depends on the purpose(s) of the applications.

(i) If one of the mutually exclusive applications is a timely-filed application for renewal of an authorization, a renewal filing group is used.

(ii) If any mutually exclusive application filed on the earliest filing date is an application for modification and none of the mutually exclusive applications is a timely-filed application for renewal, a same-day filing group is used.

(iii) If all of the mutually exclusive applications filed on the earliest filing date are applications for initial authorization, a 30-day notice and cut-off filing group is used.

(4) *Disposition.* If there is only one application in any type of filing group, the Commission may grant that application and dismiss without prejudice any mutually exclusive applications not in the filing group. If there is more than one mutually exclusive application in a filing group, the Commission disposes of these applications as follows:

(i) Applications in a renewal filing group. All mutually exclusive applications in a renewal filing group are designated for comparative consideration in a hearing.

(ii) Applications in a 30-day notice and cut-off filing group.

(A) If all of the mutually exclusive applications in a 30-day notice and cut-off filing group are applications for initial authorization, the Commission administers competitive bidding procedures in accordance with Subpart Q of Part 1 of this chapter. After such procedures, the application of the successful bidder may be granted and the other applications may be dismissed without prejudice.

(B) If any of the mutually exclusive applications in a 30-day notice and cut-off filing group is an application for modification or an application for facilities, the Commission may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is not reached within a reasonable time, the Commission may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes all of the applications in the filing group.

(iii) Applications in a same-day filing group. If there are two or more mutually

exclusive applications in a same-day filing group, the Commission may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is not reached within a reasonable time, the Commission may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes all of the applications in the filing group.

(iv) Applications in a window filing group. Applications in a window filing group are processed in accordance with the procedures for a 30-day notice and cut-off filing group in paragraph (c)(4)(ii) of this section.

(d) *Terminology*. For the purposes of this section, terms have the following meanings:

(1) The "filing date" of an application is the date on which that application was received in a condition acceptable for filing or the date on which the most recently filed major amendment to that application was received, whichever is later, excluding major amendments in the following circumstances:

(i) the major amendment reflects only a change in ownership or control found by the Commission to be in the public interest;

(ii) the major amendment as received is defective or otherwise found unacceptable for filing; or

(iii) the application being amended has been designated for hearing and the Commission or the presiding officer accepts the major amendment.

(2) An "application for initial authorization" is:

(i) any application requesting an authorization for a new system or station;

(ii) any application requesting authorization for an existing station to operate on an additional channel, unless the additional channel is for paired two-way radiotelephone operation, is in the same frequency range as the existing channel(s), and will be operationally integrated with the existing channel(s) such as by trunking; or

(iii) any application requesting authorization for a new transmitter at a location more than 2 kilometers (1.2 miles) from any existing transmitters of the applicant licensee on the requested channel or channel block.

(3) An "application for modification" is any application other than an application for initial authorization or renewal.

21. Part 90 is amended by adding a new Section 90.166 to read as follows:

§ 90.166 Grants of applications.

Applications for a commercial mobile radio service authorization under this part may be granted thirty 30 days after the issuance date of a Public Notice listing an application or the latest filed major amendment thereto as acceptable for filing.

(a) *Criteria for grants*. The Commission grants applications without a hearing if, after examination of the application and consideration of any petitions or other pleadings and of such other matters as it may officially notice, the Commission finds that:

(1) A grant will serve the public interest, convenience, and necessity;

(2) There are no substantial and material questions of fact presented;

(3) The applicant is eligible and qualified under applicable Commission regulations and policies;

(4) The application is acceptable for filing, and complies with the Commission rules and other applicable requirements;

(5) The application has not been designated for a hearing after being selected in a random selection process;

(6) There are no applications entitled to comparative consideration with the application being granted; and

(7) Operation of the proposed station would not cause interference to any authorized station(s).

(b) *Grant of petitioned applications*. The Commission may grant, without a formal hearing, applications against which petitions to deny have been filed. If any petition(s) to deny are pending (*i.e.*, have not been dismissed pursuant to § 90.161 or withdrawn by the petitioner) when an application is granted, the Commission shall deny the

petition(s) and issue a concise statement of the reason(s) for the denial, disposing of all substantive issues raised in the petitions.

