
RULE CHANGES

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1 - PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325 (e).

2. Section 1.1117 paragraph (c) is revised to read as follows:

§1.1117 Petitions and applications for review.

(c) Petitions for waivers, deferrals, fee determinations, reconsiderations and applications for review will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission. Requests for deferral of a fee payment for financial hardship must be accompanied by supporting documentation.

(1) Petitions and applications for review submitted with a fee must be submitted to the Commission's lockbox bank at the address for the appropriate service set forth in sections 1.1102 through 1.1105 of this subpart.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

* * * * *

3. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

Exclusive use services (per license)	Fee Amount ²²	Address
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR, Part 90)		
a)New, Renew/Mod (FCC 601 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 601 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5245
220 MHz Nationwide	\$5.00	FCC
a)New, Renew/Mod (FCC 601 & 159)		P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

²² Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table must be multiplied by the 5- or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also apply as detailed in §1.1102 of this chapter.

c)Renewal Only (FCC 601 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
2. Microwave (47 CFR Pt. 101) (Private)		
a)New, Renew/Mod (FCC 601 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 601 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
3. 218-219 MHz Service		
a)New, Renew/Mod (FCC 601 & 159)	\$10.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 601 & 159)	\$10.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245

d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
--	---------	--

4. Shared Use Services

Land Mobile (Frequencies Below 470 MHz – except 220 MHz)

a)New, Renew/Mod (FCC 601 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
-------------------------------------	--------	--

b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
---	--------	--

c)Renewal Only (FCC 601 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
-----------------------------------	--------	--

d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
--	--------	--

General Mobile Radio Service

a)New, Renew/Mod (FCC 605 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
-------------------------------------	--------	--

b)New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
--	--------	--

c)Renewal Only (FCC 605 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
-----------------------------------	--------	--

d)Renewal Only (Electronic Filing) (FCC 605 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Rural Radio (Part 22)		
a)New, Additional Facility. Major Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
b)Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Marine Coast		
a)New Renewal/Mod (FCC 601 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)Renewal Only (FCC 601 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
c)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Aviation Ground		
a)New, Renewal/Mod (FCC 601 & 159)	\$10.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)Renewal Only (FCC 601 & 159)	\$10.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
c)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

Marine Ship		
a)New. Renewal/Mod (FCC 605 & 159)	\$10.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New. Renewal/Mod (Electronic Filing) (FCC 605 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 605 & 159)	\$10.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 605 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Aviation Aircraft		
a)New. Renew/Mod (FCC 605 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New. Renew/Mod (Electronic Filing) (FCC 605 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 605 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 605 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
5. Amateur Vanity Call Signs	\$1.20	FCC
a)Initial or Renew (FCC 605 & 159)		P.O. Box 358130 Pittsburgh, PA 15251-5130

b)Initial or Renew (Electronic Filing) (FCC 605 & 159)	\$1.20	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
6. CMRS Mobile Services (per unit) (FCC 159)	\$.27	FCC P.O. Box 358835 Pittsburgh, PA 15251-5835
7. CMRS Messaging Services (per unit) (FCC 159)	\$.05	FCC P.O. Box 358835 Pittsburgh, PA 15251-5835

4. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

Radio [AM and FM] (47 CFR, Part 73)	Fee Amount	Address
1. <u>AM Class A</u>		
<=20,000 population	\$450	FCC, Radio
20,001-50,000 population	\$850	P.O. Box 358835
50,001-125,000 population	\$1,375	Pittsburgh, PA
125,001-400,000 population	\$2,050	15251-5835
400,001-1,000,000 population	\$2,850	
>1,000,000 population	\$4,550	
2. <u>AM Class B</u>		
<=20,000 population	\$350	
20,001-50,000 population	\$675	
50,001-125,000 population	\$900	
125,001-400,000 population	\$1,450	
400,001-1,000,000 population	\$2,300	
>1,000,000 population	\$3,750	

3.	<u>AM Class C</u>	
	<=20,000 population	\$250
	20,001-50,000 population	\$350
	50,001-125,000 population	\$475
	125,001-400,000 population	\$725
	400,001-1,000,000 population	\$1,300
	>1,000,000 population	\$1,900
4.	<u>AM Class D</u>	
	<=20,000 population	\$300
	20,001-50,000 population	\$475
	50,001-125,000 population	\$700
	125,001-400,000 population	\$875
	400,001-1,000,000 population	\$1,550
	>1,000,000 population	\$2,400
5.	AM Construction Permit	\$280
6.	<u>FM Classes A, B1 and C3</u>	
	<=20,000 population	\$350
	20,001-50,000 population	\$675
	50,001-125,000 population	\$900
	125,001-400,000 population	\$1,450
	400,001-1,000,000 population	\$2,300
	>1,000,000 population	\$3,750
7.	<u>FM Classes B, C, C1 and C2</u>	
	<=20,000 population	\$450
	20,001-50,000 population	\$850
	50,001-125,000 population	\$1,375
	125,001-400,000 population	\$2,050
	400,001-1,000,000 population	\$2,850
	>1,000,000 population	\$4,550
8.	FM Construction Permits	\$925

TV (47 CFR, Part 73)**VHF Commercial**

1.	Markets 1 thru 10	\$45,100	FCC, TV Branch
2.	Markets 11 thru 25	\$32,825	P.O. Box 358835
3.	Markets 26 thru 50	\$21,325	Pittsburgh, PA
4.	Markets 51 thru 100	\$13,750	15251-5835
5.	Remaining Markets	\$ 3,275	
6.	Construction Permits	\$ 3,075	

UHF Commercial

1.	Markets 1 thru 10	\$15,150	FCC, UHF Commercial
2.	Markets 11 thru 25	\$12,300	P.O. Box 358835
3.	Markets 26 thru 50	\$ 7,075	Pittsburgh, PA
4.	Markets 51 thru 100	\$ 4,075	15251-5835
5.	Remaining Markets	\$ 1,150	
6.	Construction Permits	\$ 4,000	

