

commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

**Privacy:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

#### Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at [www.regulations.gov](http://www.regulations.gov). Recently published rulemaking documents can also be accessed through the FAA's web page at [www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except on federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

#### Incorporation by Reference

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates will be published in the next

update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11 lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending from 700 feet above the surface for Presque Isle International Airport, Presque Isle, ME, by updating Presque Isle International Airport's name (previously "Northern Maine Regional Airport"), adding AR Gould Hospital Heliport to the description header, and updating geographic coordinates to align with FAA databases. This action would not change the airspace boundaries or operating requirements.

Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

#### Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," prior to any final regulatory action by the FAA.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### ANE ME E5 Presque Isle, ME

Presque Isle International Airport, ME  
(Lat. 46°41'20" N, long. 68°02'41" W)  
Caribou Municipal Airport  
(Lat. 46°52'18" N, long. 68°01'06" W)  
Loring International Airport  
(Lat. 46°57'02" N, long. 67°53'09" W)  
AR Gould Hospital Heliport  
(Lat. 46°40'33" N, long. 67°59'56" W)

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 46°27'20" N, long. 67°46'57" W, to lat. 46°27'16" N, long. 68°15'11" W, to lat. 46°58'33" N, long. 68°25'07" W, to lat. 47°06'57" N, long. 67°53'40" W, to lat. 47°03'52" N, long. 67°47'26" W, to the point of beginning, excluding that airspace outside of the United States.

\* \* \* \* \*

Issued in College Park, Georgia, on April 23, 2024.

**Patrick Young,**

*Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Commission.*

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 25 and 101

[WT Docket No. 20–133; FCC 24–16; FR ID 207951]

### Modernizing and Expanding Access to the 70/80/90 GHz Bands; Further Notice of Proposed Rulemaking

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; solicitation of comment.

**SUMMARY:** In this document, the Federal Communications Commission

(Commission) seeks comment on the potential inclusion of ship-to-aerostat transmissions as part of maritime operations otherwise authorized in a Report and Order, and of Fixed Satellite Service (FSS) earth stations in the third-party database registration system used for terrestrial links in certain bands.

**DATES:** Comments are due on or before May 29, 2024; reply comments are due on or before June 28, 2024. Written comments on the Initial Regulatory Flexibility Analysis (IRFA) in this document must have a separate and distinct heading designating them as responses to the IRFA and must be submitted by the public on or before May 29, 2024. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before June 28, 2024.

**ADDRESSES:** Pursuant to §§ 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). You may submit comments, identified by WT Docket No. 20–133, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing ECFS: <https://www.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.
- U.S. 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.

See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788, 2788–89 (OS 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, computer diskettes, audio recordings), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Tignor, Wireless Telecommunications Bureau, Broadband Division, at [Jeffrey.Tignor@fcc.gov](mailto:Jeffrey.Tignor@fcc.gov) or 202–418–0774. For Paperwork Reduction Act, contact Kathy Williams at [PRA@fcc.gov](mailto:PRA@fcc.gov) or 202–418–2918.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WT Docket No. 20–33, FCC 24–16; adopted on January 24, 2024 and released on January 26, 2024. The full text of this document is available at <https://docs.fcc.gov/public/attachments/FCC-24-16A1.pdf>.

#### Ex Parte Rules

The proceeding shall be treated as “permit-but-disclose” in accordance with the Commission's *ex parte* rules. 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* 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.

#### Initial Regulatory Flexibility Analysis

The Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy changes in the FNPRM on small entities. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the FNPRM indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA, see section II of this document for more detail.

#### Paperwork Reduction Act

This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

#### Providing Accountability Through Transparency Act

The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. Accordingly, the Commission will publish the required summary of this FNPRM on <https://www.fcc.gov/proposed-rulemakings>.

## Synopsis

### I. Further Notice of Proposed Rulemaking in WT Docket No. 20–133

1. In this *FNPRM*, the Commission seeks comment on two issues regarding the 71–76 GHz (70 GHz) and 81–86 GHz (80 GHz) bands for which the record in this proceeding was not sufficient for it to make a determination in the *Report and Order*: (1) whether to permit ship-to-aerostat transmissions as part of the maritime service otherwise authorized in the *Report and Order*; and (2) whether to include FSS earth stations in the existing third-party database registration regime modified in the *Report and Order*.

