

“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). A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of 1992, there were approximately 275,801 small organizations.

8. The rule changes effectuated by this Order apply to licensees and applicants of private land mobile frequencies in the 150–174 MHz and 421–512 MHz bands, and to manufactures of radio equipment.

9. *Private Land Mobile Radio.* PLMR systems serve an essential role in a vast range of industrial, business, land transportation and public service activities. These radios are used by companies of all sizes that operate in all U.S. business categories. Because of the vast array of PLMR users, the FCC had not developed, nor would it be possible to develop, a definition of small entities specifically applicable to PLMR users. For the purpose of determining whether a licensee is a small business as defined by the Small Business Administration (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 1,087,276 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Further, because any entity engaged in a commercial activity is eligible to hold a PLMR license, these rules could potentially impact every small business in the U.S.

10. *Public Safety.* Public safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for small radiotelephone (wireless) companies, which encompass business entities engaged in radiotelephone communications employing no more than 1,500 persons. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. “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 96 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 (96 percent) are small entities.

11. *Equipment Manufacturers.* We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA’s regulations, a radio and television broadcasting and communications equipment manufacturer 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*

12. This Order adopts rules to promote the transition to narrowband technology for private land mobile licensees, in the 150–174 MHz and 421–512 MHz bands. In particular, applications for operations on 25 kHz equipment will no longer be accepted six months after publication of this item in the **Federal Register**. Additionally, modification applications that expand the authorized contour of an existing licensee if the bandwidth subject to the modification application is greater than 12.5 kHz will be prohibited beginning six months after publication of this item in the **Federal Register**. On January 1, 2005, certification will not be afforded any equipment capable of operating at one voice path per 25 kHz of spectrum. Further, this Order amends the FCC’s current rules to prohibit the importation or manufacture of 25 kHz-only equipment beginning on January 1, 2008. All equipment utilized in non-public safety systems on or after January 1, 2018 must utilize a maximum channel bandwidth of 12.5 kHz. Lastly, all equipment utilized in public safety systems on or after January 1, 2018 must utilize a maximum channel bandwidth of 12.5 kHz.

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

13. 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.

14. The FCC adopted rules in this Order upon consideration of the economic burden on small businesses. For instance, many commenters supported adoption of rules that would require conversion to 12.5 kHz equipment as early as January 1, 2005. Such a proposal fails to give any consideration to the amortization and life-span of current equipment and the resources available to small entities. Rather than require small business licensees to convert its system to 12.5 kHz or equivalent technology beginning on January 1, 2005, the FCC delays mandatory migration to 12.5 kHz or equivalent technology until January 1, 2013 for non-public safety PLMR systems and until January 1, 2018 for public safety systems. Similarly, the rule changes permit modification to existing licensees, while the comments did not reflect such a consideration. The Order rejected a phased approach that would have burdened licensees to determine which market and which date applied to them. Although the FCC also takes intermediary steps to promote migration to 12.5 kHz equipment, it notes that none of the intermediary steps require the incumbent to immediately cease use of 25 kHz equipment. Exemption from coverage of the rule changes for small businesses would frustrate the purpose of the rule, *i.e.*, migration to more efficient spectrum use, and facilitate continued inefficient use of spectrum.

15. *Report to Congress:* The FCC will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). In addition, the FCC will send another copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

#### **Ordering Clauses**

16. Accordingly, pursuant to sections 1, 2, 4(i), 5(c), 7(a), 11(b), 301, 302, 303,