

(2) Extend your travel time by at least 6 hours or more; or

(3) Require a connecting time of 4 hours or more at an overseas interchange point.

§ 301-10.137 What exceptions to the Fly America Act requirements apply when I travel solely outside the United States, and a U.S. flag air carrier provides service between my origin and my destination?

You must always use a U.S. flag carrier for such travel, unless, when compared to using a foreign air carrier, such use would:

(a) Increase the number of aircraft changes you must make en route by 2 or more; or

(b) Extend your travel time by 6 hours or more.

§ 301-10.138 In what circumstances is foreign air carrier service deemed a matter of necessity?

(a) Foreign air carrier service is deemed a necessity when service by a U.S. flag air carrier is available, but

(1) Cannot provide the air transportation needed, or

(2) Will not accomplish the agency's mission.

(b) Necessity includes, but is not limited to, the following circumstances when:

(1) Determined by the agency, use of a foreign air carrier is necessary for medical reasons, including use of service by the foreign air carrier to reduce the number of connections and possible delays in the transportation of persons in need of medical treatment; or

(2) Use of a foreign air carrier is required to avoid an unreasonable risk to your safety and is approved by your agency (e.g., terrorist threats); or

(3) Your program or activity may only be financed, under statute, using excess foreign currencies, and all U.S. flag air carriers refuse to accept foreign currencies; or

(4) You can not purchase a ticket in your authorized class of service on a U.S. flag air carrier, and a seat is available in your authorized class of service on a foreign air carrier.

§ 301-10.139 May I travel by a foreign air carrier if the cost of my ticket is less than traveling by a U.S. flag air carrier?

No. Foreign air carrier service may not be used solely based on the cost of your ticket.

§ 301-10.140 May I use a foreign air carrier if the service is preferred by or more convenient for my agency or me?

No. You must use U.S. flag air carrier service, unless you meet one of the exceptions in §§ 301-10.135, 301-10.136, or § 301-10.137.

§ 301-10.141 May I use foreign air carrier service because the foreign air carrier accepts foreign currency?

No, except as provided in § 301-10.138(b)(3).

§ 301-10.142 Must I provide any special certification or documents if I use a foreign air carrier?

Yes, you must provide a certification, as required in § 301-10.143, and any other documents required by your agency. Your agency cannot pay your foreign air carrier fare if you do not provide the required certification.

§ 301-10.143 What must the certification include?

The certification must include:

(a) Your name;

(b) The dates that you traveled;

(c) The origin and the destination of your travel;

(d) A detailed itinerary of your travel, name of the air carrier and flight number for each leg of the trip; and

(e) A statement explaining why U.S. flag air carrier service was not available (or reasonably available in the case of travel between points outside the United States), i.e., why you met one of the exceptions in §§ 301-10.135, 10.136, or 10.137.

§ 301-10.144 What is my liability if I improperly use a foreign air carrier?

You will not be reimbursed for any transportation cost for which you improperly use foreign air carrier service. If you are authorized by your agency to use U.S. flag air carrier service for your entire trip, and you improperly use a foreign air carrier for any or all of the trip, your transportation cost on the foreign air carrier will not be payable by your agency. If your agency authorizes you to use U.S. flag air carrier service for part of your trip and foreign air carrier service for another part of your trip, and you improperly use foreign air carrier service, your agency will pay the transportation cost on the foreign air carrier for only the portion(s) of the trip for which you were authorized to use foreign air carrier service.

Dated: March 31, 1998.

Becky Rhodes,

Deputy Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 98-8897 Filed 4-6-98; 8:45 am]

BILLING CODE 6820-34-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101

[WT Docket No. 98-20; FCC 98-25]

Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this *Notice of Proposed Rulemaking*, the Commission sets forth proposals to consolidate the licensing rules into a single set of rules for all wireless radio services. The Commission's goal is to establish a streamlined set of rules that minimizes filing requirements as much as possible; eliminates redundant, inconsistent, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data. These consolidated rules will eliminate duplication and inconsistencies that exist in the current rules. These proposed rules will make it easier for applicants to understand the licensing process and application requirements because there will be, if adopted, only one set of licensing rules.

DATES: Comments are due May 7, 1998, reply comments are due May 22, 1998. Comments on the proposed information collections are due June 8, 1998.

