

| Source of flooding and location | #Depth in feet above ground *Elevation in feet (NGVD) |
|--|---|
| Rowlett (City), Dallas and Rockwall Counties and Dallas (City), Dallas, Denton, Collin, Rockwall, and Kaufman Counties (FEMA Docket No. 7194) | |
| <i>Rowlett Creek:</i> | |
| Just upstream of Rowlett Road | *437 |
| Just upstream of State Highway 66 | *455 |
| Approximately 3,800 feet upstream of State Highway 66 | *457 |
| Maps are available for inspection at the City of Rowlett, 3901 Main Street, Rowlett, Texas. | |
| Maps are available for inspection at the City of Dallas, 320 Jefferson, Room 321, Dallas, Texas. | |
| Austin (City) and Travis County (Unincorporated Areas) (FEMA Docket No. 7194) | |
| <i>Boggy Creek South:</i> | |
| At confluence of Onion Creek | *560 |
| Approximately 150 feet upstream of Cameron Loop | *780 |
| Maps are available for inspection at Travis County Transportation and Natural Resources, 411 West 13th Street, Austin, Texas. | |
| Maps are available for inspection at the City of Austin City Hall, Stormwater Management Division, 505 Barton Springs Road, Suite 908, Austin, Texas. | |

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")
 Dated: January 14, 1997.
 Richard W. Krimm,
Executive Associate Director, Mitigation Directorate.
 [FR Doc. 97-1502 Filed 1-21-97; 8:45 am]
 BILLING CODE 6718-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[ET Docket No. 93-62; FCC 96-487]

Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *First Memorandum Opinion and Order* ("MO&O") amends the Commission's Rules to extend the transition period for applicants and station licensees to determine compliance with our new requirements for evaluating the environmental effects of radiofrequency (RF) electromagnetic fields from transmitters regulated by the Federal Communications Commission (FCC). For most radio services, the transition period is extended by eight months to September 1, 1997. For the Amateur Radio Service the transition period is extended to January 1, 1998. The extensions are necessary to allow applicants and licensees adequate time to understand and implement requirements for ensuring compliance with RF exposure guidelines adopted by the FCC in August of 1996.

EFFECTIVE DATES: January 22, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Cleveland or Richard Engelman, Office of Engineering and Technology, Federal Communications Commission, (202) 418-2464.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Memorandum Opinion and Order (First MO&O)* in ET Docket 93-62, FCC 96-487, adopted December 23, 1996, and released December 24, 1996. The complete text of the *First MO&O* is available for inspection and copying during business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. The text of the *First MO&O* can also be viewed and downloaded from the World Wide Web site of the FCC's Office of Engineering and Technology. The address is: www.fcc.gov/Bureaus/Engineering-Technology/Orders/fcc96487.txt.

Summary of the First Memorandum Opinion and Order

1. On August 1, 1996, the FCC adopted a *Report and Order*, 61 FR 41006, August 7, 1996, in this proceeding which amended the FCC's rules for evaluating the environmental effects of radiofrequency (RF) electromagnetic fields produced by FCC-regulated transmitters.¹ Human exposure to RF electromagnetic fields is one of several environmental factors considered by the FCC in determining whether its actions may adversely affect

the quality of the human environment as required by the National Environmental Policy Act (NEPA).² The FCC's *Report and Order* adopted new guidelines and methods for evaluating human exposure to RF fields based on updated recommendations from the National Council on Radiation Protection and Measurements (NCRP) and the American National Standards Institute (ANSI).

2. The *Report and Order* also provided a transition period for applicants and stations to come into compliance with the new guidelines. After considering the comments filed in this proceeding and the impact of the new requirements, the FCC concluded that the new requirements would apply to station applications filed after January 1, 1997, as described in the amended 47 CFR 1.1307(b)(4). Also, recognizing that this relatively short transition period might cause some difficulties for certain applicants, we gave our Bureaus delegated authority for one year to address, through the granting of waivers or similar actions, the specific needs of individual parties that make a good-cause showing that they require additional time to comply with the new guidelines.

3. Seventeen petitions for reconsideration and/or clarification, as well as a motion for extension of the effective date, were filed in response to the *Report and Order*. The petitioners ask that we extend the transition period beyond January 1, 1997, arguing that the existing transition period does not allow adequate time for affected parties to achieve compliance with the new requirements. This request is supported by comments filed by others in response to these petitions. In addition, the Amateur Radio Relay League, Inc., (ARRL) requests that we provide a reasonable transition period for compliance with the requirements adopted in the *Report and Order* regarding amateur radio license examinations and question pools.

4. Opposition to the proposals to extend the transition period was filed by several groups. These latter parties generally argue that an extension could result in adverse public health risks and would allow the continued proliferation of facilities that do not comply with the new requirements.

5. The Commission has decided to grant the petitioners' request to extend the transition period. We are extending the transition period so that the new RF guidelines will apply to station applications filed after September 1,

¹ See *Report and Order*, ET Docket 93-62, 11 FCC Rcd 15123 (1996).

² National Environmental Policy Act of 1969, 42 U.S.C. Section 4321, *et seq.*

1997, as described in Section 1.1307(b)(4) of the rules. When we adopted the *Report and Order*, we anticipated that it might cause difficulties for certain applicants to have to determine compliance with the new RF guidelines by January 1, 1997. Accordingly, we gave delegated authority to our Bureaus to extend this transition period on a case-by-case basis. Based on the petitions and comments we have now received, it is clear that most station applicants will need additional time to determine that they comply with the new requirements. An extension of the transition period would eliminate the need for the filing and granting of individual waiver requests, and would allow time for our applicants and licensees to review the results of the decisions we will be taking in the near future to address the other issues raised in the petitions. It would also allow applicants to review the revised Bulletin 65 and to make the necessary measurements or calculations to determine that they are in compliance.