Satellite UHF/VHF Commercial

1.	All Markets	\$ 740	FCC Satellite TV
2.	Construction Permits	\$ 480	P.O. Box 358835
			Pittsburgh, PA
			15251-5835

Low Power TV, TV/FM Translator, & TV/FM Booster (47 CFR Part 74)	\$ 305	FCC, Low Power P.O. Box 358835 Pittsburgh, PA 15251-5835
---	--------	---

Broadcast Auxiliary	\$ 10	FCC, Auxiliary P.O. Box 358835 Pittsburgh, PA 15251-5835
----------------------------	-------	---

Multipoint Distribution	\$ 450	FCC, Multipoint P.O. Box 358835 Pittsburgh, PA 15251-5835
--------------------------------	--------	--

5. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

Radio Facilities	Fee Amount	Address
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

Carriers

1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499-A))	\$.00132	FCC, Carriers P.O. Box 358835 Pittsburgh, PA 15251-5835
6. Section 1.1155 is revised to read as follows:		

§ 1.1155 Schedule of regulatory fees and filing locations for cable television services.

	Fee Amount	Address
1. Cable Television Relay Service	\$55	FCC, Cable
2. Cable TV System (per subscriber)	\$.49	P.O. Box 358835 Pittsburgh, PA 15251-5835

7. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international services.

Radio Facilities	Fee Amount	Address
1. International (HF) Broadcast	\$680	FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835
2. International Public Fixed	\$1,275	FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835

Space Stations (Geostationary Orbit)	\$98,125	FCC, Space Stations P.O. Box 358835 Pittsburgh, PA 15251-5835
Space Stations (Non-Geostationary Orbit)	\$94,425	FCC, Space Stations P.O. Box 358835 Pittsburgh, PA 15251-5835
Earth Stations Transmit/Receive & Transmit Only (per authorization or registration)	\$180	FCC, Earth Station P.O. Box 358835 Pittsburgh, PA 15251-5835
Carriers		
1. International Bearer Circuits (per active 64KB circuit or equivalent)	\$ 5.00	FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835

8. Section 1.1166 paragraph (a) is revised to read as follows:

§1.1166 Waivers, reductions and deferrals of regulatory fees.

(a) Requests for waivers, reductions or deferrals will be acted upon by the Managing Director with the concurrence of the General Counsel. All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director. Any such request that is not filed as a separate pleading will not be considered by the Commission.

(1) If the request for waiver, reduction or deferral is accompanied by a fee payment, the request must be submitted to the Commission's lockbox bank at the address for the appropriate service set forth in sections 1.1152 through 1.1156 of this subpart.

(2) If no fee payment is submitted, the request should be filed with the Commission's Secretary.

* * * * *

FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act (RFA),²³ an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the Notice of Proposed Rulemaking, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2001.²⁴ The Commission sought written public comments on the proposals in its FY 2001 regulatory fees NPRM, including comments on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.²⁵

I. Need for, and Objectives of, the Proposed Rules:

2. This rulemaking proceeding was initiated to collect regulatory fees in the amount of \$200,146,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its revised fees, as contained in the attached Schedule of Regulatory Fees, in the most efficient manner possible and without undue burden on the public.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA:

3. None

III. Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply:

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.²⁶ The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."²⁷ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.²⁸ A small business concern is one which:

²³ 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

²⁴ 66 FR 19681 (April 16, 2001).

²⁵ 5 U.S.C. 604.

²⁶ 5 U.S.C. 603(b)(3).

²⁷ 5 U.S.C. 601(6).

²⁸ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. 601(3).

(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).²⁹ A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."³⁰ Nationwide, as of 1992, there were approximately 275,801 small organizations.³¹ "Small governmental jurisdiction"³² generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."³³ As of 1992, there were approximately 85,006 governmental entities in the United States.³⁴ This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96%, have populations of fewer than 50,000.³⁵ The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96%) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by these rules.

CABLE SERVICES OR SYSTEMS

5. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in revenue annually.³⁶ This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.³⁷

6. The Commission has developed its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.³⁸ Based on our most recent information, we estimate that there were

²⁹ Small Business Act, 15 U.S.C. 632 (1996).

³⁰ 5 U.S.C. 601(4).

³¹ 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

³² 47 CFR 1.1162

³³ 5 U.S.C. 601(5).

³⁴ U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

³⁵ Id.

³⁶ 13 CFR 121.201, North American Industry Classification System (NAICS) codes 51321 and 51322.

³⁷ 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, NAICS codes 51321 and 51322 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

³⁸ 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393 (1995), 60 FR 10534 (Feb. 27,

1,439 cable operators that qualified as small cable system operators at the end of 1995.³⁹ 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.

7. The Communications Act of 1934, as amended, also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."⁴⁰ The Commission has determined that there are 67,700,000 subscribers in the United States.⁴¹ Therefore, we estimate that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.⁴² Based on available data, we estimate that the number of cable operators serving 677,000 subscribers or less totals 1,450.⁴³ We do not request nor collect information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,⁴⁴ and therefore are unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

8. Other Pay Services. Other pay television services are also classified under the North American Industry Classification System (NAICS) codes 51321 and 51322, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS),⁴⁵ multipoint distribution systems (MDS),⁴⁶ satellite master antenna systems (SMATV), and subscription television services.

1995).

³⁹ Paul Kagan Associates, Inc., Cable TV Investor, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

⁴⁰ 47 U.S.C. 543(m)(2).

⁴¹ Annual Assessment of the Status on Competition in the Market for the Delivery of Video Programming, CS Docket No. 00-132, Seventh Annual Report, FCC 01-1 (released January 8, 2001), Table C-1.

⁴² Id. 76.1403(b).

⁴³ FCC Announces New Subscriber Count for the Definition of Small Cable Operator, Public Notice, DA-01-0158 (released January 24, 2001).

⁴⁴ We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.1403(b) of the Commission's rules. See 47 CFR 76.1403(d).

⁴⁵ Direct Broadcast Services (DBS) are discussed with the international services, infra.