2. *Inclusion of Ship-to-Aerostat Transmissions in the Maritime Service.* In the *Report and Order*, the Commission declined to permit ship-to-aerostat transmissions at this time.<sup>1</sup> The Commission notes that Aeronet Global Communications, Inc. (Aeronet) has expressed concern that ship-to-aerostat links are critical to the operation of its proposed maritime system, and claimed that the maritime broadband services otherwise newly authorized in the *Report and Order* depend on the availability of a return link. The Commission seeks comment on whether to authorize ship-to-aerostat transmissions, including input on the potential impact on Federal and other non-Federal operations.

3. *Inclusion of Fixed Satellite Service (FSS) in Third-Party Database Registration System.* In the *Report and Order*, the Commission declined to include FSS earth stations in the third-party database registration system because of lack of notice, and a record insufficient to address this issue. SpaceX Exploration Technology Corporation (SpaceX) has advocated for the inclusion of FSS into the existing light-licensing regime for the 70/80/90 GHz bands. To date, few parties have addressed the feasibility of these proposals, and those that have mentioned the issue have suggested that operational limitations and/or further technical study would be needed. As SpaceX contends and others support, incorporating earth station gateways in the third-party database would enable the light-licensing approach currently used for operations under subpart Q of part 101 to serve as a unified portal for operations in the 70 GHz and 80 GHz bands that are licensed under a

nationwide, non-exclusive license. The Commission recognizes that a unified database may provide efficiencies for the use of these bands and may offer other benefits.

4. Accordingly, the Commission seeks comment on the potential inclusion of FSS earth stations in the third-party database registration regime in the 70 GHz and 80 GHz bands. As a general matter, would it be feasible to include FSS in the database registration process? Would doing so have any negative effects on incumbent services? What changes would be necessary to the database system to accommodate FSS registrations, and would those changes be feasible? The Commission notes that in response to the aeronautical and maritime rules the Commission adopts, at least one party has articulated how “major modifications to the databases or most likely entirely new structures” may be necessary, and that “[m]aking [these] changes . . . and developing enhanced analysis methods to cover coordination zones . . . would have to be supported by the proponents” of the newly included operations in the bands. See, e.g., Comsearch Comments, WT Docket No. 20–133, at 1 (filed Nov. 8, 2023). The Commission seeks comment on whether analogous concerns exist for the changes that may be necessary to permit FSS into the regime, and on the allocation of costs for such changes.

5. If the Commission does incorporate FSS earth stations into the third-party database system under what protection criteria should they be included? SpaceX argues that the limits set forth in the Federal Agencies Letter, which the Commission adopts for aeronautical operations in these bands, are inappropriate for FSS, and urges the Commission to instead adopt the rules found in part 25 as a guide to the appropriate operational restrictions for FSS in this context. The part 25 rules, however, contemplate individual coordination of earth stations, and therefore may not be a good fit for the link registration system (LRS) administered by third-party database managers that is used to coordinate operations in these bands. The equivalent isotropically radiated power (EIRP) limit for earth stations in part 25 is much more generous than the EIRP limits for fixed and aeronautical services in these bands.<sup>2</sup> For earth

stations that are individually coordinated, this higher-powered limit may be modified to suit the specific circumstances and satisfy all potentially affected parties. For database coordination, however, the EIRP limit must be such that coexistence with other operators and services is possible without such individual attention. The EIRP limits the Commission adopts for aeronautical service are the product of significant attention, analysis and input from a variety of parties and perspectives, including those operators and services most likely to be affected by any harmful interference. The Commission seeks similar comment on appropriate EIRP limits for potential FSS earth stations in the 70 GHz and 80 GHz bands. What limits would best enable meaningful FSS service, while adequately protecting incumbent operations? In a similar vein, the Commission seeks comment on the appropriate out-of-band emissions (OOBE) limits for FSS earth stations in these bands, given the importance of protecting adjacent band operations. The Commission also seeks comment generally on any other operational limits or restrictions that might be required to meaningfully enable database registration for FSS earth stations without risking harmful interference to incumbent and adjacent services.

6. The Commission seeks comment on the appropriate criteria for the protection of FSS from other services. The rules that the Commission adopts are designed in part to protect FSS operations, both Federal and non-Federal, from the newly established aeronautical service. However, there are currently no rules requiring fixed links to protect FSS operations. What criteria could be implemented for this purpose? Current part 101 rules include an interference protection threshold for fixed services. Is there a similar appropriate threshold for satellite earth stations? Are there any other protection criteria that might be necessary to ensure that other services in these bands do not cause harmful interference to FSS operations? Consistent with the Commission’s statement when it adopted service rules for Fixed Service (FS) use of the band, the Commission proposes to require registrations for new FS links submitted on or after the release date of this *FNPRM* to demonstrate protection of FSS earth stations with a final authorization prior

<sup>1</sup> For purposes of both the *Report and Order* and the *Further Notice of Proposed Rulemaking*, the Commission considers the term “aerostat” to mean an airborne transmitter operating within a small specified area, below 1,000 feet of elevation, regardless of method of propulsion.

