

reduced RF emissions, whether to adopt implementation benchmarks beyond 2008, and whether to otherwise modify the implementation requirements;

xii. encourages hearing aid manufacturers to label their pre-customization products according to the ANSI standard; and

xiii. denies the petition of Myers Johnson, Inc., for revision of § 24.232 as it relates to directional wireless phone antennas.

5. The Commission takes these actions to ensure that the Congressional goal of ensuring access to telecommunications services for persons with hearing disabilities is met. In addition, in light of our society's increased reliance on wireless phones and the growing trend among wireless carriers to move away from analog services in favor of more efficient, feature-rich digital services, these steps will ensure that people with hearing disabilities continue to enjoy access to wireless telecommunications devices and services.

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

6. We received no comments directly in response to the IRFA in this proceeding. The Commission, however, considered the potential impact of its rules on smaller handset manufacturers and service providers. To ensure that the rules have a minimal impact on these entities, the Commission, in recognition of the adverse effect its HAC compatibility percentage requirements could have, modified the requirement for manufacturers and service providers. Therefore, the requirement that manufacturers and service providers must make 50 percent of their handsets compliant with the reduced RF emissions level ("U3") was modified to provide that, by February 18, 2008, 50 percent of all phones offered by the entity in the U.S. market must be compliant, or two phones per air interface offered, whichever number of handsets is greater.

C. Description and Estimate of the Number of Small Entities to Which the Adopted Rules Will Apply

7. 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 adopted 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 section 3 of the Small Business

Act. Under the Small business Act, a "small business concern" is one that: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) 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."

8. Cellular and Other Wireless Telecommunications or Paging. The SBA has developed a size standard for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 1,761 companies reported that they were engaged in the provision of wireless service. Of these 1,761 companies, an estimated 1,175 have 1,500 or fewer employees and 586 have more than 1,500 employees. Consequently, we estimate that a majority of small wireless service providers may be affected by the rules.

9. Wireless Communications Equipment Manufacturers. The SBA has established a small business size standard for radio and television broadcasting and wireless communications equipment manufacturing. Under the standard, firms are considered small if they have 750 or fewer employees. Census Bureau data for 1997 indicates that, for that year, there were a total of 1,215 establishments in this category. Of those, there were 1,150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The percentage of wireless equipment manufacturers in this category is approximately 61.35%, so the Commission estimates that the number of wireless equipment manufacturers with employment under 500 was actually closer to 706, with an additional 23 establishments having employment of between 500 and 999. The Commission estimates that the great majority of wireless communications equipment manufacturers are small businesses.

D. Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

10. The reporting, recordkeeping, or other compliance requirements adopted require that any and all of the affected entities to which the Commission's adopted rules apply must comply with the Commission's hearing aid compatibility rules adopted in the

Report and Order. The Commission has detailed the timeframes for compliance and was mindful of the needs of manufacturers and service providers. The timeframes, therefore, reflect the Commission's balancing of the competing interests. We ensure that access to wireless phones for persons with hearing disabilities is maintained, and also to ensure that manufacturers and service providers are afforded a reasonable amount of time within which to comply with our rules.

11. In the *Report and Order*, the Commission requires wireless carriers and handset manufacturers to report every six months on efforts toward compliance with the requirements of the *Report and Order* during the first three years, then annually thereafter through the fifth year of implementation. These reports will serve dual purposes: They will assist us in monitoring the progress of implementation, and they will provide valuable information to the public concerning compatible handsets. The reporting requirement will extend through the end of the fifth year following the effective date of the *Report and Order* to assist in verifying compliance with the requirement to make at least 50 percent of all phone models offered compatible by February 18, 2008. Digital wireless phone manufacturers and service providers may submit joint reports, if they wish, in order to minimize the reporting burden. The reports should describe manufacturer and carrier efforts aimed at complying with the requirements of the *Report and Order*. Specifically, the reports should include (i) digital wireless phones tested; (ii) laboratory used; (iii) test results for each phone tested; (iv) identification of compliant phone models and ratings according to ANSI C63.19; (v) report on the status of product labeling; (vi) report on outreach efforts; (vii) information related to retail availability of compliant phones; (viii) information related to incorporating hearing aid compatibility features into newer models of digital wireless phones; (ix) any activities related to ANSI C63.19 or other standards work intended to promote compliance with the *Report and Order*; (x) total numbers of compliant and non-compliant phone models offered as of the time of the report; and (xi) any ongoing efforts for interoperability testing with hearing aid devices.

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

12. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its adopted