

used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the FCC has not developed a definition of small entities specifically applicable to PLMR users, nor has the SBA developed any such definition. The SBA rules do, however, contain a definition for small radiotelephone (wireless) companies. Included in this definition are business entities engaged in radiotelephone communications employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms of a total of 1,178 such firms which operated during 1992 had 1,500 or more employees. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The FCC's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz.

13. *Wireless Communications Equipment Manufacturers.* The FCC anticipates that manufacturers of wireless radio equipment will be affected by our decisions in this proceeding. According to the SBA's regulations, radio and television broadcasting and communications equipment manufacturers must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities.

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

14. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the rules adopted in this proceeding.

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

15. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of

compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule or any part thereof, for such small entities.

16. Regarding FCC rule changes increasing the power limits and antenna height for low power users operating on the 49 channel pairs and one unpaired frequency in Group A, although increasing the power and antenna height limits for low power users on these channels could decrease the number of operators possible in a given area, the FCC believes that the need, as demonstrated in the Low Power Plan, for higher power and greater antenna height on these channels, outweighs the potential for reduction of the number of licensees. An alternative to this amendment would have been to maintain the current power restriction of 2 watts output power and 7 meters antenna height, or impose power limitations less than 20 watts for base stations and 5 watts for mobile/portable stations and less than 23 meters antenna height above ground level. These alternatives, however, would not address the need, especially in hostile radio environments, for more than 2 watts output power and/or antenna heights of more than 7 meters. Moreover, since many operators in hostile radio environments are smaller entities, the rules adopted in the Report and Order are especially beneficial to those entities.

17. In addition, regarding the FCC's rule changes which designate 25 channels for low power, itinerant use in Group C, incumbent licensees, some of which may be small entities, could face interference from itinerant users that will not be required to coordinate their operations through a certified frequency coordinator. Despite the possibility of potential interference, the need for itinerant operations in the PLMR services is substantiated enough to justify the risk of some increase in interference. In this connection, the FCC notes that small businesses that require itinerant operations, whether new entrants or incumbents, will be eligible for these channels and may benefit from our proposal.

18. Regarding the FCC's rule change allowing 5 watts ERP for the fourteen channels in the Public Safety Pool, there will be no significant adverse impact on small entities. An alternative to this change would have been to maintain the current limitation of 2 watts output power or to have imposed a power limitation of less than 5 watts ERP. Neither of these alternatives, however, would be sufficient to promote

flexibility for Public Safety Pool licensees that require more than 2 watts output power for their operations.

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

19. None.

20. *Report to Congress:* The FCC will send a copy of this Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the FCC will send a copy of this Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

#### **Ordering Clauses**

21. Pursuant to Sections 4(i), 303(f), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), 303(r) and 332, this Report and Order is adopted.

22. Part 90 of the FCC's Rules is amended as specified in rule changes, effective May 21, 2003.

23. The FCC's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### **List of Subjects in 47 CFR Part 90**

FCC equipment, Radio, Reporting and Recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**  
*Deputy Secretary.*

#### **Rule Changes**

■ For the reasons discussed in the preamble the FCC amends 47 CFR part 90 as follows:

#### **PART 90—PRIVATE LAND MOBILE RADIO SERVICES**

■ 1. The authority citation for part 90 continues to read as follows:

**Authority:** Sections 4(i), 11, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 2. Section 90.20 is amended by adding limitations to the following frequencies to the table in paragraph (c)(3) and adding a new paragraph (d)(84) to read as follows:

#### **§ 90.20 Public Safety Pool.**

*	*	*	*	*
(c)	*	*	*	
(3)	*	*	*	