

with the applicable interference-related and other service rules. (The lessee remains subject to all of the interference-related service rules and most of the non-interference-related rules, including the eligibility and qualification rules and use restrictions, applicable to the licensee.) The licensee also submits any filings to the Commission required in connection with the lessee's operations under the spectrum manager leasing arrangement. The Commission retains the authority, in appropriate situations, to proceed directly against a spectrum lessee in order to halt unacceptable interference.

158. Following Commission approval of *de facto* transfer leasing applications, spectrum lessees assume primary responsibility for compliance with Commission rules and policies in the geographic areas and on the frequencies covered by the lease. As under spectrum manager leasing arrangements, lessees are subject to all of the interference-related service rules and most of the non-interference-related rules, including the eligibility and qualification rules, though lessees in short-term leasing arrangements have additional flexibility with regard to certain use restrictions otherwise applicable to licensees in particular services. Lessees become responsible for making any applicable filings, including ULS applications and notifications, submission of any materials required to support a required Environmental Assessment, any reports required by our rules and applicable to the lessee, information necessary to facilitate international or IRAC coordination, or any other submissions that would be applicable to the lessee's operations if it instead were a full licensee. In addition, lessees are obligated to maintain accurate information on file pursuant to § 1.65 of the Commission's rules, 47 CFR 1.65. To facilitate our recordkeeping as well as access to information necessary to undertake any necessary enforcement inquiries or actions, we will assign a specific designator to the approved lease operations, which will reflect its association with the licensee's underlying call sign.

159. For both short-term and long-term *de facto* transfer leasing, the licensee retains certain residual responsibilities to the Commission for operations on spectrum encompassed within its license. We would subject the licensee to appropriate enforcement action if, for example, a licensee engaged in a sham leasing arrangement with an affiliate in an effort to enable that affiliate to undertake activities that might otherwise put the license at risk if undertaken directly by the licensee.

We will also hold the licensee responsible for ongoing violations or other egregious behavior on the part of the spectrum lessee about which the licensee has knowledge.

160. Our adoption of streamlined processing for transfer of control and license assignment applications requires all entities to file an application with us in order to obtain Commission consent. This requirement currently applies to all entities, regardless of size, and will continue to do so. In connection with implementing this streamlined review process, the required application forms may be simplified or streamlined, thus reducing the burdens on small businesses and all other potential applicants, regardless of size.

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

161. The RFA requires an agency to describe any significant alternatives that it considered in reaching its final decision, 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.

162. Establishment of policies, rules, and streamlined procedures to facilitate the ability of parties to enter into a wide variety of flexible leasing arrangements involving our Wireless Radio Services. We do not anticipate any adverse impact on small entities as a result of taking steps to facilitate spectrum leasing in many of our Wireless Radio Services and reducing the regulatory burdens associated with entering into such arrangements. Indeed, facilitating spectrum leasing arrangements will permit spectrum lessees to obtain access to and use spectrum in a manner best suited to meeting the particular needs and business plans of both licensees and lessees. By affording existing licensees additional flexibility to enter into leasing arrangements with third parties that can put spectrum into use, we will help to alleviate spectrum constraints and provide new opportunities to put underutilized or fallow spectrum to efficient use. We believe that the rules and policies we adopt will benefit all parties, including small entities, that would like to lease their spectrum to others or obtain additional spectrum for

their own use. Small entities, like all covered entities, will be governed by reduced filing requirements and reduced regulatory uncertainty.

163. Replacement of the Intermountain Microwave standard with a new *de facto* control standard for determining whether an unauthorized transfer of control has occurred in the context of spectrum leasing. We anticipate no adverse impact on small entities as a result of adopting a new standard for assessing *de facto* control in the context of spectrum leasing. We believe that this revised *de facto* control standard achieves a better balance between the statutory requirements of section 310(d) of the Communications Act of 1934, as amended, and the realities of today's wireless marketplace and advancing technologies. By adopting this revised standard, we can permit licensees and spectrum lessees to enter into spectrum manager leasing arrangements without having to first obtain prior Commission approval. To the extent that the spectrum manager leasing arrangement can be tailored to meet the needs of a licensee and a spectrum lessee, this option will provide small entities as well as all other entities with an opportunity to enter into spectrum leasing arrangements for which only a notification to the Commission is required.

164. *Applicability of spectrum leasing rules to many, but not all, Wireless Radio Services.* The *Report and Order* extends flexible spectrum leasing opportunities to a wide array of our Wireless Radio Services. These new policies will benefit a number that entities that are licensees in these services as well as entities that might seek to lease spectrum from license holders, specifically including small entities. Because of the potential benefits for this wide-ranging group of entities, we have not designed particular benefits for small entities, which might provide this latter category with unwarranted competitive advantages. With regard to our decision to exclude certain Wireless Radio Services and certain categories of Wireless Radio Service licensees, including services involving operation on shared frequencies, from the scope of the new rules adopted in the *Report and Order*, we acknowledge that certain small (and large) entities that might benefit from entering into spectrum leasing agreements will not be allowed to take advantage of our new rules at this time. While we decide not to extend our spectrum leasing policies and rules to licensees in the excluded services in the *Report and Order*, we note that in the