

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 76**

[CS Docket No. 97–80; FCC 03–89]

Commercial Availability of Navigation Devices**AGENCY:** Federal Communications Commission.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This document initiates a rulemaking reassessing the retail market for navigation devices and the need for the upcoming July 1, 2006 ban on integrated navigation devices. This reassessment is needed to determine whether the July 1, 2006 ban on integrated navigation devices remains appropriate or is no longer necessary as a result of ongoing industry negotiations for a bidirectional specification for digital cable receivers and products. This rulemaking is initiated pursuant to Section 629 of the Communications Act which directs the Commission to adopt regulations to assure the commercial availability of navigation devices equipment used by consumers to access services from multichannel video programming distributors.

DATES: Comments due February 19, 2004; reply comments are due March 10, 2004. Written comments by the public on the proposed information collections are due February 19, 2004. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before August 18, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. For further filing information, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Susan Mort, 202–418–1043 or smort@fcc.gov. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Leslie Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet at Leslie.Smith@fcc.gov, or at 202–418–0217, and to Kim A. Johnson, OMB Desk Officer, Room 102236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to Kim_A.Johnson@omb.eop.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order and Further Notice of Proposed Rulemaking

(“FNPRM”), FCC 03–89, adopted April 14, 2003; released April 25, 2003. The full text of the Commission's FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, or may be purchased from the Commission's copy contractor, Qualex International, (202) 863–2893, Portals II, Room CY–B402, 445 12th St., SW., Washington, DC 20554, or may be reviewed via Internet at <http://www.fcc.gov/mb>.

Paperwork Reduction Act

The FNPRM portion of this document contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in the FNPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this FNPRM; OMB notification of action is due August 18, 2003. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

In addition to filing comments with the Secretary, a copy of any PRA comments on the information collections contained herein should be submitted to Leslie Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to Leslie.Smith@fcc.gov, and to Kim A. Johnson, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to Kim_A.Johnson@omb.eop.gov.

OMB Control Number: 3060–0849.

Title: Commercial Availability of Navigation Devices.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 215.

Estimated Time per Response: 10 minutes to 40 hours.

Frequency of Response: Quarterly and semi-annual reporting requirements; Third party disclosure.

Total Annual Burden: 3,384 hours.

Total Annual Costs: \$33,450.

1. *Needs and Uses:* The FNPRM initiates a reassessment of the state of the navigation devices market by the Commission prior to January 1, 2005. Pursuant to this reassessment, the Commission shall determine whether the July 1, 2006 ban on integrated navigation devices remains appropriate or whether the ban will no longer be necessary. The state of the navigation devices market will be significantly impacted by ongoing negotiations between the cable and consumer electronics industries for a bidirectional specification for digital cable receivers and products. As a result, the cable and consumer electronics industries are requested to provide the Commission with status reports on these negotiations at 90, 180 and 270 day intervals following release of this FNPRM.

Synopsis of the Further Notice of Proposed Rulemaking

2. The Commission initiated its Commercial Availability of Navigation Devices proceeding by notice of proposed rulemaking in CS Docket No. 97–80 (FCC 97–53), 62 FR 10011, March 5, 1997. This action was taken pursuant to Section 629 of the Communications Act which directs the Commission to adopt regulations to assure the commercial availability of navigation devices equipment used by consumers to access services from multichannel video programming distributors (“MVPDs”). Pursuant to this directive, the Commission issued the Report and Order in the above-captioned proceeding establishing, inter alia, a January 1, 2005, deadline for MVPDs to cease deploying new navigation devices that perform both conditional access functions and other functions in a single integrated device. The Commission adopted the requirement to separate the conditional access function from the basic navigation device (the “host device”) in order to permit unaffiliated manufacturers, retailers, and other vendors to commercially market host devices while allowing MVPDs to retain control over their system security. The Commission later issued a Further Notice of Proposed Rulemaking and Declaratory Ruling (“Further Notice and Declaratory Ruling”) (FCC 00–341), 65 FR 58255, September 28, 2000, that sought comment on the effectiveness of the Commission's navigation device

rules, including the 2005 prohibition on integrated devices.

3. Since Section 629 and the Commission's rules were adopted, the cable and consumer electronics industries have made, and continue to make, significant progress in the development of technical standards in this area. However, the commercial market for navigation devices used in conjunction with the distribution of digital video programming remains in its infancy. In an effort to spur the transition to digital television, the cable and consumer electronics industry recently reached a Memorandum of Understanding ("MOU") on a cable compatibility standard for a unidirectional digital cable television receiver with host device functionality, as well as other unidirectional digital cable products. This standard would allow consumers to directly attach their DTV receivers to cable systems using a point of deployment ("POD") module and receive one-way cable television services without the need for an external navigation device. The Commission issued a Further Notice of Proposed Rulemaking ("MOU FNPRM") seeking public comment on the MOU issued in the above-captioned proceeding and in the Compatibility Between Cable Systems and Consumer Electronics Equipment proceeding.