ADDRESS(ES): Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wilbert E. Nixon, Jr., Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-7240 or Susan Magnotti, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418-0871.

SUPPLEMENTARY INFORMATION: This *Notice of Proposed Rule Making* in WT Docket No. 98-20, adopted February 19, 1998 and released March 18, 1998 is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M Street NW., Washington DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington DC 20036 (202) 857-3800. The document is also available via the internet at <http://www.fcc.gov/Bureaus/Wireless/Notices/1998/index.html>.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. In this Notice of Proposed Rule Making (*NPRM*), the Commission proposes to consolidate, revise, and streamline the rules governing application procedures for radio services licensed by the Wireless Telecommunications Bureau (WTB or Bureau). This proceeding is closely related to the Commission's ongoing development of Universal Licensing System (ULS), which will become fully operational later this year. This *NPRM* proposes rule changes that will facilitate the implementation of the ULS, an integrated database and automated processing system now being developed to be used by the Bureau to support electronic filing of applications, collection of licensing information, and public access to such information for all wireless services licensed by the Bureau. As part of the ULS initiative, the Commission is replacing eleven separate WTB licensing databases with a new integrated licensing system, and establishing the Universal Licensing database to accommodate all wireless radio services. One of the most significant features of ULS is that it will support full electronic filing of all licensing-related applications and other filings associated with such applications (e.g., amendments and modifications, waiver requests, and applications for transfer and assignment of licenses). To fully implement ULS for all wireless radio services, the Commission proposes to consolidate the wireless radio services licensing rules in a single section of part 1, to the extent practicable.

2. In addition, ULS will make licensing information both more accessible and more usable by Commission staff in carrying out our regulatory responsibilities. For example, ULS will greatly enhance the Commission's ability to collect reliable and accurate information on such issues as licensee ownership, including information regarding entities holding major ownership interests in licenses, and affiliated entities such as parents and subsidiaries of licensees. This will enable the Commission staff to monitor spectrum use and competitive conditions in the wireless marketplace more easily and will promote more effective implementation of our spectrum management policies. Similarly, ULS will enhance the availability of licensing information to the public, which will have on-line access to ULS by dialing into the Commission's wide area network

(WAN) and using any World Wide Web (WWW) browser.

3. License applicants will be charged normal filing fees for filing applications under ULS, but will save time and resources by filing electronically. For other uses of ULS, e.g., persons seeking to retrieve licensing or mapping information, the Commission will charge for on-line access, but these charges will be limited to the amount necessary solely to recover the Commission's costs of maintaining ULS, including the cost of protecting the security of the system from outside tampering. The Commission anticipates that when ULS is fully operational, it will be possible to reduce these charges because the cost can be spread among a larger number of users.

4. The Commission also notes that ULS will provide greater access to persons with disabilities. ULS will incorporate several features that will enable persons with disabilities to use the electronic filing and public access functions. The technical support hotline will have Text Telephone capabilities for the hearing impaired. In addition, the system will allow sight impaired individuals access to Interactive Voice Response Technology. This will allow applicants to determine the status of pending license applications through a touch tone telephone.

5. This proceeding is also part of the 1998 biennial review of its regulations pursuant to section 11 of the Communications Act of 1934, as amended, (Communications Act). The Commission's goal in this proceeding is to establish a simplified set of rules that (1) minimizes filing requirements as much as possible; (2) eliminates redundant, inconsistent, or unnecessary submission requirements; and (3) assures ongoing collection of reliable licensing and ownership data.

6. In this proceeding, the Commission is guided by the principles of (1) furthering competition in the telecommunications industry; (2) ensuring that all communities have access to telecommunications technology; and (3) using common sense to draft clear and concise rules that provide for fair, efficient, consistent, and effective regulation of radio services licensed by WTB (wireless radio services). Accordingly, the Commission seeks to: (1) Facilitate the development of electronic filing in general; (2) require, where appropriate, applicants for wireless radio services licenses to file applications and notifications electronically; (3) streamline licensing processes and procedures; and (4) conform application and filing rules for all wireless radio services so that

similarly situated applicants and licensees are treated equally.

II. Discussion

A. Electronic Filing and New Forms

1. Consolidation of Application Forms

7. *Background.* Presently there are over 30 different forms used in the WTB application and licensing process. This myriad of forms can create substantial confusion for applicants. WTB devotes significant resources to providing the appropriate forms to the public and advising applicants of the appropriate form required for their particular business purpose.