<sup>2</sup> 47 CFR 5.204(b) (+64 dBW in any 1 megahertz band); *id.* 101.113 (+55 dBW). Because the part 25 limit is expressed as a power density, while the part 101 limit is not, this is not a direct comparison. Converting the part 25 limit to 70/80 GHz channel sizes, which are at minimum 1.25 gigahertz, yields an equivalent EIRP of, at minimum, +94.96 dBW toward the horizon, or 39.96 dB higher than the part

101 limit, while for a 4.5 gigahertz channel the part 25 limit would allow an EIRP 45.53 dB higher than the part 101 limit.

to the submission date of the new FS registration.

7. Finally, the Commission seeks comment on any changes that would be necessary to its rules or procedures to accommodate FSS in the third-party database system as a logistical matter. Currently, terrestrial and aeronautical operators must first obtain a nationwide license from the Commission before registering individual sites with a database administrator. What would be the equivalent for a satellite operator? Should a satellite operator also be required to obtain a nationwide license from the Commission before registering individual sites with a database administrator? If so, what changes would be required to the part 25 earth station licensing rules? The Commission also seeks comment on any changes necessary for Federal to non-Federal coordination in the FSS context. For fixed services in these bands, this coordination is accomplished by the database administrators querying an automated green light/yellow light system operated by National Telecommunications and Information Administration (NTIA), with a yellow light result leading to more individual coordination. Could this system accommodate FSS operations as well? What changes would be necessary to support such inclusion? The Commission seeks comment generally on these and any other issues raised by the possibility of including FSS earth stations in the 70/80 GHz database registration system.

## II. Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this IRFA of the possible significant economic impact on a substantial number of small entities by the policies proposed in the *FNPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *FNPRM*. The Commission will send a copy of the *FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *FNPRM* and the IRFA (or summaries thereof) will be published in the **Federal Register**.

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

9. In the *FNPRM*, the Commission considers and seeks comment on whether—and if so, how—it might include FSS earth stations in the third-

party database registration regime currently used for operations in the 70 GHz and 80 GHz bands. Included in the Commission's discussion of potential rule changes and requests for comments in the *FNPRM* are repeated requests from SpaceX, which has advocated for the inclusion of FSS into the existing light-licensing regime for the 70/80/90 GHz bands. The *FNPRM* seeks comment on issues including whether it would be feasible to include FSS in the database regime process, and whether doing so would have any negative effects on incumbent services. The Commission also solicits comment on what changes to the database system might be needed, whether such changes are feasible, how costs for any changes should be allocated and if those costs would have a significant economic impact on small entities either currently operating, or seeking to operate, in those bands. Lastly, the item also asks commenters to address what protection criteria should be adopted if FSS earth stations are incorporated into the third-party database system, on the appropriate criteria for the protection of FSS from other service, and on any changes that might be necessary to the Commission's rules or procedures as a logistical matter. In addition, in the *FNPRM*, the Commission seeks comment on whether to permit ship-to-aerostat transmissions as part of the maritime service otherwise authorized in the *Report and Order*.

### B. Legal Basis

10. The proposed action is authorized pursuant to sections 4, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, and 307.

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

11. 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. 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 SBA. 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 SBA.

12. *Small Businesses, Small Organizations, Small Governmental Jurisdictions*. The Commission's actions, over time, may affect small entities that

are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

13. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

14. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments— independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

15. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if

it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *Fixed Microwave Services.* Fixed microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Upper Microwave Flexible Use Service (UMFUS), Millimeter Wave Service (70/80/90 GHz), Local Multipoint Distribution Service (LMDS), the Digital Electronic Message Service (DEMS), 24 GHz Service, Multiple Address Systems (MAS), and Multichannel Video Distribution and Data Service (MVDDS), where in some bands licensees can choose between common carrier and non-common carrier status. Wireless Telecommunications Carriers (*except* Satellite) is the closest industry with a SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

17. The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in part 101 of the Commission's rules for the

specific fixed microwave services frequency bands.

18. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time the Commission is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

19. *Satellite Telecommunications.* This industry 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 satellite telecommunications." Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

20. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to,

and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.*, dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

21. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small. U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year. Of this number, 624 firms had fewer than 250 employees. Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

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

22. The proposals contemplated in the *FNPRM* may impose new or additional reporting, recordkeeping, and/or other compliance obligations on small entities, as well as on other licensees and applicants if adopted. In particular, there may be new recordkeeping or compliance obligations created if changes are made to the Commission's part 101 technical and/or operational rules in order to accommodate the potential inclusion of FSS earth stations in the third-party database registration regime in the 70 GHz and 80 GHz bands or in order to permit ship-to-aerostat transmissions as part of the maritime service otherwise authorized in the *Report and Order*.

23. At this time, Commission is not currently in a position to determine whether, if adopted, the proposed rules and associated requirements raised in

the *FNPRM* would require small entities to hire attorneys, engineers, consultants, or other professionals and cannot quantify the cost of compliance with the potential rule changes and compliance obligations raised herein. In the Commission's discussion of these proposals in the *FNPRM*, the Commission have sought comments from the parties in the proceeding, and requested costs and benefits analyses, which may help the Commission identify and evaluate relevant matters for small entities, including any compliance costs and burdens that may result from any matters discussed in the *FNPRM*, or from any proposed rules in the proceeding, should they be adopted.

#### *E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

24. 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 or reporting requirements under the rule 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.

25. In the *FNPRM*, the Commission has sought to minimize the economic impact on small entities, as well as considered significant alternatives and weigh their potential impact to those entities. For example, in response to Space X's advocacy for including FSS into the existing light-licensing regime for the 70/80/90 GHz bands, the Commission considered whether it was feasible to alter the third-party database registration regime to include FSS earth stations as well as what compliance obligations could be adopted to minimize the economic impact to small entities. In addition, in response to Aeronet's advocacy for permitting ship-to-aerostat transmissions in the

maritime service otherwise authorized in the *Report and Order*, the Commission considered whether it was feasible to authorize such links as well as what compliance obligations could be adopted to minimize the economic impact on small entities. In order to provide proper notice for potential commenters and to allow for a technical record that will better assist the Commission in adopting rules that will minimize burdens to small and other entities as much as possible, the Commission seek comment on FSS-specific issues and issues related to ship-to-aerostat links.

26. Additionally, the Commission considered what types of changes to the database system would be needed for FSS registrations and if any changes, if adopted, would cause major modifications to the databases, or alternatively, if entirely new database structures would be required. The Commission seek comment from small entities as to what economic or compliance-related challenges they would encounter as a result of adopting such changes. The Commission also considered what protection criteria should be included as part of incorporating FSS earth stations into the third-party database system. For example, the Commission could adopt, as SpaceX prefers, the rules found in part 25 as a framework for appropriate FSS operational restrictions, as opposed to using the limits set forth in the Federal Agencies Letter, which was adopted by the Commission for aeronautical operations in these bands. The Commission seek comment on any other operational limits or restrictions that might be required to meaningfully enable database registration for FSS earth stations without risking harmful interference to incumbent and adjacent services. Lastly, the Commission also considered what types of changes to its rules or procedures intended to accommodate FSS in the third-party database system would be necessary, what licensing requirements for satellite operators would be required and what changes would be needed for Federal to non-Federal coordination in the FSS context.

27. To assist with the Commission's evaluation of the significant economic

impact on small entities, and to better evaluate options and alternatives should the proposals in the *FNPRM* be adopted, the Commission has sought comment from the parties. The proposals in this proceeding to accommodate the potential inclusion of FSS earth stations in the third-party database registration regime in the 70 GHz and 80 GHz bands are predicated on requests from SpaceX for the same. The proposals in this proceeding to include ship-to-aerostat transmissions as part of the maritime service otherwise authorized in the *Report and Order* are predicated on requests from Aeronet for the same. In light of these requests, the *FNPRM* seeks comment on how to weigh the inherent public interest considerations involved. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments and costs and benefits analyses filed in response to the *FNPRM*. The Commission's evaluation of this information will shape the final alternatives it considers, the final conclusions it reaches, and any final actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities.

#### *F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

28. None.

### III. Ordering Clauses

29. *It is ordered* that, pursuant to sections 4, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C 154, 303, 307, the Further Notice of Proposed Rulemaking *is adopted* as set forth above.

30. *It is further ordered* that the Commission's Office of the Secretary, *shall send* a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

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