⁴⁶ Multipoint Distribution Services (MDS) are discussed with the mass media services, infra.

COMMON CARRIER SERVICES AND RELATED ENTITIES

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide appears to be data the Commission publishes annually in its Carrier Locator report, which encompasses data compiled from FCC Form 499-A Telecommunications Reporting Worksheets.⁴⁷ According to data in the most recent report, there are 4,822 interstate service providers.⁴⁸ These providers include, *inter alia*, incumbent local exchange carriers, competitive access providers (CAPS)/competitive local exchange carriers (CLECs), local resellers and other local exchange carriers, interexchange carriers, operator service providers, prepaid calling card providers, toll resellers, and other toll carriers.

10. We have included small incumbent local exchange carriers (LECs)⁴⁹ in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."⁵⁰ The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.⁵¹ We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

11. **Total Number of Telephone Companies Affected.** The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.⁵² This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated."⁵³ It seems reasonable to conclude that fewer than 3,497 telephone service firms are small

⁴⁷ FCC, Common Carrier Bureau, Industry Analysis Division, Carrier Locator: Interstate Service Providers, Table 1 (October 2000) (*Carrier Locator*).

⁴⁸ FCC, Carrier Locator at Table 1.

⁴⁹ See 47 U.S.C. 251(h) (defining "incumbent local exchange carrier").

⁵⁰ 5 U.S.C. 601(3).

⁵¹ Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, *e.g.*, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket, 96-98, First Report and Order, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996).

⁵² U.S. Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size, at Firm Size 1-123 (1995) (1992 Census).

entity telephone service firms or small incumbent LECs that may be affected by these revised rules.

12. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.⁵⁴ According to the SBA's definition, a small business telephone company other than a radiotelephone (wireless) company is one employing no more than 1,500 persons.⁵⁵ All but 26 of the 2,321 non-radiotelephone (wireless) companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Even if all 26 of the remaining companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone (wireless) companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Therefore, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone (wireless) companies are small entities or small incumbent LECs that may be affected by these revised rules.

13. Local Exchange Carriers (LECs), Competitive Access Providers (CAPs), Interexchange Carriers (IXCs), Operator Service Providers (OSPs), Payphone Providers, and Resellers. Neither the Commission nor the SBA has developed a definition for small LECs, competitive access providers (CAPs), interexchange carriers (IXCs), operator service providers (OSPs), payphone providers, or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁵⁶ The most reliable source of information that we know regarding the number of these carriers nationwide appears to be the data that we collect annually in connection with the TRS.⁵⁷ According to our most recent data, there are 1,395 incumbent and other LECs, 349 CAPs and competitive local exchange carriers (CLECs), 204 IXCs, 21 OSPs, 758 payphone providers, 21 prepaid calling card providers, 17 other toll carriers, and 541 local and toll resellers.⁵⁸ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under the SBA's definition. Therefore, we estimate that there are fewer than 1,395 small entity incumbent and other LECs, 349 CAPs/CLECs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 local and toll resellers that may be affected by these revised rules.

⁵³ See generally 15 U.S.C. 632(a)(1).

⁵⁴ 1992 Census, *supra*, at Firm Size 1-123.

⁵⁵ 13 CFR 121.201, NAICS codes 51331, 51333, and 51334.

⁵⁶ 13 CFR 121.201, NAICS codes 51331, 51333, and 51334.

⁵⁷ See Carrier Locator at Table 1.

⁵⁸ Carrier Locator at Table 1. The total for resellers includes both toll resellers and local resellers.

INTERNATIONAL SERVICES

14. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).⁵⁹ This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.⁶⁰ According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than \$10.0 million.⁶¹ The Census report does not provide more precise data.

15. **International Broadcast Stations.** Commission records show that there are 17 international high frequency broadcast station authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of international high frequency broadcast stations that would constitute a small business under the SBA definition. However, the Commission estimates that only five international high frequency broadcast stations are subject to regulatory fee payments.

16. **International Public Fixed Radio (Public and Control Stations).** There is one licensee in this service subject to payment of regulatory fees, and the licensee does not constitute a small business under the SBA definition.

17. **Fixed Satellite Transmit/Receive Earth Stations.** There are approximately 2,784 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

18. **Fixed Satellite Small Transmit/Receive Earth Stations.** There are approximately 2,784 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and are unable to estimate the number of fixed small satellite transmit/receive earth stations that would constitute a small business under the SBA definition.

19. **Fixed Satellite Very Small Aperture Terminal (VSAT) Systems.** These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single "blanket" application may be filed for a specified number of small antennas and one or more hub stations. There are 492 current VSAT System authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of VSAT systems that would constitute a small business under the SBA definition.

⁵⁹ An exception is the Direct Broadcast Satellite (DBS) Service. *infra*.

⁶⁰ 13 CFR 121.201, NAICS codes 48531, 513322, 51334, and 51339.

⁶¹ 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, NAICS codes 48531, 513322, 51334, and 513391 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

20. **Mobile Satellite Earth Stations.** There are 15 licensees. We do not request nor collect annual revenue information, and are unable to estimate the number of mobile satellite earth stations that would constitute a small business under the SBA definition.
21. **Radio Determination Satellite Earth Stations.** There are four licensees. We do not request nor collect annual revenue information, and are unable to estimate the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.
22. **Space Stations (Geostationary).** There are presently 66 Geostationary Space Station authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.
23. **Space Stations (Non-Geostationary).** There are presently six Non-Geostationary Space Station authorizations, of which only three systems are operational. We do not request nor collect annual revenue information, and are unable to estimate the number of non-geostationary space stations that would constitute a small business under the SBA definition.
24. **Direct Broadcast Satellites.** Because DBS provides subscription services, DBS falls within the SBA-recognized definition of "Cable and Other Pay Television Services."⁶² This definition provides that a small entity is one with \$11.0 million or less in annual receipts.⁶³ Currently, there are nine DBS authorizations, though there are only two DBS companies in operation at this time. We do not request nor collect annual revenue information for DBS services, and are unable to determine the number of DBS operators that would constitute a small business under the SBA definition.

