

been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Given that nearly all radiotelephone companies have no more than 1,500 employees, and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

3. 220 MHz radio services

Since the Commission has not yet defined a small business with respect to 220 MHz radio services, it will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. With respect to the 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) for Economic Area (EA) licensees, a firm with average annual gross revenues of not more than \$6 million for the preceding three years; and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than \$15 million for the preceding three years. Given that nearly all radiotelephone companies employ no more than 1,500 employees, for purposes of this IRFA the Commission will consider the approximately 3,800 incumbent licensees as small businesses under the SBA definition.

4. Paging

The Commission has proposed a two-tier definition of small businesses in the context of auctioning geographic area paging licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$15 million. Since the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, there were 172 "paging and other mobile" carriers reporting that they engage in these services.¹⁶ Consequently, the Commission estimates that there are fewer than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

5. Air-Ground radiotelephone service

The Commission has not adopted a definition of small business specific to the Air-Ground radiotelephone service.¹⁷ Accordingly, the Commission will use the SBA definition applicable to

¹⁶ FCC, *Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier)* (Nov. 1997).

¹⁷ Air-Ground radiotelephone service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground radiotelephone service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

6. Specialized Mobile Radio (SMR)

The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years. This regulation defining "small entity" in the context of 900 MHz SMR has been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes for purposes of this IRFA that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses won by winning bidders, of which 38 licenses were won by small or very small entities.

7. Private Land Mobile Radio Services (PLMR)

PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. The Commission has not developed a definition of small entities specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. The Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Any entity engaged in a commercial activity is eligible to hold a PLMR license, therefore these proposed rules could potentially impact every small business in the United States.

8. Aviation and Marine radio service

Small entities in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules. Most applicants for individual recreational licenses are individuals.¹⁸ Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of the evaluations and conclusions in this IRFA, the Commission estimates that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA.

¹⁸ The Commission no longer requires individual licenses.

9. Offshore radiotelephone service

This service operates on several ultra high frequency (UHF) TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications. The Commission assumes, for purposes of this IRFA, that all of the 55 licensees are small entities, as that term is defined by the SBA.

10. General Wireless Communication Service

This service was created by the Commission on July 31, 1995¹⁹ by transferring 25 MHz of spectrum in the 4660-4685 MHz band from the federal government to private sector use. The Commission has scheduled the GWCS auction for May 27, 1998.²⁰ The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

11. Fixed Microwave services

Microwave services includes common carrier fixed,²¹ private operational fixed,²² and broadcast auxiliary radio services.²³ At present, there are 22,015 common carrier fixed licensees and approximately 61,670 private operational fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity with less than 1,500 persons. The Commission estimates that

¹⁹ See Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, ET Docket No. 94-32, *Second Report and Order*, 11 FCC Rcd 624 (1995).

²⁰ See "FCC Announces Auction Schedule for the General Wireless Communications Service," *Public Notice*, DA 97-2634 (rel. Dec. 17, 1997).

²¹ 47 C.F.R. § 101 *et seq.* (formerly Part 21 of the Commission's rules).

²² Persons eligible under Parts 80 and 90 of the Commission's rules can use private Operational Fixed Microwave services. See, 47 C.F.R. § 80.1 *et seq.*, 47 C.F.R. § 90.1 *et seq.* Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use an operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

²³ Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's rules. See 47 C.F.R. § 74.1 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points, such as a main studio and an auxiliary studio. The broadcast auxiliary microwave services also include mobile TV pickups which relay signals from a remote location back to the studio. This service is not included within the scope of this *NPRM*.

for purposes of this IRFA all of the Fixed Microwave licensees (excluding broadcast auxiliary radio licensees) would qualify as small entities under the SBA definition for radiotelephone communications.

12. Commercial Radio Operators (restricted and commercial)

There are several types of commercial radio operator licenses. Individual licensees are tested by Commercial Operator License Examination managers (COLEMs).²⁴ COLEMs file the applications on behalf of the licensee. The Commission has not developed a definition for a small business or small organization that is applicable for COLEMs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field..."²⁵ The Commission's rules do not specify the nature of the entity that may act as a COLEM.²⁶ However, all of the COLEM organizations would appear to meet the RFA definition for small organizations.

13. Amateur Radio services

Amateur Radio service licensees are coordinated by Volunteer Examiner Coordinators (VECs).²⁷ The Commission has not developed a definition for a small business or small organization that is applicable for VECs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field..."²⁸ The Commission's rules do not specify the nature of the entity that may act as a VEC. All of the sixteen VEC organizations would appear to meet the RFA definition for small organizations.

²⁴ Currently there are seven COLEMs. Each COLEM is required to offer testing nationwide. To accomplish this each COLEM subcontracts with testing centers and schools across the country to administer tests.

²⁵ 5 U.S.C. § 601(4).