6. While we concur with petitioners who request that we extend the transition period, we believe that it would be unnecessary, in most circumstances, to extend the transition period for a full year or more. At the same time, we do not concur with petitioners who suggest that granting any extension of the transition period will have significant adverse effects on public health. Accordingly, we are extending the transition period for station applications until September 1, 1997.

7. We are also extending the transition period to January 1, 1998, for amateur operators to come into compliance with the new requirements. We see merit in the arguments expressed by the ARRL that, due to the uniqueness of the Amateur Radio Service, additional time is needed to ensure compliance. In particular, we note that amateur stations can use a wide variety of equipment and antennas, and this can make it very difficult to determine whether excessive RF electromagnetic fields may be produced by individual stations. Furthermore, all amateur radio stations in the past had been categorically exempt from these regulations, and many amateur operators may not be familiar with the new requirements and may need additional time to determine how to perform correctly a routine environmental evaluation.

8. With respect to amateur operator license examination requirements, we agree with the arguments raised by the ARRL. The volunteers recently released revised versions of two of the pools

which contain the required questions. Teachers and publishers are currently incorporating the new material into training manuals and courses for use by those preparing to take the examinations starting July 1, 1997. Work is also underway to similarly revise the third and final question pool for use starting July 1, 1998. We are, therefore, staying the enforcement of the new examination provisions adopted in the *Report and Order* in the amended 47 CFR § 97.503(b) to July 1, 1997, with respect to Element 2 and 3(A) examinations and to July 1, 1998, with respect to Element 3(B) examinations. Recognizing that a relatively short transition period might cause some difficulties for certain applicants, we are delegating authority, as we did in the *Report and Order*, to our Bureaus until July 1, 1998, to address the specific needs of individual parties that make a good cause showing that they require additional time to meet the new guidelines. Such relief could come through waivers of our rules or through other similar actions.

9. The rules we are adopting temporarily relieve existing restrictions. Pursuant to 5 U.S.C. §§ 553(d)(1) and 553(d)(3), we find that good cause exists to make these rules effective immediately rather than to follow the normal practice of making them effective 30 days after publication in the Federal Register. This will permit all parties filing applications during the next 30 days to take advantage of the extension of the transition periods. Accordingly, pursuant to the authority contained in Sections 4(i), 7(a), 303(c), 303(f), 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), 303(r) and 332(c)(7), it is ordered that, effective upon adoption, Part 1 of the Commission's Rules and Regulations, 47 CFR Part 1, is amended as specified in rule changes.

10. It is further ordered that, to the extent discussed above and as reflected in the new rules, certain aspects of the various petitions and motions filed in this proceeding are granted. It is also ordered that motions filed by the Ad-hoc Association of Parties Concerned about the Federal Communications Commission's Radiofrequency Health and Safety Rules ("Ad-hoc Association") to accept a late-filed petition for reconsideration, by the Ad-hoc Association to accept a late filed reply to an opposition to a petition for reconsideration, and by the Cellular Phone Taskforce to accept a late-filed opposition to petition for reconsideration and clarification are granted. Because the decisions we are

taking in this proceeding relate specifically to important public health issues, we believe that it is in the public interest to consider these late-filed documents along with all of the other timely petitions and comments in this proceeding. It is also ordered that enforcement of the amendments to 47 CFR §§ 97.503(b)(1) and 97.503(b)(2) adopted in the *Report and Order* are stayed until July 1, 1997, and enforcement of the amendments to 47 CFR § 97.503(b)(3) is stayed until July 1, 1998.

Final Regulatory Flexibility Analysis

11. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rule Making (Notice)*, 58 FR 19393, March 14, 1993.³ The Commission sought written public comments on the proposals in the *Notice*, including on the IRFA. In the *Report and Order* in this proceeding, the Commission adopted a Final Regulatory Flexibility Analysis (FRFA).⁴ Petitions for reconsideration were filed in response to the *Report and Order* by seventeen parties. Several technical and legal issues have been raised in the petitions and subsequent comments. In addition, several petitions have raised questions about the original FRFA. This *First Memorandum Opinion and Order* addresses those petitions and comments requesting extension of the transition period specified in the *Report and Order*. We intend to address the other issues raised in the petitions in a separate action in the very near future. This FRFA addresses the impact of the extension of the transition period as well as the comments that were made on the original FRFA contained in the *Report and Order*. The FRFA conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law No. 104-121, 110 Stat. 847 (1996).⁵

12. Need for and Purpose of This Action

The National Environmental Policy Act (NEPA) of 1969 requires agencies of the Federal Government to evaluate the effects of their actions on the quality of the human environment. To meet its responsibilities under NEPA, the Commission has adopted revised

³ See *Notice of Proposed Rule Making*, ET Docket No. 93-62, 8 FCC Rcd 2849 (1993).

⁴ See Appendix A to *Report and Order*, ET Docket 93-62, 11 FCC Rcd 15123 (1996), 61 FR 41006 (August 7, 1996).

⁵ Subtitle II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. § 601 et seq.

radiofrequency (RF) exposure guidelines for purposes of evaluating potential environmental effects of RF electromagnetic fields produced by FCC-regulated facilities. The new guidelines reflect more recent scientific studies of the biological effects of RF electromagnetic fields. Based on the petitions and comments received in response to the *Report and Order*, it is clear that most station applicants need additional time to understand the new requirements and determine that they comply with them. This *First Memorandum Opinion and Order* addresses those needs.

13. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

No comments were filed in direct response to the IRFA. In general comments on the *Notice*, however, some commenters raised issues that might affect small entities. These issues were discussed in the FRFA contained in the *Report and Order* in this proceeding.

14. Summary of Issues Raised Regarding the Final Regulatory Flexibility Analysis (FRFA) by the Petitions, Motions, and Comments in Response to the Report and Order

The American Radio Relay League, Inc. (ARRL), points out that we did not consider in the original FRFA the impact that new amateur operator license examination requirements would have on the ARRL and other Volunteer Examiner Coordinators (VEC), which the ARRL alleges should be treated as small business entities.⁶ The ARRL expresses particular concern that the new rules, which were effective immediately, required that additional questions be added to the amateur operator license examinations. The ARRL indicates that the examinations now in circulation do not contain the requisite number of questions, and it would be impossible for the thousands of volunteer examiners (VEs) to comply with the new requirements unless they are given time to implement them. The ARRL requests that the implementation dates for the new examination requirements be extended to July 1, 1997, for certain examinations and to July 1, 1998, for other examinations. The ARRL maintains that such an extension would permit the VECs to make the required changes as they are routinely revising the existing examinations.

⁶ See ARRL "Motion for Extension of Effective Date of Rules," filed on November 7, 1996, at 1-6.

15. Paging Network, Inc. (PageNet) and the Personal Communications Industry Association (PCIA) maintain that the original FRFA underestimates the number of transmitters that will require a determination of compliance with the new rules and the associated burden on communications carriers.⁷ PCIA notes that the original FRFA indicates that we receive only 10,000 paging applications a year, and calculates that only 1176 will be subject to routine environmental evaluation. According to PCIA, however, many paging facilities can be constructed without prior Commission authorization and, therefore, significant numbers of facilities are built annually that are not included in the 10,000 total. Further, PCIA continues, some of those 10,000 applications are renewal applications that may cover hundreds of sites, and the assumption that only 11% will require evaluation does not appear to be accurate. PCIA notes that initial feedback from carriers indicates that a substantially higher number of applications will require routine evaluation. PCIA also calls our estimate of one burden hour per routine evaluation "unrealistic." Instead, PCIA maintains, the process of evaluation may possibly involve a site visit and field measurements, which can take 24 hours.

16. These comments have been considered during the preparation of this revised FRFA, as indicated in Section IV below. In addition, as discussed in Section V, we have taken certain steps to address the concerns raised regarding the amount of burden imposed by these rules.

17. Description and Estimate of the Small Entities Subject to the Rules.

The rules being adopted in this *First Memorandum Opinion and Order* apply to the following eleven industry categories and services. The RFA generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. § 632. Based on that statutory provision, we will consider a small business concern 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). The RFA SBREFA provisions also apply to nonprofit organizations and to governmental organizations. Since the Regulatory Flexibility Act amendments were not in effect until the record in this

⁷ PageNet Petition at 2-3, PCIA Petition at 11.

proceeding was closed, the Commission was unable to request information regarding the number of small business within each of these services or the number of small business that would be affected by this action. We have, however, made estimates based on our knowledge about applications that have been submitted in the past. To the extent that a government entity may be a licensee or an applicant, the impact on those entities is included in the estimates for small businesses below.

18. Under the new rules adopted in the *Report and Order*, many radio services are categorically excluded from having to determine compliance with the new RF exposure limits. This exclusion is based on a determination that there is little potential for these services causing exposures in excess of the limits. Within the following services that are not categorically excluded in their entirety, many transmitting facilities are categorically excluded based on antenna location and power. These categorical exclusions significantly reduce the burden associated with these rules, and may reduce the impact of these rules on small businesses. Furthermore, the extension of the transition periods contained in this *First Memorandum Opinion and Order* will reduce the impact on applicants, particularly small businesses, by allowing them adequate time to understand the new requirements and ensure that their facilities are in compliance with them in an orderly and reasonable manner.

A. Cellular Radio Telephone Service

19. The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.⁸ Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small cellular businesses and is unable at this time to make a precise estimate of the number of cellular firms which are small businesses.

20. The size data provided by the SBA does not enable us to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone

⁸ 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4812.

companies with 500 or more employees.⁹ We therefore used the 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available. That census shows that only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.¹⁰ Therefore, even if all 12 of these large firms were cellular telephone companies, all of the remainder were small businesses under the SBA's definition. We assume that, for purposes of our evaluations and conclusions in the Final Regulatory Flexibility Analysis, all of the current cellular licensees are small entities, as that term is defined by the SBA. Although there are 1,758 cellular licenses, we do not know the number of cellular licensees, since a cellular licensee may own several licenses.

21. We assume that all of the current rural cellular licensees are small businesses. Two small business associations filed comments in our proceeding on "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems" of relevance. The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) states that 2/3 of its 440 members provide cellular service.¹¹ The Rural Cellular Association (RCA) states that its members serve 80 cellular service areas.¹² We recognize that these numbers represent only part of the current rural cellular licensees because there might be other rural companies not represented by either association.

22. The Commission processes roughly 700 applications for cellular transmitters facilities, involving 7,000 site locations, per year. Because we do not require licensees to provide us with site information, we cannot predict precisely how many of these applications will exceed our categorical exclusion criteria. However, we estimate that approximately 2,800 transmitting

facilities will exceed the categorical exclusion criteria and will require a determination of compliance with the new RF exposure limits, based on calculations or measurements.