8. *Discussion.* The Commission proposes to consolidate the current 30 forms into five new forms that have been developed specifically for ULS: FCC Forms 601, 602, 603, 604, and 605. The Commission seeks comment on any additional modifications to the proposed forms: (1) FCC Form 601 (Long-form Application for Authorization) will replace the Form 600, and will be used by the majority of applicants to file initial license applications, as well as filings for modification, renewal, special temporary authority, or other routine applications. (2) FCC Form 602 (Wireless Telecommunications Bureau Ownership Form) will be used to submit initial and updated ownership information for those wireless radio services that require the submission of such information. (3) FCC Form 603 (Application for Assignment of Authorization) will be used for requesting approval of assignment of licenses, including partitioning and disaggregation requests. (4) FCC Form 604 (Application for Transfer of Control) will be used to request approval of transfers of control of licensees, which require less information than assignments because the identity of the licensee does not change. (5) FCC Short Form 605 (Short-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted, and General Mobile Radio Services, as well as for Commercial Radio Operator Licenses) will be used as a short-form application for applicants who are not presently required to submit extensive technical data to receive a license, such as General Mobile Radio Service, Amateurs, Ships, Aircraft, and Commercial Radio Operators. The Commission seeks comment on each of these forms and on any possible modifications commenters may wish to suggest.

9. The Commission tentatively concludes that elimination of the separate long-form filing requirement

for winning bidders after the completion of an auction will expedite the post-auction licensing process and eliminate substantial administrative burdens for both the public and the Commission. With the advent of ULS and electronic filing of long-form applications after the completion of an auction, the filing of individual applications for each license won at auction is unnecessary. The Commission proposes to permit parties to routinely file a single application to authorize all licenses won by them in a single auction. The Commission seeks comment on this tentative conclusion and proposal.

10. The Commission does not propose to eliminate use of the auction short-form application (FCC Form 175) or our antenna registration form (FCC Form 854).

2. Mandatory Electronic Filing

11. *Background.* ULS has the capability to accept electronically filed applications in all wireless radio services. The Commission's policies have consistently encouraged electronic filing. With respect to applications for licenses obtained through competitive bidding, the Commission recently amended 47 CFR 1.205(a) and 1.2107(c), to require electronic filing of all short-form and long-form applications beginning January 1, 1999, unless not feasible. See amendment of part 1 of the Commission's Rules—Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rulemaking*, 63 FR 770, January 7, 1998 (*Part 1 Third Report and Order*).

12. *Discussion.* With the advent of ULS, the Commission will have the ability to accept electronic filing of all forms used for wireless radio services. The Commission proposes that beginning on January 1, 1999, applicants, licensees, and frequency coordinators be required to file electronically. The Commission believes that requiring electronic filing of applications for all wireless radio services is in the public interest because it will help to accomplish the goals of: (1) Effecting a more rapid transition to ULS; (2) streamlining the application processing; (3) affording parties a quick and economical means to file applications; and (4) making all licensing information quickly and easily available to interested parties and the public. The Commission requests comment on these proposals.

13. The Commission seeks comment on whether manual filing should continue as an option for certain services or classes of applicants. Some applicants may not have access to

computers with the hardware and capability to utilize the software necessary to submit their applications electronically, particularly since electronic filing will be accomplished by dial-in procedures and not over the Internet. Accordingly, the Commission seeks comment on whether certain wireless radio services, excluding those subject to competitive bidding, should be exempted from our proposed general requirement to file electronically. Commenters advocating an exemption from mandatory electronic filing should explain why a particular service or a particular class of applicant requires manual filing. Commenters should also address whether it would be appropriate to require electronic filing for such services after a period of time. Commenters should suggest an appropriate period of time before mandatory electronic filing would be implemented for these exempted services, with a rationale supporting such proposals. In addition, the Commission proposes that applications affecting multiple call signs, such as mass renewals or cancellations, may only be filed electronically. Finally, the Commission requests comment on whether it would benefit applicants and licensees subject to electronic filing if computer facilities would be maintained in field offices and at the Washington, DC., offices for the public to use to file forms and pleadings electronically. Commenters should discuss the resources needed to support this, such as the number of computers necessary for the public to use.

