operators with 1000 or more, but fewer than 5000, subscribers. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in revenue annually.<sup>27</sup> This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.<sup>28</sup>

6. The Communications Act of 1934, as amended, also contains a definition of a small cable system operator, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.”<sup>29</sup> The Commission has determined that there are 67,700,000 subscribers in the United States.<sup>30</sup> Therefore, we estimate that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.<sup>31</sup> Based on available data, we estimate that the number of cable operators serving 677,000 subscribers or less totals 1,450.<sup>32</sup> We do not request nor collect information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, and therefore are unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

7. **Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.** Section 76.1700(a), adopted in the *Second Order*, will not increase the recordkeeping or information collection requirements for any cable operator. In fact, Section 76.1700(a) will decrease certain recordkeeping requirements for cable operators with 1000 or more, but fewer than 5000, subscribers. The rule as adopted eliminates the requirement that cable operators with 1000 or more, but less than 5000, subscribers maintain certain records in their public file. The rule provides that those records need only be provided pursuant to a specific request. Thus, the adopted rule will result in reductions in administrative costs borne by cable operators in connection with reproducing and maintaining certain records in their public files.

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<sup>26</sup> 5 U.S.C. § 632.

<sup>27</sup> 13 CFR 121.201, North American Industry Classification System (NAICS) codes 51321 and 51322.

<sup>28</sup> *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, NAICS codes 51321 and 51322 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

<sup>29</sup> 47 U.S.C. § 543(m)(2).

<sup>30</sup> *Annual Assessment of the Status on Competition in the Market for the Delivery of Video Programming*, CS Docket No. 00-132, Seventh Annual Report, Table C-1 (rel. January 8, 2001).

<sup>31</sup> *Id.*

<sup>32</sup> *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (2001).

8. **Steps taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.** The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. We are adopting a rule that establishes reduced regulatory burdens on small entities with regard to certain recordkeeping requirements. In the *Further NPRM*, we sought comment on the proposed rule to ease the recordkeeping requirements for certain small cable operators. No comments were received and we are aware of no alternatives to further reduce burdens on small entities consistent with the important regulatory objectives served by the reporting requirements.

9. **Report to Congress.** The Commission will send a copy of the *Second Order*, including this FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). The *Second Order* and this FRFA (or summaries thereof) will also be published in the Federal Register, *see* 5 U.S.C. § 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.