B. Personal Communications Service (PCS)

23. The broadband PCS spectrum is divided into six frequency blocks designated A through F. Pursuant to 47 CFR § 24.720(b), the Commission has defined "small entity" for Blocks C and F licensees as firms that had average gross revenues of less than \$40 million in the three previous calendar years. This regulation defining "small entity" in the context of broadband PCS auctions has been approved by the SBA.¹³

24. The Commission has auctioned broadband PCS licenses in Blocks A, B, and C. We do not have sufficient data to determine how many small businesses under the Commission's definition bid successfully for licenses in Blocks A and B. As of now, there are approximately 90 non-defaulting winning bidders that qualify as small entities in the Block C auctions. Based on this information, we conclude that the number of broadband PCS licensees affected by the rule adopted in this *Report and Order* includes the 90 non-defaulting winning bidders that qualify as small entities in the Block C broadband PCS auction.

25. At present, no licenses have been awarded for Blocks D, E, and F for spectrum. Therefore, there are no small businesses currently providing these services. However, a total of 1,479 licenses will be awarded in the D, E, and F Block broadband PCS auctions, which have started. Eligibility for the 493 F Block licensees is limited to "entrepreneurs" with the average gross revenues of less than \$125 million in the last two years. However, we cannot estimate how many small businesses under the Commission's definition will win F Block licenses, or D and E Block licenses. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective D, E, and F Block licensees can be made, we assume, for purposes of our evaluations and conclusions in this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

26. After all PCS licenses have been issued, the Commission expects to

receive approximately 1,000 applications per year involving 10,000 sites. Because we do not require licensees to provide us with site information, we cannot predict precisely how many of these applications will exceed our categorical exclusion criteria. However, we estimate that approximately 3000 sites will not meet the categorical exclusion criteria and will involve a determination of compliance with the RF exposure guidelines.

C. Private Land Mobile Radio Services, Specialized Mobile Radio (SMR)

27. Pursuant to 47 CFR § 90.814(b)(1), the Commission has defined "small entity" for geographic area 800 MHz and 900 MHz SMR licenses as firms that had average gross revenues of less than \$15 million in the three previous calendar years. This regulation defining "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA.¹⁴

28. The rule adopted in the *Report and Order* applied only to certain "covered" SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have average gross revenues of less than \$15 million. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small businesses in this category. We do know that one of these firms has over \$15 million in average gross revenues. We assume, for purposes of our evaluations and conclusions in this FRFA, that the remaining existing extended implementation authorizations may be held by small entities, as that term is defined by the SBA.

29. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60

⁹ U.S. Small Business Administration 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, SIC Code 4812 (radiotelephone communications industry data adopted by the SBA Office of Advocacy).

¹⁰ U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995).

¹¹ OPASTCO Comments at 1-2, CC Docket No. 94-102, filed January 9, 1995.

¹² RCA Comments at 2, CC Docket No. 94-102, filed January 9, 1995.

¹³ See Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5581-84 (1994).

¹⁴ See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and the 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, PR Docket No. 89-553, *Second Order on Reconsideration and Seventh Report and Order*, 11 FCC Rcd 2639, 2693-702 (1995); Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, *First Report and Order*, *Eighth Report and Order*, and *Second Further Notice of Proposed Rulemaking*, 11 FCC Rcd 1463 (1995).

winning bidders who qualified as small entities under the Commission's definition in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted in the *Report and Order* includes these 60 small entities.

30. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis to estimate, moreover, how many small entities within the SBA's definition will win these licenses. Given the facts that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of our evaluations and conclusions in this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

31. The Commission receives about 3,000 applications for covered SMR transmitters facilities per year. We do not have adequate information to predict precisely how many of these applications will exceed our categorical exclusion criteria. However, we estimate that approximately 1,000 transmitters will exceed categorical exclusion criteria and will require a determination of compliance.

D. Satellite Communications Services

32. The Commission has not developed a definition of small entities applicable to satellite communications licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.¹⁵

33. Because the Regulatory Flexibility Act amendments were not in effect until the comment period for this proceeding was closed, the Commission was unable to request information regarding the number of licensees in the international services discussed below that meet this definition of a small business. Thus, we

are providing an estimate of licensees that constitute a small business.

34. *Fixed Satellite Earth Stations.* Fixed satellite earth stations include international and domestic earth stations operating in the 4/6 GHz AND 11/12/14 GHz bands. There are approximately 4200 earth station authorizations, a portion of which are Fixed Satellite Earth Stations. Although we were unable to request the revenue information, we estimate that some of the licensees of these earth stations would constitute a small business under the SBA definition.

35. *Fixed Satellite Small Earth Stations.* Small transmit/receive earth stations operate in the 4/6 GHz frequency bands with antennas that are two meters or less in diameter. There are 4200 earth station authorizations, a portion of which are Fixed Satellite Small Earth Stations. Although we were unable to request the revenue information, we estimate that some of the fixed satellite small earth stations would constitute a small business under the SBA definition.

36. *Fixed Satellite Very Small Aperture Terminal (VSAT) Systems.* VSAT systems operate in the 12/14 GHz frequency bands. Although various size small earth stations may be used, all stations of a particular size must be technically identical. Because these stations operate on a primary basis, frequency coordination with terrestrial microwave systems is not required. Thus, a single "blanket" application may be filed for a specified number of small antennas and one or more hub stations. The Commission has processed 377 applications for fixed satellite VSAT systems. At this time, we are unable to make a precise estimate of the number of small businesses that are VSAT system licensees and could be impacted by this action.