(c) *Partial and conditional grants*. The Commission may grant applications in part, and/or subject to conditions other than those normally applied to authorizations of the same type. When the Commission does this, it will inform the applicant of the reasons therefor. Such partial or conditional grants are final unless the Commission revises its action in response to a petition for reconsideration. Such petitions for reconsideration must be filed by the applicant within thirty days after the date of the letter or order stating the reasons for the partial or conditional grant, and must reject the partial or conditional grant and return the instrument of authorization.

(d) *Designation for hearing*. The Commission may designate applications for a hearing, specifying with particularity the matters in issue, if, after consideration of the application, any petitions or other pleadings, and other matters which it may officially notice, the Commission is unable to make one or more of the findings listed in paragraph (a) of this section. The Commission may grant, deny, or take other action with respect to applications designated for a hearing.

22. Part 90 is amended by adding a new Section 90.167 to read as follows:

§ 90.167 Time in which a station must commence service.

(a) Unless otherwise specified in this part, all 220-222 MHz, private carrier paging, Business Radio, and SMR licensees must commence service within twelve (12) months from the date of grant or the authorization cancels automatically and must be returned to the Commission.

(b) For purposes of this section, a station licensed to provide commercial mobile radio service is not considered to have commenced service unless it provides service to at least one unaffiliated party.

(c) Application for extension of time to commence service may be made on Commission Form 600. Extensions of time must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to commence service is due to causes beyond his or her control. No extensions will be granted for delays caused by lack of financing, lack of site availability, for the assignment or transfer of control of an authorization, or for failure to timely order

equipment. If the licensee orders equipment within 90 days of the license grant, a presumption of due diligence is created.

(d) An application for modification of an authorization (under construction) at the existing location does not extend the initial construction period. If additional time to commence service is required, a request for such additional time must be submitted on Commission Form 600, either separately or in conjunction with the submission of the Commission Form 600 requesting modification.

23. Part 90 is amended by adding a new Section 90.168 to read as follows:

§ 90.168 Equal employment opportunities.

Commercial Mobile Radio Services licensees shall afford equal opportunity in employment to all qualified persons, and personnel must not be discriminated against in employment because of sex, race, color, religion, or national origin.

(a) *Equal employment opportunity program.* Each licensee shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practice.

(1) Under the terms of its program, each licensee shall:

(i) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(ii) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(iii) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to sex, race, color, religion or national origin, and solicit their recruitment assistance on a continuing basis.

(iv) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon sex, race, color, religion, or national origin, from the licensee's personnel policies and practices and working conditions.

(v) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(2) The program must reasonably address specific concerns through policies and actions as set forth in this paragraph, to the extent that they are appropriate in consideration of licensee size, location and other factors.

(i) To assure nondiscrimination in recruiting.

(A) Posting notices in the licensee's offices informing applicants for employment of their equal employment rights and their right to notify the Equal Employment Opportunity Commission (EEOC), the Federal Communications Commission (Commission), or other appropriate agency. Where a substantial number of applicants are Spanish-surnamed Americans, such notice should be posted in both Spanish and English.

(B) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion, or national origin is prohibited, and that they may notify the EEOC, the Commission, or other appropriate agency if they believe they have been discriminated against.

(C) Placing employment advertisements in media which have significant circulation among minority groups in the recruiting area.

(D) Recruiting through schools and colleges with significant minority group enrollments.

(E) Maintaining systematic contacts with minority and human relations organizations, leaders and spokespersons to encourage referral of qualified minority or female applicants.

(F) Encouraging present employees to refer minority or female applicants.

(G) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members are being sought for consideration whenever the licensee hires.

(ii) To assure nondiscrimination in selection and hiring.

(A) Instructing employees of the licensee who make hiring decisions that all applicants for all jobs are to be considered without discrimination.

(B) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements.

(C) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iii) To assure nondiscriminatory placement and promotion.

(A) Instructing employees of the licensee who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

(B) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

(C) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

(D) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iv) To assure nondiscrimination in other areas of employment practices.

(A) Examining rates of pay and fringe benefits for present employees with equivalent duties and adjusting any inequities found.

(B) Providing opportunity to perform overtime work on a basis that does not

discriminate against qualified minority groups or female employees.