MASS MEDIA SERVICES

25. **Commercial Radio and Television Services.** The proposed rules and policies will apply to television broadcasting licensees and radio broadcasting licensees.⁶⁴ The SBA defines a television broadcasting station that has \$10.5 million or less in annual receipts as a small business.⁶⁵ Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by

⁶² 13 CFR 121.201, NAICS codes 51321 and 51322.

⁶³ 13 CFR 121.201, NAICS codes 51321 and 51322.

⁶⁴ While we tentatively believe that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this NPRM we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt, in the future, a more suitable definition of "small business" as applied to radio and television broadcast stations or other entities subject to the proposed rules in this NPRM, and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities. See Report and Order in MM Docket No. 93-48 (Children's Television Programming), 11 FCC Rcd 10660, 10737-38 (1996), 61 FR 43981 (Aug. 27, 1996), citing 5 U.S.C. 601(3).

⁶⁵ 13 CFR 121.201, NAICS code 51312.

television to the public, except cable and other pay television services.⁶⁶ Included in this industry are commercial, religious, educational, and other television stations.⁶⁷ Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.⁶⁸ Separate establishments primarily engaged in producing taped television program materials are classified under another NAICS number.⁶⁹ There were 1,509 television stations operating in the nation in 1992.⁷⁰ That number has remained fairly constant as indicated by the approximately 1,663 operating television broadcasting stations in the nation as of September 30, 2000.⁷¹ For 1992,⁷² the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.⁷³ Only commercial stations are subject to regulatory fees.

26. Additionally, the SBA defines a radio broadcasting station that has \$5 million or less in annual receipts as a small business.⁷⁴ A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.⁷⁵ Included in this industry are commercial, religious, educational, and other radio stations.⁷⁶ Radio broadcasting stations, which primarily are engaged in

⁶⁶ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92-S-1, Appendix A-9 (1995) (1992 Census, Series UC92-S-1).

⁶⁷ Id.; see Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes "Television Broadcasting Stations" (SIC code 4833, now NAICS code 51312) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

⁶⁸ 1992 Census, Series UC92-S-1, at Appendix A-9.

⁶⁹ Id., NAICS code 51211 (Motion Picture and Video Tape Production); NAICS 51229 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

⁷⁰ FCC News Release No. 31327 (January 13, 1993); 1992 Census, Series UC92-S-1, at Appendix A-9.

⁷¹ FCC News Release, "Broadcast Station Totals as of September 30, 2000."

⁷² A census to determine the estimated number of Communications establishments is performed every five years, in years ending with a "2" or "7." See 1992 Census, Series UC92-S-1, at III.

⁷³ The amount of \$10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at \$9,999,999 and began at \$10,000,000. No category for \$10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

⁷⁴ 13 CFR 121.201, NAICS codes 513111 and 513112.

⁷⁵ 1992 Census, Series UC92-S-1, at Appendix A-9.

⁷⁶ Id.

radio broadcasting and which produce radio program materials, are similarly included.⁷⁷ However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number.⁷⁸ The 1992 Census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than \$5 million in revenue in 1992.⁷⁹ Official Commission records indicate that a total of 11,334 individual radio stations were operating in 1992.⁸⁰ As of September 30, 2000, Commission records indicate that a total of 12,717 radio stations were operating, of which 8,032 were FM stations.⁸¹ Only commercial stations are subject to regulatory fees.

27. The rules may affect an estimated total of 1,663 television stations, approximately 1,281 of which are considered small businesses.⁸² The revised rules will also affect an estimated total of 12,717 radio stations, approximately 12,209 of which are small businesses.⁸³ These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 2,366 low power television stations (LPTV).⁸⁴ Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

28. Auxiliary, Special Broadcast and Other Program Distribution Services. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. The applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.⁸⁵

29. The Commission estimates that there are approximately 2,700 translators and boosters. The

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

⁸⁰ FCC News Release, No. 31327 (Jan. 13, 1993).

⁸¹ FCC News Release, "Broadcast Station Totals as of September 30, 2000."

⁸² We use an estimated figure of 77 percent (from 1992) of TV stations operating at less than \$10 million and apply it to the 2000 total of 1,663 TV stations to arrive at 1,281 stations categorized as small businesses.

⁸³ We use the 96% figure of radio station establishments with less than \$5 million revenue from data presented in the year 2000 estimate (*FCC News Release*, September 30, 2000) and apply it to the 12,717 individual station count to arrive at 12,209 individual stations as small businesses.

⁸⁴ FCC News Release, "Broadcast Station Totals as of September 30, 2000."

⁸⁵ 13 CFR 121.201, NAICS codes 513111 and 513112.

Commission does not collect financial information on any broadcast facility, and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most commercial translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either \$5 million for a radio station or \$10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.⁸⁶

30. **Multipoint Distribution Service (MDS).** This service has historically provided primarily point-to-multipoint, one-way video services to subscribers.⁸⁷ The Commission recently amended its rules to allow MDS licensees to provide a wide range of high-speed, two-way services to a variety of users.⁸⁸ In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of \$40 million.⁸⁹ The Commission established this small business definition in the context of this particular service and with the approval of the SBA.⁹⁰ The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs).⁹¹ Of the 67 auction winners, 61 met the definition of a small business. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that are considered small entities.⁹² After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 MDS licensees that are defined as small businesses under either the SBA or the Commission's rules. Some of those 440 small business licensees may be affected by the proposals in this Order.

⁸⁶ 15 U.S.C. 632.

⁸⁷ For purposes of this item, MDS includes both the single channel Multipoint Distribution Service (MDS) includes Local Multipoint Distribution Service (LMDS), and the Multichannel Multipoint Distribution Service (MMDS).

⁸⁸ *Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, 13 FCC Rcd 19112 (1998), *recon.*, 14 FCC Rcd 12764 (1999), *further recon.*, 15 FCC Rcd 14566 (2000).