37. *Mobile Satellite Earth Stations.* Mobile satellite earth stations are intended to be used while in motion or during halts at unspecified points. These stations operate as part of a network that includes a fixed hub station or stations. The network may provide a variety of land, maritime and aeronautical voice and data services. There are 2 mobile satellite licensees. At this time, we are unable to make a precise estimate of the number of small businesses that are mobile satellite earth station licensees and could be impacted by this action.

38. *Radio Determination Satellite Earth Stations.* A radio determination satellite earth station is used in conjunction with a radio determination satellite service (rdss) system for the purpose of providing position location

information. These stations operate as part of a network that includes a fixed hub station or stations and operate in the frequency bands (1610–1626.5 MHz and 2483.5–2500 MHz) allocated to rdss. There are 4 licensees. At this time, we are unable to make a precise estimate of the number of small businesses that are radio determination satellite earth station licensees and could be impacted by the forfeiture guidelines.

39. It should be noted that in most of the satellite areas discussed above, the Commission issues one license to an entity but generally issues blanket license authority for thousands or even hundreds of thousands of earth stations or hand held transceivers. Overall, the Commission receives about 600 applications for satellite facilities per year. All applicants for satellite earth stations (except for receive-only stations) must make a determination of compliance with the limits, based on calculations or measurements.

E. Radio Broadcast Service

40. The extension of the transition period contained in this *First Memorandum Opinion and Order* will apply to television broadcasting licensees, radio broadcasting licensees and potential licensees of either service. The Small Business Administration defines a television broadcasting station that has no more than \$10.5 million in annual receipts as a small business.¹⁶ Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.¹⁷ Included in this industry are commercial, religious, educational, and other television stations.¹⁸ Also included are establishments primarily engaged in television broadcasting and which produce taped television program

¹⁶ 13 CFR § 121.201, Standard Industrial Code (SIC) 4833 (1996).

¹⁷ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 "CENSUS OF TRANSPORTATION, COMMUNICATIONS AND UTILITIES, ESTABLISHMENT AND FIRM SIZE," Series UC92-S-1, Appendix A-9 (1995).

¹⁸ *Id.* See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes "Television Broadcasting Stations (SIC Code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

¹⁵ 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4899.

materials.¹⁹ Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.²⁰ There were 1,509 television stations operating in the nation in 1992.²¹ That number has remained fairly constant as indicated by the approximately 1,550 operating television broadcasting stations in the nation as of August, 1996.²² For 1992²³ the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.²⁴

41. Additionally, the Small Business Administration defines a radio broadcasting station that has no more than \$5 million in annual receipts as a small business.²⁵ A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.²⁶ Included in this industry are commercial religious, educational, and other radio stations.²⁷ Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.²⁸ However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.²⁹ The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than \$5 million in revenue in 1992.³⁰ Official Commission

¹⁹ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 "CENSUS OF TRANSPORTATION, COMMUNICATIONS AND UTILITIES, ESTABLISHMENT AND FIRM SIZE," Series UC92-S-1, Appendix A-9 (1995).

²⁰ *Id.* SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 (Theatrical Producers and Miscellaneous Theatrical Services (producers of live radio and television programs)).

²¹ FCC News Release No. 31327, Jan. 13, 1993; Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra*, note 78, Appendix A-9.

²² FCC News Release No. 64958, Sept. 6, 1996.

²³ Census for Communications' establishments are performed every five years ending with a "2" or "7". See Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra*, note 78, III.

²⁴ The amount of \$10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at \$9,999,999 and began at \$10,000,000. No category for \$10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

²⁵ 13 CFR § 121.201, SIC 4832.

²⁶ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra*, note 78, Appendix A-9.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

records indicate that 11,334 individual radio stations were operating in 1992.³¹ As of August, 1996, official Commission records indicate that 12,088 radio stations were operating.³²

42. Thus, the proposed rules will affect approximately 1,550 television stations; approximately 1,194 of those stations are considered small businesses.³³ Additionally, the proposed rules will affect 12,088 radio stations, approximately 11,605 of which are small businesses.³⁴ These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. We recognize that the proposed rules may also impact minority and women owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0%) of 1,221 commercial television stations and 293 (2.9%) of the commercial radio stations in the United States.³⁵ According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9%) of 1,342 commercial and non-commercial television stations and 394 (3.8%) of 10,244 commercial and non-commercial radio stations in the United States.³⁶ We recognize that the numbers

³¹ FCC News Release No. 31327, Jan. 13, 1993.

³² FCC News Release No. 64958, Sept. 6, 1996.

³³ We use the 77 percent figure of TV stations operating at less than \$10 million for 1992 and apply it to the 1996 total of 1550 TV stations to arrive at 1,194 stations categorized as small businesses.

³⁴ We use the 96% figure of radio station establishments with less than \$5 million revenue from the Census data and apply it to the 12,088 individual station count to arrive at 11,605 individual stations as small businesses.

³⁵ "Minority Commercial Broadcast Ownership in the United States", U.S. Dep't of Commerce, National Telecommunications and Information Administration, The Minority Telecommunications Development Program ("MTDP") (April 1996). MTDP considers minority ownership as ownership of more than 50% of a broadcast corporation's stock, voting control in a broadcast partnership, or ownership of a broadcasting property as an individual proprietor. *Id.* The minority groups included in this report are Black, Hispanic, Asian, and Native American.