(b) *EEO statement.* Each licensee having sixteen (16) or more full-time employees shall file with the Commission, no later than May 31st following the grant of that licensee's first Commercial Mobile Radio Services authorization, a statement describing fully its current equal employment opportunity program, indicating specific practices to be followed in order to assure equal employment opportunity on the basis of sex, race, color, religion, or national origin in such aspects of employment practices as regards recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination. Any licensee having sixteen (16) or more full-time employees that changes its existing equal employment opportunity program shall file with the Commission, no later than May 31st thereafter, a revised statement reflecting the change(s).

NOTE: Commercial mobile radio service licensees having sixteen (16) or more full-time employees that do not have a current EEO statement on file with the Commission as of the effective date of these rules must file the statement required by this paragraph no later than May 31, 1995.

(c) *Report of complaints filed against licensees.* Each licensee, regardless of how many employees it has, shall submit an annual report to the Commission no later than May 31st of each year indicating whether any complaints regarding violations by the licensee or equal employment provisions of Federal, State, Territorial, or local law have been filed before anybody having competent jurisdiction.

(1) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(2) Any licensee who has filed such information with the EEOC may file a notification of such filing with the Commission in lieu of a report.

(d) *Complaints of violations of Equal Employment Programs.* Complaints alleging employment discrimination against a common carrier licensee are considered by the Commission in the following manner:

(1) If a complaint raising an issue of discrimination is received against a licensee who is within the jurisdiction of the EEOC, it is submitted to that agency. The Commission maintains a liaison with that agency that keeps the Commission informed

of the disposition of complaints filed against common carrier licensees.

(2) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the Commission to the respective State agency.

(3) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC or an appropriate State law, are accorded appropriate treatment by the Commission.

(4) The Commission will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees with the principles of equal employment as set forth herein.

(5) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee that is required to file an employment report to the Commission under § 1.815(a) of this chapter are investigated by the Commission.

(e) *Commission records.* A copy of every annual employment report, equal employment opportunity program statement, reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the Commission.

(f) *Licensee records.* Each licensee required to file annual employment reports (pursuant to § 1.815(a) of this chapter), equal employment opportunity program statements, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain for public inspection a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference. The documents must be retained for a period of two (2) years.

24. Part 90 is amended by adding a new Section 90.169 to read as follows:

§ 90.169 Construction prior to grant of application.

Applicants may construct facilities prior to grant of their applications, subject to the provisions of this section, but must not operate such facilities until the Commission grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility thirty-five (35) days after the date of the Public Notice listing the application for that facility as acceptable for filing.

(b) *Notification to stop.* If the Commission for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

(1) Applications that are not granted;

(2) Errors or delays in issuing Public Notices;

(3) Having to alter, relocate, or dismantle the facility; or

(4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or Commission rules and orders.

(d) *Conditions.* Except as indicated, all pre-grant construction is subject to the following conditions:

(1) The application is not mutually exclusive with any other application;

(2) No petitions to deny the application have been filed;

(3) The application does not include a request for a waiver of one or more Commission rules;

(4) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460-1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the Commission;

(5) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with §§ 1.1301 *et seq.*; and,

(6) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required.

25. Section 90.179 is amended by adding a new paragraph (g) to read as follows:

§ 90.179 Shared use of radio stations.

*****

(g) The provisions of this section do not apply to licensees authorized to provide commercial mobile radio service under this part.

26. Section 90.403 is amended by revising paragraph (c) to read as follows:

§ 90.403 General operating requirements.

*****

(c) Except for stations that have been granted exclusive channels under this part and that are classified as commercial mobile radio service providers pursuant to Part 20 of the Rules, each licensee must restrict all transmissions to the minimum practical transmission time and must employ an efficient operating procedure designed to maximize the utilization of the spectrum.

*****

27. Section 90.405 is amended by revising paragraph (b) to read as follows:

§ 90.405 Permissible communications.

*****

(b) The provisions contained in paragraph (a) of this section do not apply where a single base station licensee has been authorized to use a channel above 470 MHz on an exclusive basis, or to stations licensed under this part that are classified as CMRS providers under Part 20 of this chapter.

28. Section 90.415 is amended by revising paragraph (b) to read as follows:

§ 90.415 Prohibited uses.

*****

(b) Render a communications common carrier service, except for stations in the Special Emergency Radio Service providing communications standby facilities under § 90.49, operational fixed stations licensed in the Railroad Radio Service handling public telegraph messages as agents of telegraph common carriers in those instances where such public telegraph service cannot be provided through other railroad facilities, and stations licensed under this part in the SMR, private carrier paging, Business Radio, or 220-222 MHz services.