²⁶ A COLEM is an organization that has entered into a written agreement with the FCC to coordinate the examinations for commercial operators. The COLEM organization must agree to coordinate the examinations for one or more types of commercial radio operator licenses and/or endorsements, agree to assure that every examinee is registered without regard to race, sex, religion, national origin, or membership (or lack thereof) in any organization, and cooperate in maintaining examination records available to the FCC and agree not to administer an examination to an employee, relative, or relative of an employee. See 47 C.F.R. § 13.213 which outline the qualifications for COLEMs.

²⁷ ARRL/VEC and the W5YI-VEC are components of organizations that publish materials marketed to persons for the purpose of preparing for passing the examinations required for the grant of an amateur operator license. This publishing activity is separate from their VEC activity. A VEC is an organization that has entered into a written agreement with the FCC to coordinate the examinations for amateur operator licenses. The examinations are prepared and administered by tens of thousands of amateur operators who serve as Volunteer Examiners. The VEC organization must exist for the purpose of furthering the amateur service, be capable of service as a VEC in at least one of the thirteen VEC regions, agree to coordinate the examinations, agree to assure that every examinee is registered without regard to race, sex, religion, national origin or membership in any amateur service organization, and cooperate in maintaining the question pools for VECs. See 47 C.F.R. §§ 97.521 and 97.523, which outline the qualifications for VECs and question pools.

²⁸ 5 U.S.C. § 601(4).

14. Personal Radio services

Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. These services include citizen band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).²⁹ Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition.

15. Public Safety radio services and governmental entities

Public Safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services.³⁰ There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small business.³¹ There are approximately 37,566 governmental entities with populations of less than 50,000.³² The RFA also includes small governmental entities as a part of the regulatory flexibility analysis.³³ The definition of a small governmental entity is one with a population

²⁹ In the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service, and Family Radio Service (FRS) are governed by subpart D, subpart A, subpart C, and subpart B, respectively, of Part 95 of the Commission's rules. 47 C.F.R. §§ 95.401 through 95.428; 47 C.F.R. §§ 95.1 through 95.181; 47 C.F.R. §§ 95.201 through 95.225; 47 C.F.R. §§ 95.191 through 95.194.

³⁰ With the exception of the special emergency service, these services are governed by subpart B of part 90 of the Commission's rules. 47 C.F.R. §§ 90.15 through 90.27. The police service includes 26,608 licensees that serve state, county and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the actual delivery of emergency medical treatment. 47 C.F.R. §§ 90.15 through 90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities and emergency repair of public communication facilities. 47 C.F.R. §§ 90.33 through 90.55.

³¹ 5 U.S.C. § 601(5).

³² U.S. Department of Commerce, Bureau of Census, 1992 Census of Governments.

³³ See 5 U.S.C. § 601(5) (including cities, counties, towns, townships, villages, school districts, or special districts).

of less than 50,000.³⁴ There are 85,006 governmental entities in the nation.³⁵ This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000; however, this number includes 38,978 counties, cities, and towns and of those, 37,566 or 96 percent, have populations of fewer than 50,000.³⁶ The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 96 percent or 81,600 are small entities that may be affected by our rules.

16. Rural Radiotelephone Service

The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.³⁷ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).³⁸ The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

17. Marine Coast Service

The Commission has not adopted a definition of small business specific to the Marine Coast Service. The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing no more than 1,500 persons. There are approximately 10,500 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

18. Wireless Communications Services (WCS)

WCS is a wireless service, which can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined "small business" for the WCS auction as an entity with average gross revenues of \$40 million for each of the three preceding years.³⁹ The Commission auctioned geographic area licenses in the WCS service. There were seven winning bidders who qualified as very small business entities and one small business entity in the WCS auction. Based on this information, the Commission concludes that the number of geographic area WCS licensees affected include these eight entities.

³⁴ *Id.*

³⁵ 1992 Census of Governments, Bureau of the Census, U.S. Department of Commerce.

³⁶ *Id.*

³⁷ Rural Radiotelephone Service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

³⁸ BETRS is defined in sections 22.757 and 22.729 of the Commission's rules, 47 C.F.R. §§ 22.757, 22.729.

³⁹ See Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), GN Docket 96-228, *Report and Order*, 12 FCC Rcd 10785 (1997).

In addition to the above estimates, new applicants in the wireless radio services will be affected by these rules, if adopted. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide information regarding how many small business entities will be affected by the proposed rules. Comments relating to the number of small business entities affected are due by the deadlines contained in the NPRM.