³⁶ See Comments of American Women in Radio and Television, Inc. in MM Docket No. 94-149 and MM Docket No. 91-140, at 4 n.4 (filed May 17, 1995), citing 1987 Economic Censuses, "Women-Owned Business," WB87-1, U.S. Dep't of Commerce, Bureau of the Census, August 1990 (based on 1987 Census). After the 1987 Census report, the Census Bureau did not provide data by particular communications services (four-digit Standard Industrial Classification (SIC) Code), but rather by the general two-digit SIC Code for communications (#48). Consequently, since 1987, the U.S. Census Bureau has not updated data on ownership of broadcast facilities by women, nor does the FCC collect such data. However, we sought comment on whether the Annual Ownership Report Form 323 should be amended to include information on the gender and race of broadcast

of minority and women broadcast owners may have changed due to an increase in license transfers and assignments since the passage of the 1996 Act.

43. In addition to owners of operating radio and television stations, any entity who seeks or desires to obtain a television or radio broadcast license may be affected by the rules adopted in this action. The number of entities that may seek to obtain a television or radio broadcast license is unknown.

44. The Commission receives about 1,800 applications for broadcast facilities per year. All applicants must make a determination of compliance with the limits, either by calculation or measurement.

F. Stations in the Maritime Services

45. The *Report and Order* required licensees and applicants for ship satellite earth terminals to make a determination of compliance with the new RF exposure requirements. The Commission has not developed a definition of small entities applicable to ship satellite earth station licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.

46. Ship mobile satellite service (MSS) stations are similar to mobile satellite earth stations, as discussed above, except that earth stations are aboard maritime vessels rather than traditional earth stations in the MSS. In the area of ship MSS, the Commission has two pending licensees for operation of the satellite service, one of which can be considered small business.

47. The Commission receives about 272 applications for ship earth stations per year. All applicants must make a determination of compliance with the new RF exposure limits.

G. Experimental, Auxiliary, and Special Broadcast and Other Program Distribution Services

48. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). It also includes

license owners. "Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities," *Notice of Proposed Rulemaking*, 10 FCC Rcd 2788, 2797 (1995).

Instructional Television Fixed Service stations, which are used to relay programming to the home or office, similar to that provided by cable television systems. The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.

49. Our computer databases show that there are 532 FM translator and booster stations, 4,152 low power TV, TV translators and TV booster stations, and 142 Instructional Television Fixed Service (ITFS) stations which are not categorically excluded from complying with the new RF exposure requirements adopted in the *Report and Order*.³⁷ All of these stations would be impacted by the extension of the transition period being adopted in this action. The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities, including Low Power TV stations, could be classified as small businesses by themselves. We also recognize that many translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either \$5 million for a radio station or \$10.5 million for a TV station). As we indicated earlier, 96% of radio stations and 77% of TV stations are designated as small.

50. The approximate number of annual applications processed by the Commission for this service is 1,032. We do not have adequate information to predict precisely how many of these

³⁷ Low power TV, TV translators and boosters, and FM translators and boosters are categorically excluded if their power is less than or equal to 100 watts. ITFS stations are categorically excluded if their power is less than 1640 watts EIRP or if the center of their antenna is more than 10 meters above ground and the antenna is not located on a rooftop. See 47 CFR § 1.1307(b)(1). Our database records do not indicate how many of the 142 ITFS stations that are authorized more than 1640 watts operate with non-rooftop antennas. According to the FCC news release, "Broadcast Station Totals as of June 30, 1996", released July 10, 1996, there are a total of 2,637 FM translator and booster stations, 4,910 TV translator and booster stations, and 1,903 low power TV stations. There are also 2,032 ITFS licensees.

applications will exceed our categorical exclusion criteria. However, based on our existing database records, we would expect that 42% of these applications would be required to have a determination made regarding compliance with the new RF exposure limits.

H. Multipoint Distribution Service (MDS)

51. This service involves a variety of transmitters, which are most commonly used to deliver programming to subscribers of wireless cable systems, similar to that provided by cable television systems. The Commission has refined the definition of "small entity" for the auction of MDS as an entity that together with its affiliates has average gross annual revenues that are not more than \$40 million for the preceding three calendar years.³⁸ This definition of a small entity in the context of MDS auctions has been approved by the SBA.³⁹

52. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas (BTAs). Of 67 winning bidders, 61 qualified as small entities. Five bidders indicated that they were minority-owned and four winners indicated that they were women-owned businesses. MDS is a service heavily encumbered with approximately 1,573 previously authorized and proposed MDS facilities and information available to us indicates that no MDS facility generates revenue in excess of \$11 million annually. We conclude that for purposes of this FRFA, there are approximately 1,634 small MDS providers as defined by the SBA and the Commission's auction rules.

53. The approximate number of annual applications processed by the Commission for MDS is 900. We do not have adequate information to predict precisely how many of these applications will exceed our categorical exclusion criteria. However, we estimate that approximately 113 will not meet the categorical exclusion criteria and have to make a determination of compliance with the RF exposure limits.

³⁸ 47 CFR § 21.961(b)(1).

³⁹ See "Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding," MM Docket No. 94-31 and PP Docket No. 93-253, *Report and Order*, 10 FCC Rcd 9589 (1995).

I. Paging and Radiotelephone Service, and Private Land Mobile Radio Services, Paging Operations

54. Since the Commission has not yet approved a small entities definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing less than 1,500 persons.