29. Section 90.425 is amended by adding paragraph (e) to read as follows:

§ 90.425 Station identification.

*****

(e) Special provisions for stations licensed under this part that are classified as CMRS providers under Part 20 of this chapter.

(1) Station identification will not be required for 929-930 MHz nationwide paging licensees and MTA-based SMR licensees. All other CMRS stations will be required to comply with the station identification requirements of paragraphs (a) through (d) of this section.

(2) CMRS stations subject to a station identification requirement will be permitted to use a single call sign for commonly owned facilities that are operated as part of a single system. The call sign must be transmitted each hour within five minutes of the hour, or upon completion of the first transmission after the hour.

(3) CMRS stations granted exclusive channels may transmit their call signs digitally. The station licensee must provide the Commission with information sufficient to decode the digital transmission to ascertain the transmitted call sign.

30. Section 90.437 is amended by revising paragraphs (b) and (c) to read as follows:

§ 90.437 Posting station licenses.

*****

(b) Entities authorized under this part must make available either a clearly legible photocopy of the authorization for each base or fixed station at a fixed location at every control point of the station or an address or location where the current authorization may be found.

(c) Entities operating under a temporary permit authorized in accordance with § 90.159 shall post an executed copy of the Form 572 at every control point of the system or an address or location where the current executed copy may be found.

*****

31. Section 90.449 is amended by revising the section title and the text to read as follows:

§ 90.449 Answers to official communications and notices of violation.

(a) Licensees are required to respond to official communications with reasonable

dispatch and according to the tenor of the communication. Failure to do so may be considered by the Commission to reflect adversely on a person's qualifications to hold Commission authorizations and may also create liabilities for other sanctions.

(b) Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any legislative act or treaty to which the United States is a party, or the rules and regulations of the Commission, shall, within ten (10) days from such receipt or such other period as may be specified by the Commission, send a written answer to the office of the Commission originating the original notice. If an answer cannot be sent, or an acknowledgement made, within such period, acknowledgement and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. The reply shall set forth the steps taken to prevent a recurrence of improper operation.

32. Section 90.476 is amended by adding paragraph (c) to read as follows:

§ 90.476 Interconnection of fixed stations and certain mobile stations.

*****

(c) The provisions of this section do not apply to commercial mobile radio service providers, as defined in Part 20 of this chapter.

33. Section 90.483 is amended by revising the first paragraph to read as follows:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

Interconnection may be accomplished by commercial mobile service providers licensed under this part by any technically feasible means. Interconnection may be accomplished by private mobile service providers either manually or automatically under the supervision and control of a transmitter control operator at a fixed position in the authorized system of communications or it may be accomplished under the supervision and control of mobile operators, and is subject to the following provisions:

*****

34. Section 90.494 is amended by revising paragraph (c) to read as follows:

§ 90.494 One-way paging operations in the 929-930 MHz band.

*****

(c) All frequencies listed in this section may be used to provide one-way paging communications to persons eligible for licensing under Subpart B, C, D, or E of this part, representatives of Federal Government agencies, individuals, and foreign governments and their representatives. The provisions of § 90.173(b) apply to all frequencies listed in this section.

*****

35. Section 90.603 is amended by revising paragraph (c) to read as follows:

§ 90.603 Eligibility.

*****

(c) Any person, except wireline telephone common carriers, eligible under this part and proposing to provide on a commercial basis base station and ancillary facilities as a Specialized Mobile Radio System operator, for the use of individuals, Federal Government agencies, foreign governments and their representatives, and persons eligible for licensing under subparts B, C, D, or E of this part.

36. Section 90.607 is amended by revising the introductory sentences of paragraphs (b) and (c) to read as follows:

§ 90.607 Supplemental information to be furnished by applicants for facilities under this subpart.

*****

(b) Except for applicants for SMR licenses, all applicants for conventional radio

systems must: * * *

(c) Except for applicants for SMR licenses, all applicants for trunked systems must: * * *

*****

37. Section 90.622 is amended by revising the introductory sentence of paragraph (c) to read as follows:

§ 90.623 Limitations on the number of frequencies assigned for conventional systems.