⁸⁹ 47 CFR 21.961 and 1.2110.

⁹⁰ Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act - Competitive Bidding, 10 FCC Rcd 9589, 9670 (1995), 60 FR 36524 (July 17, 1995).

⁹¹ Basic Trading Areas (BTAs) were designed by Rand McNally and are the geographic areas by which MDS was auctioned and authorized. *See id.* At 9608.

⁹² 47 U.S.C. 309(j). (Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. Section 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard for "other telecommunications" (annual receipts of \$11 million or less). *See* 13 CFR 121.201.

WIRELESS AND COMMERCIAL MOBILE SERVICES

31. **Cellular Licensees.** Neither the Commission nor the SBA has developed a definition of small entities specific to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons.⁹³ According to the Census Bureau, only twelve radiotelephone (wireless) firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.⁹⁴ Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Telecommunications Reporting Worksheets* data, 806 wireless telephony providers reported that they were engaged in the provision of either cellular service, Personal Communications Service (PCS) services, and SMR telephony carriers, which are placed together in the data.⁹⁵ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small wireless service providers that may be affected by these revised rules.

32. **220 MHz Radio Service -- Phase I Licensees.** The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone (wireless) Communications companies. This definition provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons.⁹⁶ According to the Census Bureau, only 12 radiotelephone (wireless) firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.⁹⁷ If this general ratio continues in 2001 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

33. **220 MHz Radio Service -- Phase II Licensees.** The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, we adopted criteria for

⁹³ 13 CFR 121.201, NAICS code 513322.

⁹⁴ 1992 Census, Series UC92-S-1, at Table 5, NAICS code 513322.

⁹⁵ Trends in Telephone Service, Table 16.3 (December 2000).

⁹⁶ 13 CFR 121.201, NAICS code 513322.

⁹⁷ U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, NAICS codes 513321, 513322, and 51333.

defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.⁹⁸ We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed \$3 million for the preceding three years.⁹⁹ The SBA has approved these definitions.¹⁰⁰ Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.¹⁰¹ In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold.¹⁰² Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.¹⁰³

34. 700 MHz Guard Band Licenses. In the *700 MHz Guard Band Order*, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.¹⁰⁴ We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000.¹⁰⁵ Of the 104 licenses auctioned, 96 licenses were sold to 9 bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.¹⁰⁶

⁹⁸ *220 MHz Third Report and Order*, 12 FCC Rcd 10943, 11068-70, at paragraphs 291- 295 (1997).

⁹⁹ *220 MHz Third Report and Order*, 12 FCC Rcd at 11068-69, paragraph 291.

¹⁰⁰ See Letter to D. Python, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (January 6, 1998).

¹⁰¹ See generally Public Notice, "220 MHz Service Auction Closes," Public Notice, 14 FCC Rcd 605 (1998).

¹⁰² Public Notice, "FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made," Public Notice, 14 FCC Rcd 1085 (1999).

¹⁰³ "Phase II 220 MHz Service Spectrum Auction Closes", Public Notice, 14 FCC Rcd 11218 (1999).

¹⁰⁴ See Service Rules for the 746-764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *Second Report and Order*, 65 FR 17599 (April 4, 2000).

¹⁰⁵ See generally Public Notice, "220 MHz Service Auction Closes," Report No. WT 98-36 (Wireless Telecommunications Bureau, October 23, 1998).

¹⁰⁶ "700 MHz Guard Bands Auction Closes," Public Notice, DA 01-478 (rel. February 22, 2001).

35. Private and Common Carrier Paging. In the *Paging Third Report and Order*, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.¹⁰⁷ We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.¹⁰⁸ The SBA has approved these definitions.¹⁰⁹ An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000.¹¹⁰ Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services, which are placed together in the data.¹¹¹ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by these revised rules. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

36. Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequencies designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.¹¹² For Block F, 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 three calendar years.¹¹³ These regulations

¹⁰⁷ 220 MHz *Third Report and Order*, 62 FR 16004 (April 3, 1997), at paragraphs 291-295.

¹⁰⁸ 700 MHz Guard Band Auction Closes," Public Notice, 15 FCC Rcd 18026 (2000).

¹⁰⁹ "Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems," Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, at paragraph 98-107 (1999).

¹¹⁰ "Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems," Memorandum Opinion and Order on Reconsideration and Third Report and Order, 14 FCC Rcd 10030, at paragraph 98 (1999).

¹¹¹ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

¹¹² See generally "929 and 931 MHz Paging Auction Closes," Public Notice, 15 FCC Rcd 4858 (2000).

¹¹³ See Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, *Report and Order*, FCC 96-278, WT Docket No. 96-59 Sections 60 (released June 24, 1996), 61 FR 33859 (July 1, 1996).

defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.¹¹⁴ No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.¹¹⁵ On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. An additional classification for "very small business" was added for C Block and is defined as "an entity that together with its affiliates and persons or entities that hold interest in such entity and their affiliates, has average annual gross revenues that are not more than forty million dollars for the preceding three years."¹¹⁶ The SBA approved this definition.¹¹⁷ Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

37. Narrowband PCS. To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of \$40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order*.¹¹⁸ A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million. These definitions have been approved by the SBA.¹¹⁹ In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas

¹¹⁴ See, e.g., Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5581-84 (1994).

¹¹⁵ FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (released January 14, 1997).

¹¹⁶ See Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, Fourth Report and Order, 13 FCC Rcd 15743 at 15767-68, paragraphs 45-46 (1998).

¹¹⁷ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

¹¹⁸ In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, Docket No. ET 92-100, Docket No. PP 93-253, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 65 FR 35875 (June 6, 2000).