55. The Commission anticipates that a total of 16,754 non-nationwide geographic area licenses will be granted or auctioned. The geographic area licenses will consist of 2,754 MTA licenses and 14,000 EA licenses. In addition to the 47 Rand McNally MTAs, the Commission is licensing Alaska as a separate MTA and adding three MTAs for the U.S. territories, for a total of 51 MTAs. No auctions of paging licenses have been held yet, and there is no basis to determine the number of licenses that will be awarded to small entities. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of prospective paging licensees can be made, we assume, for purposes of this FRFA, that all the 16,754 geographic area paging licenses will be awarded to small entities, as that term is defined by the Small Business Administration (SBA).

56. We estimate that the approximately 600 current paging carriers could take the opportunity to partition and/or disaggregate a license to obtain an additional license through partitioning or disaggregation. We estimate that up to 52,062 licensees or potential licensees could take the opportunity to partition and/or disaggregate a license or obtain a license through partitioning or disaggregation. This number is based on the total estimate of paging carriers (approximately 600) and non-nationwide geographic area licenses to be awarded (16,754) and our estimate that each license will probably not be partitioned and/or disaggregated to no more than three parties. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of future paging licensees can be made, we assume for purposes of this FRFA that all of the licensees will be awarded to small businesses. We believe that it is possible that a significant number of up to approximately 52,062 licensees or potential licensees who could take the opportunity to partition and/or disaggregate a license or who could obtain a license through partitioning

and/or disaggregation will be a small business.

57. In our original FRFA, we indicated that we receive about 10,000 applications for paging facilities per year; 1,176 transmitters were expected to exceed the categorical exclusion. PageNet and PCIA have commented that these numbers underestimate the impact on paging carriers. PCIA notes that many paging facilities can be constructed without prior Commission authorization, and therefore significant numbers of paging facilities are built annually that are not included in the 10,000 count. PCIA questions our initial estimate that 11% of the applications would require routine evaluations, and believes most of these routine evaluations would involve field measurements that could take around 24 hours to complete. Although both PageNet and PCIA question our original analysis, neither party has submitted detailed information on how many paging facilities they believe would be covered under the new rules.

58. We have categorically excluded from routine environmental evaluation all paging stations that operate with an ERP of 1000 watts or less. We have also categorically excluded paging stations that use antennas that are not located on a rooftop and are at least 10 meters above ground. Paging is authorized under both Part 22 and Part 90 of our rules. For Part 22 paging, we estimate that we receive 10,000 applications for paging stations per year, 2939 of these involve power more than 1000 watts ERP. We believe that 40% of these would be located on a rooftop. For Part 90 paging, we estimate that we receive 2,000 applications per year, 200 of which would be above 1000 watts. We believe that 75% of these would be located on a rooftop. Virtually all of the non-rooftop installations in both Parts 22 and 90 would use antennas more than 10 meters above ground and, therefore, would be categorically excluded.

59. As of January 1995, we have allowed paging licensees to increase the ERP of their stations to 3500 watts without notifying us as long as the service contour does not change. In addition, we do require licensees to file information with respect to transmitters used for contour fill-in. Therefore, it is impossible to determine precisely the actual number of paging transmitters for which a routine environmental evaluation will be required. However, if we presume that: (1) for every application there are actually 2 transmitting facilities (in some cases there will be more and in many cases there will only be one facility); (2) only 10% of the "fill in" facilities will use

more than 1000 watts (because they are filling in the service, these transmitters likely do not need as much power) but 75% of these will be located on a rooftop; and (3) only 10% of those stations that were initially 1000 watts or below ultimately increase their power (they could have originally asked for more power if they needed it); then a total of 2,643 paging stations per year would be subject to routine environmental evaluation requirements.

60. We believe that many of the routine environmental evaluations can be done rather quickly, by reviewing OET Bulletin 65, considering the station and site configuration, and determining whether anyone would have access to an area near enough to the antenna that the RF exposure limits might be exceeded. These studies would take on the order of 1-3 hours to complete per transmitter site. In some cases, field measurements or more detailed calculations would be necessary, especially if more than one transmitter is located in the same area. The more detailed studies could take 24 hours, as suggested by PCIA.

J. Experimental Radio Service

61. The Commission has not developed a definition of small entities applicable to experimental licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons.⁴⁰ Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small experimental radio businesses and is unable at this time to make a precise estimate of the number of Experimental Radio Services which are small businesses.

62. The majority of experimental licenses are issued to companies such as Motorola and Department of Defense contractors such as Northrop, Lockheed and Martin Marietta. Businesses such as these may have as many as 200 licenses at one time. The majority of these applications, 70 percent, are from entities such as these. Given this fact, the remaining 30 percent of applications, we assume, for purposes of our evaluations and conclusions in this FRFA, will be awarded to small entities, as that term is defined by the SBA.

⁴⁰ 13 CFR § 121.201, Standard Industrial Classification (SIC) Code 4812.

63. The Commission processes approximately 1,000 applications a year for experimental radio operations. About half or 500 of these are renewals and the other half are for new licenses. We do not have adequate information to predict precisely how many of these applications will exceed our categorical exclusion criteria. However, we estimate that approximately 500 of these applications will be required to make an initial determination of compliance with our new RF guidelines.

K. Amateur Radio Service Volunteer Examiner Coordinator (VECs)

64. In our original FRFA, we did not analyze the possible impact and burden on Amateur Radio Service (ARS) VECs. The ARRL has commented that our original FRFA is flawed because it fails to address the impact of the rules on small business entities such as itself and one other VEC.⁴¹ The Commission has not developed a definition for a small business or small organization that is applicable for VECs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field . . ." ⁴² Our rules do not specify the nature of the entity that may act as a VEC.⁴³ However, all of the sixteen VEC organizations would appear to meet the RFA definition for small organization. Consequently, we have now analyzed the burden associated with this action on VECs.