4. In its earlier Further Notice and Declaratory Ruling, the Commission had already sought comment, *inter alia*, on whether the 2005 date for the phase-out of integrated boxes remains appropriate, on what, if any, incentives the requirement creates for the development of a commercial retail market for navigation devices, and on the economic impacts and costs associated with the requirement. In response, the cable industry and set-top box manufacturers generally urged that the 2005 deadline should be eliminated in favor of the continued offering of integrated navigation devices for rent to consumers. Other equipment manufacturing and retail interests urged that the date should be advanced to ensure the timely development of a retail market in host devices. Given the equipment ordering and manufacturing cycles involved, it is necessary at this point to provide guidance as to the Commission's expectations with respect to the 2005 date. Other issues raised in the Further Notice and Declaratory Ruling will be addressed separately at a later time.

5. Commission action in response to the MOU FNPRM could have a significant impact upon the development of a commercial market in separate host devices. In addition, the

cable and consumer electronic industries are in the midst of negotiations on specifications for bidirectional digital cable receivers and products which would permit the receipt of advanced cable television services by direct connection to cable systems. This ongoing process, which we are hopeful will produce results in the near term, could impact the development of technical specifications relating to host devices and POD modules. In light of the ongoing notice and comment cycle relating to the MOU FNPRM, the evolving nature of technical specifications relating to navigation devices, and the imminent business ordering and manufacturing cycles facing MVPDs and consumer electronics manufacturers in anticipation of the pending 2005 prohibition, we hereby extend the deadline concerning the prohibition on integrated devices until July 1, 2006.

6. This eighteen month extension should provide adequate time for the parties to complete their ongoing negotiations and for the Commission to make a more knowledgeable decision as to any further changes in the compliance date. By January 1, 2005, the Commission shall complete a reassessment of the state of the navigation devices market and determine whether the designated time frame remains appropriate or whether the ban on integrated devices will no longer be necessary. In the interim, the cable and consumer electronics industries are requested to provide the Commission with status reports on their negotiations on specifications for bidirectional digital cable receivers and products at 90, 180 and 270 day intervals following release of this Order. Following submission of the last status report to the Commission, the public shall have thirty days to submit comments on the status reports and whether any further changes in the phase-out date for integrated devices are warranted.

7. Based upon the record in the above-captioned proceeding and ongoing industry developments, we have concluded that a limited deferral of the date is consistent with the ultimate objectives of this proceeding and our statutory directive to act "in consultation with appropriate industry standard-setting organizations." We are not persuaded at this point to eliminate the prohibition on integrated devices since future developments in both the marketplace and ongoing industry negotiations may yet dictate a need for this requirement in order to achieve the objectives of Section 629. However, the conclusion of the unidirectional MOU,

as well as the ongoing negotiations towards a bidirectional agreement, do reflect progress towards the development of a retail market for consumer electronics equipment with navigation device functionality. As such, we do not believe that advancing the prohibition date, as previously suggested by a number of equipment manufacturing and retail interests, is necessary to further these objectives or would provide sufficient lead time for ordering and manufacturing prior to completion of the next phase of the standardization process.

8. *Authority.* This FNPRM is issued pursuant to authority contained in Sections 4(i), 303(r), and 629 of the Communications Act of 1934, as amended.

9. *Ex Parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

10. *Accessibility Information.* Accessible formats of this FNPRM (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer & Governmental Affairs Bureau, at (202) 418-7426, TTY (202) 418-7365, or at bmillin@fcc.gov.

11. *Comment Information.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before February 19, 2004, and reply comments on or before March 10, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

12. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters

should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

13. *Paperwork Reduction Act of 1995 Analysis.* This FNPRM contains modified information collection(s) subject to the PRA. 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 are invited to comment on the new or modified information collection(s) contained in this proceeding.

14. Written comments by the public on the proposed information collection(s) are due August 18, 2003. Written comments must be submitted by the public, Office of Management and Budget and other interested parties on the proposed information collection(s) on or before August 18, 2003. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Leslie Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to Leslie.Smith@fcc.gov, and to Kim A. Johnson, OMB Desk Officer, Room 10236 NEOB, 725 17th

Street, NW., Washington, DC 20503, or via the Internet to Kim_A.Johnson@omb.eop.gov.