¹¹⁹ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

(MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this FRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

38. Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.¹²⁰ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).¹²¹ We will use the SBA's definition applicable to radiotelephone (wireless) companies, *i.e.*, an entity employing no more than 1,500 persons.¹²² There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

39. Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.¹²³ We will use the SBA's definition applicable to radiotelephone (wireless) companies, *i.e.*, an entity employing no more than 1,500 persons.¹²⁴ There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

40. Specialized Mobile Radio (SMR). Pursuant to 47 CFR 90.814(b)(1), the Commission has defined "small business" for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of \$15 million or less in the three preceding calendar years.¹²⁵ The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions.¹²⁶ Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the \$15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997.¹²⁷ Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz

¹²⁰ The service is defined in § 22.99 of the Commission's Rules, 47 CFR 22.99.

¹²¹ BETRS is defined in §§ 22.757 and 22.759 of the Commission's Rules, 47 CFR 22.757 and 22.759.

¹²² 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

¹²³ The service is defined in § 22.99 of the Commission's Rules, 47 CFR 22.99.

¹²⁴ 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

¹²⁵ 47 CFR 90.814(b)(1).

¹²⁶ See Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (August 10, 1999).

¹²⁷ See Letter to Daniel B. Python, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez.

SMR band qualified as small businesses under the \$15 million size standard.¹²⁸ An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the \$15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. Thus, 40 winning bidders for geographic licenses in the 800 MHz SMR band qualified as small businesses. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

41. These revised fees in the Report and Order apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do 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. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

42. **Private Land Mobile Radio (PLMR).** PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity 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.

43. 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 PLMRs¹²⁹ 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. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the revised rules in this context could potentially impact every small business in the United States.

44. **Amateur Radio Service.** We estimate that 8,000 applicants will apply for vanity call signs in FY 2001. These licensees are presumed to be individuals, and therefore not small entities. All other amateur licensees are exempt from payment of regulatory fees.

45. **Aviation and Marine Radio Service.** Small businesses 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

Administrator, SBA (October 27, 1997).

¹²⁸ Id.

¹²⁹ Federal Communications Commission, 60th Annual Report, Fiscal Year 1994, at paragraph 116.

businesses. The applicable definition of small entity is the definition under the SBA rules for radiotelephone (wireless) communications.¹³⁰

46. Most applicants for recreational licenses are individuals. 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. For purposes of our evaluations and conclusions in this FRFA, we estimate 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. We estimate that only 16,800 will be subject to FY 2001 regulatory fees.

47. **Fixed Microwave Services.** Microwave services include common carrier,¹³¹ private-operational fixed,¹³² and broadcast auxiliary radio services.¹³³ At present, there are approximately 22,015 common carrier fixed licensees and 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 FRFA, we will use the SBA's definition applicable to radiotelephone (wireless) companies -- *i.e.*, an entity with no more than 1,500 persons.¹³⁴ We estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone (wireless) companies.

48. **Public Safety Radio Services.** Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.¹³⁵ There are a total of

¹³⁰ 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

¹³¹ 47 CFR 101 et seq. (formerly, part 21 of the Commission's Rules).

¹³² Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

¹³³ Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's Rules. See 47 CFR 74 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 service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

¹³⁴ 13 CFR 121.201, NAICS codes 513321, 513322, 51333.

¹³⁵ With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's Rules, 47 CFR 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

approximately 127,540 licensees within these services. Governmental entities¹³⁶ as well as private businesses comprise the licensees for these services. As indicated *supra* in paragraph four of this FRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.¹³⁷ All licensees in this category are exempt from the payment of regulatory fees.

49. **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. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).¹³⁸ Since the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition; however, only GMRS licensees are subject to regulatory fees.

50. **Offshore Radiotelephone Service.** This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal areas of states bordering the Gulf of Mexico.¹³⁹ There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's definition for radiotelephone (wireless) communications.

51. **Wireless Communications Services.** This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these definitions.¹⁴⁰ The FCC auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

(EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 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 communications facilities. 47 CFR 90.33 through 90.55.

¹³⁶ 47 CFR 1.1162.

¹³⁷ 5 U.S.C. 601(5).

¹³⁸ Licensees 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 CFR 95.401 through 95.428; 95.1 through 95.181; 95.201 through 95.225; 47 CFR 95.191 through 95.194.

¹³⁹ This service is governed by subpart I of part 22 of the Commission's Rules. See 47 CFR 22.1001 through 22.1037.

¹⁴⁰ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

52. **39 GHz Service.** The Commission defined “small entity” for 39 GHz licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.¹⁴¹ An additional classification for “very small business” was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.¹⁴² These regulations defining “small entity” in the context of 39 GHz auctions have been approved by the SBA. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

53. **Local Multipoint Distribution Service.** The auction of the 1,030 Local Multipoint Distribution Service (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.¹⁴³ 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 three calendar years.¹⁴⁴ These regulations defining “small entity” in the context of LMDS auctions have been approved by the SBA.¹⁴⁵ 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.

54. **218-219 MHz Service.** The first auction of 218-219 MHz spectrum resulted in 170 entities winning licenses for 595 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a \$6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than \$2 million in annual profits each year for the previous two years.¹⁴⁶ In the *218-219 MHz Report and Order and Memorandum Opinion and Order*, we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed \$15

¹⁴¹ See In the Matter of Amendment of the Commission’s Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Band, *Report and Order*, 12 FCC Rcd 18600 (1997).

¹⁴² *Id.*

¹⁴³ See Local Multipoint Distribution Service, *Second Report and Order*, 12 FCC Rcd 12545 (1997).

¹⁴⁴ *Id.*

¹⁴⁵ See Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (January 6, 1998).

¹⁴⁶ Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP WT Docket No. 93-253, *Fourth Report and Order*, 59 FR 24947 (May 13, 1994).

million for the preceding three years.¹⁴⁷ A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed \$3 million for the preceding three years.¹⁴⁸ We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218-219 MHz spectrum. Given the success of small businesses in the previous auction, and the above discussion regarding the prevalence of small businesses in the subscription television services and message communications industries, we assume for purposes of this FRFA that in future auctions, all of the licenses may be awarded to small businesses, which would be affected by these revised rules.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements:

55. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159 ("FCC Remittance Advice"), and pay a regulatory fee based on the number of licenses or call signs.¹⁴⁹ Interstate telephone service providers must compute their annual regulatory fee based on their interstate and international end-user revenue using information they already supply to the Commission in compliance with the Form 499-A, Telecommunications Reporting Worksheet, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (*e.g.*, cellular telephones, pagers, cable TV subscribers) they have in service, and complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

56. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing

¹⁴⁷ In the Matter of Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218-219 MHz Service, WT Docket No. 98-169, *Report and Order and Memorandum Opinion and Order*, 64 FR 59656 (November 3, 1999).