3. Copy and Microfiche Requirements

14. *Background.* Current Commission rules require the filing of a specified number of copies of all applications and pleadings in order to ensure that appropriate Commission staff have access to the documents and that timely information is provided to the public. Additionally, in many cases copies of applications must be filed on microfiche for inclusion in the station file for the licensee.

15. *Discussion.* The Commission proposes to change the current copy and microfiche requirements to eliminate those requirements that are no longer necessary. The Commission tentatively concludes that reducing the number of copies that parties have to file and eliminating current microfiche requirements would serve the public interest because such requirements are unnecessary under ULS. In the past multiple copies and microfiche were required to make application and licensing information available to the public. ULS, however, provides an

unprecedented degree of accessibility to this information. Whether applications or pleadings are filed electronically or manually, all information will be available online to interested parties. After implementation of ULS, any data that is filed manually will be entered or scanned as necessary and will be available in the same fashion as electronically filed information. Thus, there will no longer be a need for an applicant to file numerous paper copies or microfiche. The Commission proposes to amend the rules so that applicants who file applications electronically will not be required to provide paper copies, diskettes, or microfiche. The Commission seeks comment on these proposals and tentative conclusions. The Commission also seek comment on whether it would impose a significant burden on manual filers to require them to file a diskette containing electronic copies of all attachments and exhibits filed with paper forms. Requiring a diskette containing electronic copies of all attachments to be filed with manually filed applications would expedite the addition of such applications to ULS.

4. Filing of Pleadings Associated with Applications

16. *Background.* Currently, 47 CFR 1.49 requires that pleadings and documents filed in any Commission proceeding be filed on paper.

17. *Discussion.* The Commission proposes to modify the rules to allow electronic filing of pleadings regarding wireless radio service applications. With the advent of ULS, the Commission also has the ability to allow pleadings and informal requests for actions associated with applications or licenses in the wireless radio services to be filed electronically. Such pleadings include petitions to deny, petitions for reconsideration, applications for review, comments, motions for extension of time, and subsequently filed pleadings related to such filings. In addition, ULS allows waiver requests to be filed electronically on the FCC Form 601 or in connection with requests submitted on other ULS forms. Parties submitting pleadings via the ULS will continue to be required to serve paper copies on all interested parties. The Commission seeks comment on this proposal. We also seek comment on whether other WTB pleadings that are not associated with an application or a docketed proceeding should be permitted to be filed electronically via ULS.

5. Letter Requests

18. *Background.* The Commission's rules currently permit licensees in some

wireless services to request certain actions by letter instead of with a formal application filing. Each year WTB receives thousands of letter requests which must be processed manually. In addition, section 308(a) of the Communications Act of 1934, as amended (Communications Act) states that formal applications are not required during national emergencies or under other exceptional circumstances (Special Situations), 47 U.S.C. 308(a). This provision is not to be confused with the filing of requests for special temporary authority under section 309(f) of the Communications Act, 47 U.S.C. 309(f).

19. *Discussion.* The Commission seeks comment on whether requiring requests relating to licenses or applications to be filed using ULS forms rather than continuing to accept and process letter requests will better serve the public interest. Commenters should address whether the Commission should eliminate letter filings for applications, modifications, renewals, amendments, extensions, cancellations, special temporary authorizations, and name and address changes, except for the Special Situations set forth in section 308(a) of the Communications Act. The Commission notes that the forms are widely available to the public on the FCC's web page, via toll free telephone number, and through a fax-on-demand service, and their use should be far less burdensome for the public than drafting a letter request. Using a form instead of a letter will also enable Commission staff to handle requests more quickly and accurately. The Commission also notes that even if manually filed the ULS form is more likely than a letter to be sent directly to the appropriate Bureau and division for processing. In addition, many requests for minor modifications could, if filed on a form, be automatically granted, thus relieving the Commission of a significant processing burden. Nonetheless, the Commission is mindful that it may be unduly burdensome for some licensees to use a specific form rather than a letter to request minor changes to an application or license, such as a change of address. Therefore, commenters should address whether letter requests should be permitted under certain circumstances and if so, identify those circumstances.