15. *Regulatory Flexibility Act.* As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this FNPRM. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the FNPRM, and they should have a separate and distinct heading designating them as responses to the IRFA.

Initial Regulatory Flexibility Analysis

16. As required by the Regulatory Flexibility Act of 1980, as amended ("RFA") the Commission has prepared this present 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 Order and Further Notice of Proposed Rulemaking ("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 on the FNPRM provided in paragraph 10-11. The Commission will send a copy of this entire, 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**.

17. *Need for, and Objectives of, the Proposed Rules.* In this FNPRM, we extend our review of the development of the commercial availability of navigation devices in light of ongoing industry negotiations which may affect the technical specifications relating to navigation devices. Our objective is to seek comment on the appropriateness of the new July 1, 2006 ban on integrated devices based upon the status of these negotiations. This objective is commensurate with our statutory directive in Section 629 of the Communications Act of 1934, as amended, to act "in consultation with appropriate industry standard-setting organizations" to assure the commercial availability of navigation devices used in conjunction with services provided by multichannel video programming distributors ("MVPDs").

18. *Legal Basis.* The authority for this proposed rulemaking is contained in Sections 4(i), 303(r), and 629 of the Communications Act of 1934, as

amended, 47 U.S.C. 154(i), 303(r), and 549.

19. *Description and Estimate of the Number of Small Entities To Which Rules Will Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will 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 Small Business Act. 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").

20. *Cable and Other Program Distribution.* The SBA has developed a small business size standard for cable and other program distribution services, which includes all such companies generating \$12.5 million or less in revenue annually. This category includes, among others, cable operators, direct broadcast satellite ("DBS") services, home satellite dish ("HSD") services, multipoint distribution services ("MDS"), multichannel multipoint distribution service ("MMDS"), Instructional Television Fixed Service ("ITFS"), local multipoint distribution service ("LMDS"), satellite master antenna television ("SMATV") systems, and open video systems ("OVS"). According to the Census Bureau data, there are 1,311 total cable and other pay television service firms that operate throughout the year of which 1,180 have less than \$10 million in revenue. We address below each service individually to provide a more precise estimate of small entities.

21. *Cable Operators.* The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide. We last estimated that there were 1,439 cable operators that qualified as small cable companies. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by

the decisions and rules proposed in this Order and FNPRM.

22. The Communications Act, as amended, also contains a size standard for a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% 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." The Commission has determined that there are 68,500,000 subscribers in the United States. Therefore, an operator serving fewer than 685,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate. Based on available data, we find that the number of cable operators serving 685,000 subscribers or less totals approximately 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

23. *Direct Broadcast Satellite ("DBS") Service*. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of cable and other program distribution services. This definition provides that a small entity is one with \$12.5 million or less in annual receipts. There are four licensees of DBS services under Part 100 of the Commission's Rules. Three of those licensees are currently operational. Two of the licensees that are operational have annual revenues that may be in excess of the threshold for a small business. The Commission, however, does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. DBS service requires a great investment of capital for operation, and we acknowledge, despite the absence of specific data on this point, that there are entrants in this field that may not yet have generated \$12.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

24. *Home Satellite Dish ("HSD") Service*. Because HSD provides subscription services, HSD falls within the SBA-recognized definition of cable and other program distribution services. This definition provides that a small entity is one with \$12.5 million or less in annual receipts. The market for HSD

service is difficult to quantify. Indeed, the service itself bears little resemblance to other MVPDs. HSD owners have access to more than 265 channels of programming placed on C-band satellites by programmers for receipt and distribution by MVPDs, of which 115 channels are scrambled and approximately 150 are unscrambled. HSD owners can watch unscrambled channels without paying a subscription fee. To receive scrambled channels, however, an HSD owner must purchase an integrated receiver-decoder from an equipment dealer and pay a subscription fee to an HSD programming package. Thus, HSD users include: (1) viewers who subscribe to a packaged programming service, which affords them access to most of the same programming provided to subscribers of other MVPDs; (2) viewers who receive only non-subscription programming; and (3) viewers who receive satellite programming services illegally without subscribing. Because scrambled packages of programming are most specifically intended for retail consumers, these are the services most relevant to this discussion.

25. *Multipoint Distribution Service ("MDS"), Multichannel Multipoint Distribution Service ("MMDS") Instructional Television Fixed Service ("ITFS") and Local Multipoint Distribution Service ("LMDS")*. MMDS systems, often referred to as "wireless cable," transmit video programming to subscribers using the microwave frequencies of the MDS and ITFS. LMDS is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications.