*****

(c) No non-SMR licensee will be authorized an additional frequency pair for a conventional system within 64 kilometers (40 miles) of an existing conventional system, except where: * * *

*****

38. Section 90.627 is amended by revising the introductory sentence of paragraph (b) and deleting paragraph (b)(3) to read as follows:

§ 90.627 Limitation on the number of frequency pairs that may be assignable for trunked systems and on the number of trunked systems.

*****

(b) No non-SMR licensee will be authorized an additional trunked system within 64 kilometers (40 miles) of an existing trunked system, except where:

*****

39. Section 90. 631 is amended by revising the first sentence of paragraph (a), and revising paragraphs (b) and (c) to read as follows:

§ 90.631 Trunked system loading, construction, and authorization requirements.

(a) Non-SMR trunked systems will be authorized on the basis of a loading criteria of one hundred (100) mobile stations per channel. * * *

(b) Each applicant for a non-SMR trunked system must certify that a minimum of seventy (70) mobiles for each channel authorized will be placed into operation within five (5) years of the initial license grant. Except for SMR systems licensed in the 806-821/851-866 MHz band and as indicated in paragraph (i) of this section, if at the end of five (5) years a trunked system is not loaded to the prescribed levels and all channels in the licensee's category are assigned in the system's geographic area, authorizations for trunked channels not loaded to seventy (70) mobile stations cancels automatically at a rate that allows the licensee to retain one channel for every one hundred (100) mobiles loaded, plus one additional channel. If a trunked system has channels from more than one category, General Category channels are the first channels considered to cancel automatically. All non-SMR licensees initially authorized before June 1, 1993, that are within their original license term, or SMR licensees that are within the term of a two-year authorization granted in accordance with paragraph (i) of this section, are subject to this condition. A licensee that has authorized channels cancelled due to failure to meet the above loading requirements will not be authorized additional channels to expand that same system for a period of six (6) months from the date of cancellation.

(c) Except for SMR applicants and as provided in paragraph (d) of this section, an applicant seeking to expand a trunked system by requesting additional channels from the Commission, or through intercategory sharing, or through an assignment, must have a loading level of seventy (70) mobiles per channel on the existing system that is the subject of the expansion request.

*****

40. Section 90.633 is amended by revising paragraph (a), and the first sentence of paragraph (e) to read as follows:

§ 90.633 Conventional system loading requirements.

(a) Non-SMR conventional systems of communication will be authorized on the basis of a minimum loading criteria of seventy (70) mobile stations for each channel

authorized.

*****

(e) A non-SMR licensee may apply for additional frequency pairs if its authorized conventional channel(s) is loaded to seventy (70) mobiles. * * *

*****

41. Section 90.645 is amended by revising paragraph (c) to read as follows:

§ 90.645 Permissible operations.

*****

(c) Except for licensees classified as CMRS providers under Part 20 of this chapter, only for the transmission of messages or signals permitted in the services in which the participants are eligible.

*****

42. Section 90.703 is amended by revising paragraph (c) to read as follows:

§ 90.703 Eligibility.

*****

(c) Any person, except wire line telephone common carriers, eligible under this part and proposing to provide on a commercial basis base station and ancillary facilities as a Specialized Mobile Radio System operator, for the use of individuals, Federal Government agencies, foreign governments and their representatives, and persons eligible for licensing under subparts B, C, D or E of this part.

43. Section 90.733 is amended by revising paragraph (a)(3) to read as follows:

§ 90.733 Permissible operations.

(a) * * *

(3) Except for licensees classified as CMRS providers under Part 20 of this chapter, only for the transmission of messages or signals permitted in the services in which the participants are eligible.

*****

APPENDIX C

FINAL REGULATORY FLEXIBILITY ANALYSIS

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. § 503, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Further Notice of Proposed Rule Making* in GN Docket No. 93-252. Written comments on the IRFA were requested. The Commission's final regulatory flexibility analysis for this Third Report and Order in GN Docket No. 93-252 is as follows:

A. Need for and Purpose of Rules

1. This rule making proceeding was initiated to implement Sections 3(n) and 332 of the Communications Act of 1934, as amended. The policies adopted herein will carry out Congressional intent to establish a consistent regulatory framework for all commercial mobile radio service (CMRS) providers. Specifically, this Order ensures that CMRS providers who compete with one another will be subject to comparable technical, operational, and licensing rules.