B. Standardization of Practices and Procedures for WTB Applications and Authorizations

1. Overview—Consolidation of Procedural Rules in Part 1

20. *Background.* In the past, the Commission has adopted service-specific rules and procedures for processing applications in each wireless service, which are for the most part set forth in separate rule parts pertaining to each service. Thus, because many wireless service providers hold licenses in more than one service, they must consult multiple rule parts when filing applications. Each service's rules have generally been addressed in separate rulemaking proceedings, which took place at different times, inconsistencies arose in the processing procedures for each service as the Commission increasingly took a deregulatory approach to licensing procedures.

21. *Discussion.* The Commission proposes to consolidate the existing procedural rules for the wireless radio services into unified rules, located in part 1, that will be tailored to the new ULS database. Moreover, the Commission proposes to eliminate unnecessary or outdated procedural rules and conform inconsistent procedures to the extent feasible. The Commission notes that adopting a single set of procedural rules tailored to ULS will also make the licensing process more efficient and user-friendly. For example, applicants seeking multiple licenses in the same service or in more than one service will be able to submit basic licensee information (e.g., name, address, ownership information) only once, and ULS can automatically incorporate this information into all subsequent applications associated with the same applicant. Thus, licensees need not resubmit licensee information that is already in the system unless that information has changed, in which case only a single filing would be required to update the system. The Commission encourages commenters to address the proposed changes, both to identify unnecessary and inconsistent rules and to identify any instances in which retention of service-specific rules is justified.

2. Standardization of Major and Minor Filing Rules

22. *Background.* Under current WTB rules, the standards for distinguishing between major and minor filings, particularly amendments to applications and modifications of licenses, have been addressed on a service-specific basis and are found in many provisions throughout the rules. The distinction

between major and minor filings has significant procedural consequences in the application process, because a major amendment to an application causes the application to be considered newly filed, while a minor amendment generally has no impact on the filing date. A major amendment may be subject to an additional public notice period (where public notice is required) or deemed untimely filed if the new filing date falls outside a filing window. For example, a major ownership amendment to an application for which the filing window has closed would normally make that application untimely and therefore unacceptable for filing. Distinguishing major and minor modifications to licenses is similarly important, because major modifications are subject to the same public notice requirements as initial applications, and typically require prior Commission approval even where public notice is not required. Minor modifications, by contrast, do not trigger public notice obligations and often do not require prior Commission approval.

23. *Discussion.* The Commission proposes to adopt a single rule in part 1 that defines categories of major and minor changes for purposes of defining whether an amendment to an application or a request for license modification is major or minor. The Commission proposes that these major and minor categories should uniformly govern the filing date of applications in all wireless radio services. The Commission is not, however, proposing to revise the types of applications which require public notice or frequency coordination.

24. Some differentiation between services remains necessary based on whether they are licensed on a geographic area basis or a site-specific basis. For example, where a license is granted on a site-specific basis, virtually any change to the technical characteristics of the facility (e.g., a change of coordinates, antenna height, or transmitting power) requires the Commission to modify the license. By contrast, most geographic licenses do not generally require modification for technical changes of this type to individual sites within a licensee's service area, because the license affords the licensee the flexibility to make these changes without modification of its authorization provided it complies with the basic operational and technical rules applicable to the service. As a result, where geographic licensing is involved, there are far fewer types of possible license modifications than where licensing is site-specific.

25. In addition, even among services licensed on a site-specific basis, some differentiation is required in defining major and minor changes due to the differing technical parameters governing mobile and fixed services. For example, mobile services involve communications between two or more stations in which at least one of the stations involved is mobile. See 47 U.S.C. 153(27). A common scenario would be where one or more mobile units communicate with a fixed base station and nearby co-channel and adjacent-channel stations are coordinated based on point-radius calculations of potential interference. In contrast, fixed services involve communications among one or more fixed sites. This results in the coordination of neighboring co-channel and adjacent-channel stations by identifying the potential for radio "paths" to interfere with one another. In both cases, however, the technical parameters proposed herein to define major and minor modifications are appropriate to identify which applications could significantly affect nearby licensees and differ consistent with the distinct ways in which co-channel stations are coordinated.

Major

26. Based on the proposed new categorizations, the Commission tentatively concludes that the following changes should be considered major:

For all stations in all wireless radio services, whether licensed geographically or on a site-specific basis:

- Any substantial change in ownership or control;
- Any addition or change in frequency, excluding removing a frequency;
- Any request for partitioning or disaggregation;
- Any modification or amendment requiring an environmental assessment (as governed by 47 CFR 1.1301–1319);
- Any request requiring frequency coordination—non-commercial mobile radio services (CMRS) private land mobile only; or
- Any modification or amendment requiring notification to the Federal Aviation Administration as defined in 47 CFR part 17 Subpart B.

