

management, dispatch operations and vehicular/personal communications. Additionally, public safety entities will be permitted to employ "hot spot" operations, temporary fixed links, and traditional backbone microwave operations in the band. The rules the FCC adopts herein ensure that public safety entities will enjoy the greatest possibility of unhindered use of this spectrum while fostering partnership opportunities with critical infrastructure and commercial entities, and will fulfill the FCC's obligations as mandated by Congress to assign this spectrum for non-Government use.

*Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

11. No comments were submitted specifically in response to the IRFA. In general comments, however, some commenters expressed concern with the FCC's proposal to limit eligibility in the 4.9 GHz band to traditional public safety entities as defined by section 337(f) of the Communications Act. For example, the Association of American Railroads urges the FCC to adopt a definition of public safety services, pursuant to section 309(j)(2) of the Communications Act, that would allow critical infrastructure entities (CIEs) such as railroads and utility companies to acquire licenses in the 4.9 GHz band. Although under the rules the FCC adopts, CIEs are not eligible to hold licenses in this band, the FCC has considered the effect of these rule changes on small entities and considered other alternatives. In particular, the FCC notes that CIEs will have access to this spectrum through sharing agreements with public safety licensees. The FCC believes that this item strikes an appropriate balance between competing spectrum needs and expect that the FCC's actions will mostly benefit all entities subject to these rule changes, including small entities.

*Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

12. 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. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small

business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

13. Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the FCC estimates that 81,600 (ninety-one percent) are small entities.

14. The rules adopted will affect users of public safety radio services. These rules may also affect manufacturers of radio communications equipment. An analysis of the number of small businesses that may be affected follows. The FCC also notes that according to SBA data, there are approximately 4.44 million small businesses nationwide.

15. *Small Businesses Sharing Spectrum with Public Safety Radio Services and Governmental Entities.* As a general matter, Public Safety Radio Services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Non-Federal governmental entities, as well as certain private businesses authorized by governmental entities, are potential licensees for these services in this proceeding. Neither the FCC nor the SBA has developed a definition of small businesses directed specifically toward the public service work at issue. Therefore, the applicable definition of small business is the definition under the SBA rules applicable to Cellular and other Wireless Telecommunications. This provides that a small business is a radiotelephone company employing no more than 1,500 persons.

16. *Equipment Manufacturers.* The FCC anticipates that at least six radio equipment manufacturers will be affected by the FCC's decisions in this proceeding. According to SBA regulations, a Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing businesses must have 750 or fewer employees in order to qualify as a small business concern.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

17. Applicants for licenses to provide terrestrial fixed and mobile services in the 4.9 GHz band must submit license applications through the Universal Licensing System using FCC Form 601, and follow the service rules at 47 CFR part 90.

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

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

19. Regarding the FCC's decision to limit eligibility in the 4.9 GHz band to traditional public safety entities, the FCC realizes that certain commercial and critical infrastructure small business entities that might have wished to operate in this newly available spectrum may be adversely affected, in that they will not be able to obtain a license to operate in this band. This concern is mitigated, however, by the fact that the FCC will allow public safety entities to enter into sharing agreements with entities performing operations in support of public safety. Moreover, the FCC believes that in this instance, there is a compelling need for spectrum dedicated to public safety operations and that the FCC's approach here will ensure that such operations are not hampered by excessive frequency congestion. An alternative would be to expand the definition of public safety eligibles and/or to allow commercial use of the subject band; however, this would undermine the FCC's intention to promote public safety service in this band.

20. Regarding the FCC's decision to license the 4.9 GHz band via a jurisdictional licensing scheme, the FCC does not believe that there will be any significant adverse impact on small entities. In fact, this approach will give public safety entities which are considered small entities under the RFA the ability to obtain licenses for the