B. Issues Raised by the Public in Response to the Initial Analysis

2. No comments were submitted specifically in response to the Initial Regulatory Flexibility Analysis.

C. Significant Alternatives Considered

3. The *Further Notice of Proposed Rule Making* in this proceeding offered numerous proposals. The commenters supported the major tenets of the proposed changes, and some commenters suggested changes to some of the Commission's proposals. The regulatory burdens we have retained for all CMRS licensees, including small entities, are necessary to carry out our duties under the Communications Act of 1934, as amended. For example, we have extended Section 309 notice and comment procedures to all CMRS applicants. We also minimized regulatory burdens, where possible, for all CMRS licensees. For example, we adopt a unitary application form for all mobile services applicants and eliminate most end user eligibility requirements and restrictions on permissible uses of CMRS systems. In addition, our proposal to impose a cap on the amount of CMRS spectrum that licensees may aggregate in a given geographic area was discussed by many commenters. We conclude that the spectrum cap as proposed should not be adopted but, rather, that a more specific cap on aggregation of PCS, cellular and SMR spectrum should be adopted. A copy of the Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

APPENDIX D

LIST OF PLEADINGS IN GN DOCKET No. 93-252

COMMENTS

Air Spectrum III, Inc. (ASI)
AirTouch Communications (AirTouch)
AirTouch Paging And Arch Communications Group, Inc. (APACG)
American Mobile Satellite Corporation (AMSC)
American Mobile Telecommunications Association, Inc. (AMTA)
American Personal Communications (APC)
American Petroleum Institute (API)
Bell Atlantic Companies (Bell Atlantic)
BellSouth Corporation, BellSouth Telecommunications, Inc., BellSouth Cellular Corp., BellSouth Wireless, Inc., Mobile Communications Corp. of America (BellSouth)
Brown and Schwaninger, Jr. (Brown)
Cellular Telecommunications Industry Association (CTIA)
Celpage, Inc. (Celpage)
Century Cellunet, Inc. (Century)
Comcast Corp. (Comcast)
Committee for Effective Cellular Rules (CECR)
Constellation Communications, Inc. (Constellation)
Dial Page, Inc. (Dial Page)
E.F. Johnson Company (E.F. Johnson)
The Ericsson Corporation (Ericsson)
Geotek Communications, Inc. (Geotek)
Global Cellular Communications, Inc., and Jean M. Warren (Global)
GTE Service Corporation (GTE)
Industrial Telecommunications Association, Inc. and Council of Independent Communication Suppliers (ITA/CICS)
LegalCom Services, Inc. (LegalCom)
Loral/Qualcomm Partnership, L.P. (LQP)
McCaw Cellular Communications, Inc. (McCaw)
Metrocall, Inc. (Metrocall)
Motorola, Inc. (Motorola)
National Association of Business and Educational Radio, Inc. (NABER)
Network USA (Network)
Nextel Communications, Inc. (Nextel)
New Par (New Par)
NYNEX Corporation (NYNEX)
Omnipoint Communications, Inc. (Omnipoint)
OneComm Corporation (OneComm)
Pagemart, Inc. (Pagemart)

Paging Network, Inc. (PageNet)
PCC Management Corporation (PCC)
Personal Communications Industry Association (PCIA)
Pittencrieff Communications, Inc. (Pittencrieff)
RAM Mobile Data USA Limited Partnership (RMD)
RAM Technologies, Inc. (RAM Tech)
The RF Technologies Group, Police Emergency Radio Services, Inc. (RF Tech)
Roseville Telephone Company (Roseville)
Rural Cellular Association (Rural Cellular)
Russ Miller Rental (RMR)
SEA, Inc. (SEA)
Simrom, Inc. (Simrom)
SmartLink Development Limited Partnership (SmartLink)
SMR Systems, Inc. (SMR Systems)
The Southern Company (Southern)
Southwestern Bell Corporation (Southwestern Bell)
Sprint Corporation (Sprint)
SunCom Mobile and Data, Inc. (SunCom)
TRW Inc. (TRW)
United States Sugar Corporation (US Sugar)
US MobilComm, Inc. (USM)
US West, Inc. (US West)
Utilities Telecommunications Council (UTC)
Vanguard Cellular Systems, Inc. (Vanguard)
WJG Maritel Corporation (WJG)