26. In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues of less than \$40 million in the previous three calendar years. This definition of a small entity in the context of MDS auctions has been approved by the SBA. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas ("BTAs"). Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations authorized prior to the auction. As noted, the SBA has developed a definition of small entities for pay television services, which includes all such companies generating \$12.5 million or less in annual receipts. This definition includes multipoint distribution services, and thus applies to MDS licensees and wireless cable operators that did not participate in the MDS auction. Information available to us indicates that there are

approximately 850 of these licensees and operators that do not generate revenue in excess of \$12.5 million annually. Therefore, for purposes of the IRFA, we find there are approximately 850 small MDS providers as defined by the SBA and the Commission's auction rules.

27. The SBA definition of small entities for cable and other program distribution services, which includes such companies generating \$12.5 million in annual receipts, seems reasonably applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees, and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

28. Additionally, the auction of the 1,030 LMDS licenses began on February 18, 1998, and closed on March 25, 1998. The Commission defined "small entity" for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. An additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding calendar years. These regulations defining "small entity" in the context of LMDS auctions have been approved by the SBA. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, we conclude that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

29. In sum, there are approximately a total of 2,000 MDS/MMDS/LMDS stations currently licensed. Of the approximate total of 2,000 stations, we estimate that there are 1,595 MDS/MMDS/LMDS providers that are small businesses as deemed by the SBA and the Commission's auction rules.

30. *Satellite Master Antenna Television ("SMATV") Systems*. The

SBA definition of small entities for cable and other program distribution services includes SMATV services and, thus, small entities are defined as all such companies generating \$12.5 million or less in annual receipts. Industry sources estimate that approximately 5,200 SMATV operators were providing service as of December 1995. Other estimates indicate that SMATV operators serve approximately 1.5 million residential subscribers as of July 2001. The best available estimates indicate that the largest SMATV operators serve between 15,000 and 55,000 subscribers each. Most SMATV operators serve approximately 3,000–4,000 customers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, we believe that a substantial number of SMATV operators qualify as small entities.

31. *Open Video Systems (“OVS”).* Because OVS operators provide subscription services, OVS falls within the SBA-recognized definition of cable and other program distribution services. This definition provides that a small entity is one with \$12.5 million or less in annual receipts. The Commission has certified 25 OVS operators with some now providing service. Affiliates of Residential Communications Network, Inc. (“RCN”) received approval to operate OVS systems in New York City, Boston, Washington, DC and other areas. RCN has sufficient revenues to assure us that they do not qualify as small business entities. Little financial information is available for the other entities authorized to provide OVS that are not yet operational. Given that other entities have been authorized to provide OVS service but have not yet begun to generate revenues, we conclude that at least some of the OVS operators qualify as small entities.

32. *Electronics Equipment Manufacturers.* Rules adopted in this proceeding could apply to manufacturers of DTV receiving equipment and other types of consumer electronics equipment. The SBA has

developed definitions of small entity for manufacturers of audio and video equipment as well as radio and television broadcasting and wireless communications equipment. These categories both include all such companies employing 750 or fewer employees. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses. Therefore, we will utilize the SBA definitions applicable to manufacturers of audio and visual equipment and radio and television broadcasting and wireless communications equipment, since these are the two closest NAICS Codes applicable to the consumer electronics equipment manufacturing industry. However, these NAICS categories are broad and specific figures are not available as to how many of these establishments manufacture consumer equipment. According to the SBA’s regulations, an audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 554 U.S. establishments that manufacture audio and visual equipment, and that 542 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 12 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. Under the SBA’s regulations, a radio and television broadcasting and wireless communications equipment manufacturer must also have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 1,215 U.S. establishments that manufacture radio and television broadcasting and wireless communications equipment, and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities. The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those

have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. We therefore conclude that there are no more than 542 small manufacturers of audio and visual electronics equipment and no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment for consumer/household use.

33. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* At this time, it is not expected that the proposed actions will require any additional recordkeeping or compliance requirements. We seek comment on whether others perceive a need for recordkeeping.

34. *Steps Taken To Minimize Significant 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 (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 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.

35. We have sought comment on the appropriateness of the July 1, 2006 prohibition on integrated navigation devices in light of, inter alia, ongoing developments regarding this industry. As a part of this effort, we wish to consider and examine the effect of changing or eliminating the prohibition deadline on small entities. We welcome comments suggesting ways in which any perceived burden upon small entities could be mitigated.

36. *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules.* None.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–15188 Filed 6–16–03; 8:45 am]

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