

parts administered by the Commission's Office of Engineering and Technology should be modified or repealed as part of the 2002 biennial review.⁴ Some of the comments filed in response to these *Public Notices* are addressed by the NPRM. The NPRM also addresses other issues raised as a result of recent changes in technology.

26. The NPRM proposes several changes to parts 2, 15 and other parts of the rules. Specifically, it proposes to:

(1) Modify the rules to permit the use of advanced antenna technologies with spread spectrum devices in the 2.4 GHz band;

(2) Modify the replacement antenna restriction for part 15 devices;

(3) Modify the equipment authorization procedures to provide more flexibility to configure transmission systems without the need to obtain separate authorization for every combination of system components;

(4) Harmonize the measurement procedures for digital modulation systems authorized pursuant to § 15.247 of the rules with those for similar U-NII devices authorized under §§ 15.401–15.407 of the rules;⁵

(5) Modify the channel spacing requirements for frequency hopping spread spectrum devices in the 2.4 GHz band in order to remove barriers to the introduction of new technology that uses wider bandwidths;

(6) Clarify the equipment authorization requirements for modular transmitters; and

(7) Make other changes to update or correct parts 2 and 15 of our rules.

27. These proposals, if adopted, will prove beneficial to manufacturers and users of unlicensed technology, including those who provide services to rural communities. Specifically, we note that a growing number of service providers are using unlicensed devices within wireless networks to serve the varied needs of industry, government, and general consumers alike. One of the more interesting developments is the emergence of wireless Internet service providers or "WISPs." Using unlicensed devices, WISPs around the country are providing an alternative high-speed connection in areas where cable or DSL services have been slow to arrive. We believe that the increased flexibility proposed herein will help to foster a viable last mile solution for delivering

Internet services, other data applications, or even video and voice services to underserved, rural, or isolated communities.

B. Legal Basis

28. The proposed action is authorized under sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

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

29. 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.⁶ The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act.⁷ Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operations; and (3) meets many additional criteria established by the Small Business Administration (SBA).⁸

30. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."⁹ Nationwide, as of 1992, there were approximately 275,801 small organizations.¹⁰ The term "small governmental jurisdiction" is defined as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."¹¹ As of 1997, there were approximately 87,453 governmental jurisdictions in the United States.¹² This number includes 39,044 counties, municipal governments, and townships, of which 27,546 have populations of fewer than 50,000 and 11,498 counties, municipal governments, and townships have populations of 50,000 or more. Thus, we estimate that the number of small governmental jurisdictions is approximately 75,955 or fewer.

31. The Commission has not developed a definition of small entities applicable to unlicensed communications devices manufacturers. Therefore, we will utilize the SBA definition application to manufacturers of Radio and Television Broadcasting and Communications Equipment. Under the SBA's regulations, a radio and television broadcasting and wireless communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern.¹³ Census Bureau data indicates that there are 1,215 U.S. establishments that manufacture radio and television broadcasting and wireless communications equipment, and that 1,150 of these establishments have fewer than 500 employees and would be classified as small entities.¹⁴ The remaining 65 establishments have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. We therefore conclude that there are no more than 1,150 small manufacturers of radio and television broadcasting and wireless communications equipment.

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

32. Part 15 transmitters are already required to be authorized under the Commission's certification procedure as a prerequisite to marketing and importation. See 47 CFR 15.101, 15.201, 15.305, and 15.405. The changes proposed in this proceeding would not change any of the current reporting or recordkeeping requirements. Further, the proposed regulations add permissible measurement techniques and methods of operation. The proposals would not require the modification of any existing products.

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

33. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include

¹³ 13 CFR 121.201, NAICS code 334220.

¹⁴ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1997 Economic Census, Industry Series—Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, Table 4 at 9 (1999). The amount of 500 employees was used to estimate the number of small business firms because the relevant Census categories stopped at 499 employees and began at 500 employees. No category for 750 employees existed. Thus, the number is as accurate as it is possible to calculate with the available information.

⁴ See Public Notice, "The Commission Seeks Public Comment in the 2002 Biennial Review of Telecommunications Regulations within the Purview of the Office of Engineering and Technology," released September 26, 2002, ET Docket No. 02–312.

⁵ 47 CFR 15.247.

⁶ See U.S.C. 603(b)(3).

⁷ Id. 601(3).

⁸ Id. 632.

⁹ 5 U.S.C. 601(4).

¹⁰ 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

¹¹ 5 U.S.C. 601(5).

¹² 1995 Census of Governments, U.S. Census Bureau, United States Department of Commerce, Statistical Abstract of the United States (2000).