REPLY COMMENTS

American Paging, Inc. (AmP)
American Radio, Professional Communications, Mobile Phones of Cordele/Net Link Communications, Range Telecommunications, Leischner Electric, Southern Minnesota Communications, B & M Communications, Le FLore Communications, Advanced Communications Services, Inc., Mobile Phone of Texas, Communications Works (American Radio)
AMTA
APACG
API
Applied Technology Group, Inc. (ATG)
Atlantic Cellular Company (Atlantic Cellular)
Banks Tower Communications Ltd. (Banks Tower)
Bell Atlantic
Carver, August Bert t/a Action Radio (Action)
CellCall, Inc. (CellCall)

Comcast
Comsat Mobile Communications (Comsat)
Cook, Don (Cook)
Dial Page
Dru Jenkinson, Inc., Tad Dobbs, Inc., Shelly Curttright, Inc., Jana Green, Inc., Joan Moore, Inc. (SMR Applicants)
Eden Communications, Inc. (Eden)
E.F. Johnson
Ericsson
Fetterman, Robert d/b/a RF Communications (Fetterman)
Fresno Mobile Radio, Inc. (Fresno)
Geotek
Global
Industrial Telecommunications Association, Inc., Alliance of Private 800/900 MHz Licensees (ITA/Alliance)
JMTV, Inc., Jean D. Murphy (JMTV)
Joriga Electronics, Inc. (Joriga)
Kay, James A., Jr. (Kay)
Lausman, Kevin d/b/a Communications Service Center (Lausman)
Luczak, Thomas (Luczak)
Madera Radio Dispatch, Inc. (Madera)
McCaw
Mobile U.H.F., Inc. (Mobile UHF)
Motorola, Inc. (Motorola)
NABER
National Telephone Cooperative Association (NTCA)
Nextel
Northwest Wireless Network, L.L.C. (Northwest)
OneComm
O'Neil TV, Inc., Mary O. McDonnel (O'Neil TV)
Pacific Bell and Nevada Bell (Pacific)
PageNet
PCC
PCIA
Pittencrieff
Puerto Rico Telephone Company (PRTC)
Qualicom Systems, Inc. (QSI)
Radiofone, Inc. (Radiofone)
RF Tech
RMD
RMR
RMTV, Inc., Roy J. Murphy (RMTV)
Rural Cellular
SEA

Sobel, Mark d/b/a Airwave Communications (Airwave)
Southeastern SMR Association, Idaho Communications Limited Partnership, Teton Communications Inc., South Carolina Communications Limited Partnership, Advanced Electronics,East Texas Communications Limited Partnership, John Mitchell Company (Southeastern)
The Southern Company (Southern)
Southwestern Bell
Speed-Net, Parkinson Electronics Company, Bill Wayne d/b/a Mr. Radio, Refiled Communications, Inc. and Dale Walsh d/b/a The Walsh Group (SMR Operators)
Sprint
Spruill, C.T. (Spruill)
Stalvey, Rod d/b/a Stalvey Communications (Stalvey)
Suncom
T&K Communications Systems, Inc. (T&K)
TelSA, Inc. (TelSA)
Triangle Communications, Inc. (Triangle)
Uniden America Corporation (Uniden)
USITV, Inc. and Hunter ITV, Inc. (USITV)
USM
US Sugar
US West

APPENDIX E

LIST OF PLEADINGS IN PR DOCKET No. 93-144

COMMENTS

American Mobile Telecommunications Association, Inc. (AMTA)
Associated Public-Safety Communications Officers, Inc. (APCO)
Bell Atlantic Enterprises International (BAEI)
Council of Independent Communications Suppliers (CICS)
Dial Page, Inc. (Dial Page)
E. F. Johnson Company (E.F. Johnson)
Fleet Call, Inc. (Nextel, due to corporate name change)
GTE Service Corp. (GTE)
National Association of Business and Educational Radio (NABER)
PacTel Paging (PacTel)
PowerSpectrum, Inc. (PowerSpectrum)
Radiofone, Inc. (Radiofone)
Southwestern Bell Corporation (Southwestern Bell)
Utilities Telecommunications Council (UTC)

REPLY COMMENTS

Advanced Mobilecomm, Inc. (AMI)
AMTA
Courtesy Communications, Inc. (Courtesy)
GTE
NABER
Nextel
PacTel
Questar Telecom, Inc. (Questar)
Mitchell E. Shipman (Shipman)
Southern Company (Southern)
Southwestern Bell Corporation (Southwestern Bell)
United States Telephone Association (USTA)
UTC