¹⁴⁸ Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218-219 MHz Service, *Report and Order and Memorandum Opinion and Order*, 64 FR 59656 (1999).

¹⁴⁹ The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (*e.g.*, Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the licensee of any translator station that: (1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than \$10.

the number of units subject to the fee. Licensees may also file electronically to minimize the burden of submitting multiple copies of the FCC Form 159. Applicants who pay small fees in advance and provide fee information as part of their application must use FCC Form 159.

57. Licensees and regulatees are advised that failure to submit the required regulatory fee in a timely manner will subject the licensee or regulatee to a late payment fee of 25 percent in addition to the required fee.¹⁵⁰ Until payment is received, no new or pending applications will be processed, and existing authorizations may be subject to rescission.¹⁵¹ Further, in accordance with the Debt Collection Improvement Act of 1996, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantee if that person or entity fails to pay a delinquent debt owed to any federal agency.¹⁵² Nonpayment of regulatory fees is a debt owed the United States pursuant to 31 U.S.C. 3711 et seq., and the Debt Collection Improvement Act of 1996, Public Law 104-134. Appropriate enforcement measures, e.g., interest as well as administrative and judicial remedies, may be exercised by the Commission. Debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.¹⁵³

58. The Commission's rules currently provide for relief in exceptional circumstances. Persons or entities that believe they have been placed in the wrong regulatory fee category or are experiencing extraordinary and compelling financial hardship, upon a showing that such circumstances override the public interest in reimbursing the Commission for its regulatory costs, may request a waiver, reduction or deferment of payment of the regulatory fee.¹⁵⁴ However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will accept a petition to defer payment along with a waiver or reduction request.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered:

59. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. As

¹⁵⁰ 47 U.S.C. 1.1164(a).

¹⁵¹ 47 U.S.C. 1.1164(c).

¹⁵² Public Law 104-134, 110 Stat. 1321 (1996).

¹⁵³ 31 U.S.C. 7701(c)(2)(B).

¹⁵⁴ 47 U.S.C. 1.1166.

described in Section IV of this FRFA, supra, we have created procedures in which all fee-filing licensees and regulatees use a single form, FCC Form 159, and have described in plain language the general filing requirements. We have also created Attachment F, infra, which gives "Detailed Guidance on Who Must Pay Regulatory Fees." Because the collection of fees is statutory, our efforts at proposing alternatives are constrained and, throughout these annual fee proceedings, have been largely directed toward simplifying the instructions and necessary procedures for all filers. We have sought comment on other alternatives that might simplify our fee procedures or otherwise benefit small entities, while remaining consistent with our statutory responsibilities in this proceeding.

60. The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 2000, Public Law 106-553 requires the Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to Section 9(a) of the Communications Act, as amended, has required the Commission to collect for Fiscal Year (FY) 2001.¹⁵⁵ As noted, we have also previously sought comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small entities.

61. With the use of actual cost accounting data for computation of regulatory fees, we found that some fees which were very small in previous years would have increased dramatically and would have a disproportionate impact on smaller entities. The methodology we are adopting in this Report and Order minimizes this impact by limiting the amount of increase and shifting costs to other services which, for the most part, are larger entities.

62. Several categories of licensees and regulatees are exempt from payment of regulatory fees. See, e.g., footnote 149, supra, and Attachment F of the Report and Order, infra.

Report to Small Business Administration: The Commission will send a copy of this Report and Order, including a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. The Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.

Report to Congress: The Commission will send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

¹⁵⁵ 47 U.S.C.159(a).

Attachment B

SOURCES OF PAYMENT UNIT ESTIMATES FOR FY 2001

In order to calculate individual service fees for FY 2001, we adjusted FY 2000 payment units for each service to more accurately reflect expected FY 2001 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. We tried to obtain verification for these estimates from multiple sources and, in all cases, we compared FY 2001 estimates with actual FY 2000 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2001 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical or other reasons. Therefore, when we note, for example, that our estimated FY 2001 payment units are based on FY 2000 actual payment units, it does not necessarily mean that our FY 2001 projection is exactly the same number as FY 2000. It means that we have either rounded the FY 2001 number or adjusted it slightly to account for these variables.

FEE CATEGORY	SOURCES OF PAYMENT UNIT ESTIMATES
Land Mobile (All), Microwave, 218-219 MHz ¹⁵⁶ , Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee databases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Mobile Services	Based on Wireless Telecommunications Bureau estimates.
CMRS Messaging Services	Based on Wireless Telecommunications Bureau estimates.
AM/FM Radio Stations	Based on estimates from Data World, Inc.
UHF/VHF Television Stations	Based on Mass Media Bureau estimates and actual FY 2000 payment units.
AM/FM/TV Construction Permits	Based on actual FY 2000 payment units.
LPTV, Translators and Boosters	Based on actual FY 2000 payment units.
Auxiliaries	Based on Wireless Telecommunications Bureau estimates.
MDS/MMDS/LMDS	Based on Mass Media Bureau estimates.
Cable Television Relay Service (CARS)	Based on actual FY 2000 payment units.
Cable Television System Subscribers	Based on Cable Services Bureau and industry estimates of subscribership.
Interstate Telephone Service Providers	Based on actual FY 2000 interstate revenues associated with the Telecommunications Reporting Worksheet, adjusted to take into consideration FY 2001 revenue growth in this industry as estimated by the Common Carrier Bureau.
Earth Stations	Based on International Bureau estimates.
Space Stations (GSOs & NGSOs)	Based on International Bureau licensee data bases.
International Bearer Circuits	Based on actual FY 2000 payment units.
International HF Broadcast Stations, International Public Fixed Radio Service	Based on actual FY 2000 payment units.