65. The VECs coordinate the activities of the VEs who prepare and administer the Commission's amateur operator license examination system. The administering VEs prepare written examinations using questions drawn

⁴¹ The ARRL/VEC and the W5YI-VEC are components of organizations that publish materials marketed to persons for the purpose of preparing for passing the examinations required for the grant of an amateur operator license. This publishing activity, however, is separate from their VEC activity.

⁴² 5 U.S.C. § 601(4).

⁴³ Our rules, however, require that a VEC be an organization that has entered into a written agreement with the FCC to coordinate the examinations for amateur operator licenses. The examinations are prepared and administered by tens of thousands of amateur operators who serve as VEs. The VEC organization must exist for the purpose of furthering the amateur service, be capable of serving as a VEC in at least one of the thirteen VEC regions, agree to coordinate the examinations, agree to assure that every examinee is registered without regard to race, sex, religion, national origin or membership in any amateur service organization, and cooperate in maintaining the question pools for the VEs. See 47 CFR §§ 97.521 and 97.523, which outline the qualifications for VECs and question pools.

from common question pools.⁴⁴ The VEs also prepare the questions for the question pools which are maintained by the VECs. The questions in the pools are updated and revised periodically. In the *Report and Order*, we required that new examination questions on RF safety be added to the examinations. That requirement was made effective immediately. In response to the *Report and Order*, the ARRL filed a petition requesting that we allow the examinations to be modified according to the VECs' normal revision schedule. We are adopting such an implementation plan into this *First Memorandum Opinion and Order*. As a result, the VECs can proceed with their normal schedule for soliciting questions from the VEs and revising the question pools. The VECs, therefore, will have a minimum burden in meeting the new requirements.

66. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements

This *First Memorandum Opinion and Order* extends the transition period associated with the new RF exposure rules that were adopted in the *Report and Order*. There are no reporting, recordkeeping or other compliance requirements associated with the extension of the transition period and this action.

67. Steps Taken to Minimize the Economic Impact on Small Entities

We have made every effort to devise ways to minimize the impact of the new RF exposure requirements on small entities, while protecting the health and safety of the public. We have incorporated substantial flexibility in the procedures to make compliance as minimally burdensome as possible. In particular, we took the following steps in the *Report and Order* to ease the impact on small businesses:

68. We created categorical exclusions that require only those transmitters that appear to have the highest potential to create a significant environmental effect to perform an environmental evaluation.

69. We indicated that we would revise OST Bulletin No. 65 in the near future to provide guidance for determining compliance with FCC-specified RF limits. This should be of particular assistance to small businesses since it will provide straightforward information that should allow a quick understanding of the requirements and a quick assessment of the potential for

compliance problems without the need for an expensive consultant or measurement.

70. We allowed various methods for ensuring compliance with RF limits such as fencing, warning signs, labels, and markings, locked doors in roof-top areas, and the use of personal monitors and RF protective clothing in an occupational environment.

71. We rejected our initial proposal to adopt induced and contact currents limits due to the lack of reliable equipment available.

72. We specified a variety of acceptable testing methods and procedures that may be used to determine compliance. This will allow each small business to choose a procedure that best meets its needs in the manner that is least burdensome to it.

73. We have always allowed multiple transmitter sites, i.e., antenna farms, to pool their resources and have only one study done for the entire site. This is very common at sites that have multiple entities such as TV, FM, paging, cellular, etc. In most circumstances, rather than each licensee hiring a separate consultant and submitting a study showing their compliance with the guidelines, one consulting radio technician or radio engineer can be hired by the group of licensees. The consultant surveys the entire site for compliance and gives his recommendations and findings to each of the licensees at the site. The licensees can then use the findings to show their compliance with the guidelines. In this way the cost of compliance is minimized as no one licensee has to pay the entire consulting fee, rather just a portion of it.

74. In this *First Memorandum Opinion and Order*, we have also taken the following additional steps to reduce the burden on small businesses and organizations:

75. We extended the transition period for station applicants to come into compliance with the new requirements. This will give licensees, and applicants for new stations many of which may be small businesses, more time to learn the nature of the new requirements, make studies to determine whether they comply, and take steps to come into compliance if necessary.

76. We decided to permit the required changes in the ARS examinations to be made as the examinations are being routinely revised. This ensures that a minimal burden is put on the small organizations acting as VECs.

77. Report to Congress

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, part 1, is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 303 and 309(j) unless otherwise noted.

2. Section 1.1307 is amended by revising the introductory text of paragraph (b)(4) to read as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(4) *Transition Provisions.* For applications filed with the Commission prior to September 1, 1997 (January 1, 1998 for the Amateur Radio Service only), Commission actions granting construction permits, licenses to transmit or renewals thereof, equipment authorizations, or modifications in existing facilities require the preparation of an Environmental Assessment if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation that are in excess of the requirements contained in paragraphs (b) (4)(i) through (4)(iii) of this section. These transition provisions do not apply to applications for equipment authorization or use of mobile, portable, and unlicensed devices specified in paragraph (b)(2) of this section.

* * * * *

[FR Doc. 97-1350 Filed 1-21-97; 8:45 am]

BILLING CODE 6712-01-P

⁴⁴ See 47 CFR § 97.507, which outlines the requirements for preparing examinations for an amateur operator license.