D. Description of reporting, record keeping and other compliance requirements:

All wireless radio services will be subject to processing through the ULS if the proposed rules are adopted. Under the proposed rules, all new wireless radio services license applications will be processed through ULS using one or more of the new forms. See Appendix A to the NPRM. In addition, any modification to an existing license will also use the new forms and will be entered and processed in the ULS. Other notifications that are required by the proposed rules, as outlined earlier in the NPRM, will also be filed with the new standard forms and processed through ULS.⁴⁰ As noted, we expect that once the ULS is implemented the overall compliance burdens associated with these forms will be reduced.⁴¹

Under the proposed rules, each applicant or licensee must submit the appropriate application form depending on the purpose of the application. In addition, some licensees may be required to submit or confirm ownership information on an annual basis. The NPRM seeks comment on whether manual filing will be permitted. Electronic filing through the ULS should be easier for applicants than the current system. The ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. The system will allow the applicant to correct their applications prior to submitting them, saving time and processing steps for the FCC and the applicants. The Commission notes that electronic filing will require a modem equipped computer to file interactively through the FCC private wide area network, which may be burdensome for some filers.

The ULS was designed to identify each individual licensee by their taxpayer identification number (TIN) assigned to the entity or individual (social security number will be used in the case of an individual filing for a license). The TIN is required by licensees pursuant to the Debt Collection Act of 1995.⁴² All existing licensees will be required to identify all of their call signs and their TIN.⁴³ The system will assign a unique sequential identification number to each entity or individual. This number will be used instead of the TIN for public queries to the ULS database. Uniquely identifying entities and associating their license records to the entity will eliminate the data collection requirement for modifications and new license applications that are filed electronically through the ULS.

⁴⁰ The Commission proposes to utilize the new Form 602, developed for ULS, as the common form on which all wireless applicants and licensees submit required ownership information in connection with any application or licensing change. See NPRM, section III.D.3.

⁴¹ See NPRM at para. 20.

⁴² Omnibus Consolidation Rescissions and Appropriations Act of 1996, Pub. Law No. 104-34, Chapter 10, 110 Stat 1321, 2321-1358 (1996) (DCIA).

⁴³ See OMB Control Number 3060-0795.

E. Steps taken to minimize the significant economic impact on small entities, and significant alternatives considered:

1. Electronic Filing and Consolidated Application Forms. In services that do not require extensive technical data, such as Amateur, Maritime, Aviation, Commercial Operators, and GMRS, the Commission proposed implementing a quick form to minimize the economic impact on small entities in these services. In addition, the forms have been developed to ensure that applicants are not required to duplicate information that has been already filed with the Commission. The Commission has also proposed to modify the current copy and microfiche requirements for electronically filed applications.

2. Auction Long-Form Application Submissions. The Commission proposes to modify the current process to allow winning bidders to file a single long-form application to cover all markets. Elimination of separate filing requirements will lift the administrative burden to small businesses of having to file separate long-form applications for each license won in the auction.

3. Filings of Pleadings. The Commission proposes permitting, but not requiring, pleadings to be filed electronically. Manually filed pleadings will be scanned so that all pleadings will be easily accessible to the public. Electronic filing through the ULS should be easier for applicants than the current system because the ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. ULS will allow the applicant to correct their applications prior to submitting them. This system will allow all interested parties, including small entities, easy access to pleadings that are filed in connection with applications and licenses.

4. Standardization of Major and Minor Filing Rules. The Commission proposes to consolidate major and minor filing standards to both amendments of pending applications and to modifications of existing licenses. The current fragmented system is confusing for applicants and licensees, including small entities, because they are required to keep track of different procedures for different radio services. Licensees, especially small entities, will find it easier and more convenient to have all standards in one place in the rules.

5. Filing of Multiple Modifications. The Commission proposes to adopt a unified approach to the filing of multiple modification applications: if a modification application is pending regarding a given station parameter, and the licensee decides to elaborate upon or change that request with an additional request to modify the same or a related parameter, the document filed to effect that change will be automatically deemed an amendment to the modification, rather than a separate modification application. This will prevent applicants from filing conflicting modification requests and will prevent the Commission from erroneously granting or dismissing modification applications because they were processed out of sequence.

6. Construction Notification Requirements. The Commission is proposing to notify licensees through the ULS by mailing a reminder letter before the construction or coverage deadline. Notifications of construction or coverage would be accepted either electronically or manually. If a licensee fails to file the required notification of completion of construction or satisfaction of the coverage or substantial service requirements, the ULS would send a letter terminating the authorization. The Commission seeks comment on whether to exempt public safety entities from this procedure.

7. Annual Ownership Requirements. The Commission proposes to require submission of annual ownership information. Private mobile radio services (PMRS) licensees, while subject to some alien ownership restrictions, *i.e.*, they may not be granted to or held by a foreign government or a representative of a foreign government,⁴⁴ are not subject to most of the other restrictions placed on commercial mobile radio services (CMRS) licensees. Accordingly, PMRS licensees and private fixed microwave licensees have not previously been required to submit detailed ownership information. Here we have retained this practice of requiring a less extensive showing for PMRS. The Commission proposes that PMRS licensees be required merely to certify their status with respect to foreign government ownership or ownership by a representative of a foreign government each time they submit a Form 601.

F. Federal rules which overlap, duplicate, or conflict with these proposed rules:

None.

⁴⁴ 47 U.S.C. § 310(a).