¹⁵⁶ The Wireless Telecommunications Bureau's staff advises that they anticipate receiving only 25 applications for 218-219 MHz (formerly IVDS) in FY 2001.

Federal Communications Commission

FCC 01-196

Attachment C

CALCULATION OF FY 2001 REVENUE REQUIREMENTS AND PRO-RATA FEES

Fee Category	FY 2001 Payment Units	Payment Years	FY 2000 Revenue Estimate	Pro-Rated FY 2001 Revenue Requirement**	Computed New FY 2001 Regulatory Fee	Rounded New FY 2001 Regulatory Fee	Expected FY 2001 Revenue
PLMRS (Exclusive Use)	5,500	10	239,408	257,962	5	5	275,000
PLMRS (Shared use)	58,000	10	1,934,808	2,084,756	4	5	2,900,000
Microwave	23,900	10	787,525	848,558	4	5	1,195,000
218-219 MHz (Formerly IVDS)	25	10	0	0	0	10	1,250
Marine (Ship)	5,500	10	427,444	460,571	8	10	550,000
GMRS	2,000	5	66,718	71,889	7	5	50,000
Aviation (Aircraft)	3,500	10	223,889	241,240	7	5	175,000
Marine (Coast)	1,300	10	50,886	54,830	4	5	65,000
Aviation (Ground)	1,700	5	59,367	63,968	8	10	85,000
Amateur Vanity Call Signs	10,000	10	112,000	120,680	1.21	1.20	120,000
AM Class A	76	1	135,000	145,463	1,914	1,925	146,300
AM Class B	1,620	1	1,674,750	1,804,543	1,114	1,115	1,806,300
AM Class C	998	1	576,290	620,952	622	620	618,760
AM Class D	2,086	1	1,880,940	2,026,713	972	975	2,033,850
FM Classes A, B1 & C3	2,080	1	3,857,200	4,156,133	1,998	2,000	4,160,000
FM Classes B, C, C1 & C2	3,039	1	4,790,625	5,161,898	1,699	1,700	5,166,300
AM Construction Permits	58	1	15,000	16,163	279	280	16,240
FM Construction Permits	300	1	257,455	277,408	925	925	277,500
Satellite TV	127	1	87,500	94,281	742	740	93,980
Satellite TV Construction Permit	4	1	1,780	1,918	479	480	1,920
VHF Markets 1-10	42	1	1,757,800	1,894,030	45,096	45,100	1,894,200
VHF Markets 11-25	59	1	1,796,850	1,936,106	32,815	32,825	1,936,675
VHF Markets 26-50	77	1	1,524,250	1,642,379	21,330	21,325	1,642,025
VHF Markets 51-100	115	1	1,466,250	1,579,884	13,738	13,750	1,581,250
VHF Remaining Markets	211	1	643,500	693,371	3,286	3,275	691,025
VHF Construction Permits	18	1	51,300	55,276	3,071	3,075	55,350
UHF Markets 1-10	75	1	1,055,250	1,137,032	15,160	15,150	1,136,250
UHF Markets 11-25	75	1	856,875	923,283	12,310	12,300	922,500
UHF Markets 26-50	110	1	721,650	777,578	7,069	7,075	778,250
UHF Markets 51-100	165	1	625,300	673,761	4,083	4,075	672,375
UHF Remaining Markets	175	1	187,450	201,977	1,154	1,150	201,250
UHF Construction Permits	70	1	260,400	280,581	4,008	4,000	280,000
Auxiliaries	27,000	1	261,701	281,983	10	10	270,000
International HF Broadcast	4	1	2,525	2,721	680	680	2,720
LPTV/Translators/Boosters	2,700	1	758,800	817,607	303	305	823,500
CARS	1,700	1	89,933	96,903	57	55	93,500
Cable Systems	67,700,000	1	31,027,233	33,431,844	0.49	0.49	33,431,844
Interstate Telephone Service Providers	70,686,000,000	1	86,670,419	93,387,376	0.00132	0.00132	93,387,376
CMRS Mobile Services (Cellular/Public Mobile)	101,000,000	1	25,433,429	27,404,520	0.27	0.27	27,404,520
CMRS Messaging Services	30,000,000	1	1,508,171	1,625,054	0.05	0.05	1,625,054
MDS/MMDS/LMDS	2,000	1	834,900	899,605	450	450	900,000
International Bearer Circuits	840,451	1	4,041,141	4,354,329	5	5	4,202,255
International Public Fixed	1	1	1,185	1,277	1,277	1,275	1,275
Earth Stations	2,784	1	468,825	505,159	181	180	501,120
Space Stations (Geostationary)	66	1	6,010,275	6,476,071	98,122	98,125	6,476,250
Space Stations (Non-geostationary)	6	1	525,750	566,496	94,416	94,425	566,550
***** Total Estimated Revenue to be Collected			185,759,747	200,156,127			201,214,514
***** Total Revenue Requirement				200,146,000			200,146,000
Difference				10,127			1,068,514

** 1.0775 factor applied

FY 2001 SCHEDULE OF REGULATORY FEES

Fee Category	Annual Regulatory Fee (U.S. \$'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	5
Microwave (per license) (47 CFR part 101)	5
218-219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	10
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	5
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	5
PLMRS (Shared Use) (per license) (47 CFR part 90)	5
Aviation (Aircraft) (per station) (47 CFR part 87)	5
Aviation (Ground) (per license) (47 CFR part 87)	10
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.20
CMRS Mobile Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.27
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.05
Multipoint Distribution Services (Includes MMDS & LMDS)(per call sign) (47 CFR parts 21 and 101)	450
AM Radio Construction Permits	280
FM Radio Construction Permits	925
TV (47 CFR part 73) VHF Commercial	
Markets 1-10	45,100
Markets 11-25	32,825
Markets 26-50	21,325