In addition to those changes listed above, the following are major changes applicable to stations licensed to provide base-to-mobile, mobile-to-base, mobile-to-mobile, or repeater communications on a site-specific basis:

- Any increase in antenna height above average terrain (HAAT);

- Any increase in effective radiated power (ERP);
- Any change in latitude or longitude; or
- Any increase or expansion of coverage area (in this context, coverage area is defined in the rule parts governing the particular radio services).

In addition to those changes listed above, the following are major changes that apply to stations licensed to provide exclusively fixed point-to-point, multipoint-to-point, or point-to-multipoint communications on a site-specific basis:

- Any change in transmit antenna location by more than 5 seconds in latitude or longitude (e.g., a 5 second change in either latitude or longitude would be minor);
- Any increase in frequency tolerance (Fixed Microwave only);
- Any increase in bandwidth;
- Any change in emission type;
- Any increase in EIRP greater than 3 dB;
- Any increase in EIRP greater than 1.5 dB (DEMS only);
- Any increase in transmit antenna height (above mean sea level) more than 3 meters;
- Any increase in transmit antenna beamwidth;
- Any change in transmit antenna polarization (fixed microwave only); or
- Any change in transmit antenna azimuth greater than 1 degree.
- Any change in latitude or longitude that requires special aeronautical study; or
- Any change which together with all minor modifications or amendments since the last major modification or amendment produces a cumulative effect greater than any of the above major criteria.

Minor

27. The Commission tentatively concludes that any change not specifically listed above as major should be considered minor. This would include:

- Any *pro forma* transfer or assignment;
- Any name change not involving change in ownership of the license;
- Any address and/or telephone number changes;
- Any changes in contact person;
- Any change to a CMRS site where the licensee's interference contours are not extended and co-channel separation criteria are met; or
- Any conversion of a site-specific license into a single wide-area license where there is no change in the licensee's aggregate service area.

28. In addition, the Commission proposes to combine the two categories

of minor filings in part 101 into one category, which will not be required to be placed on public notice. The Commission is also correcting a minor discrepancy in the standard for a major change to antenna parameters that exists between an application amendment and modification to a station. The Commission seeks comment on these changes.

29. The Commission further proposes to allow licensees to implement minor modifications to their facilities without prior approval; licensees would be required only to electronically notify the Commission within 30 days of implementing the change. The Commission notes that there are times that applicants and licensees may submit multiple amendments or modifications that individually would be considered minor changes, but that combine to constitute a major change. In this connection, the Commission proposes that multiple minor changes will be considered a major change to the extent that their cumulative effects relative to the original authorization exceed the threshold(s) as major changes. We seek comment on this proposal. Commenters should address the standard we should adopt to alert applicants and licensees that multiple minor amendments or modifications will be considered a major change.

30. There are times that applicants and licensees may submit multiple amendments or modifications that individually would be considered minor changes, but that combine to constitute a major change. In this connection, the Commission proposes that multiple minor changes will be considered a major change to the extent that their cumulative effects relative to the original authorization exceed the threshold(s) as major changes. The Commission seeks comment on this proposal. Commenters should address the standard the Commission should adopt to alert applicants and licensees that multiple minor amendments or modifications will be considered a major change.

3. Submission of Ownership Information

31. *Background.* The existing service-specific rules contain varying requirements for submission of ownership information by wireless applicants and licensees. For example, in part 22, applicants for licenses are required to provide detailed real-party-in-interest information conceding stockholders, subsidiaries, and affiliates. See 47 CFR 22.108. Assignees and transferees of part 22 licenses must also file current ownership information on

Form 430 if a current report is not on file with the Commission. See 47 CFR 22.137(a). In part 101, microwave applicants are required to file real-party-in-interest information in conjunction with their applications. See 47 CFR 101.19. Most recently, in the *Part 1 Third Report and Order*, the Commission required all applicants for licenses or for consent to assignment or transfer of licenses in auctionable services to provide specific ownership information with either their short-form or long-form application. See 47 CFR 1.2112(a).

32. *Discussion.* These various reporting requirements are intended to enable the Commission to review whether applicants and licensees are in compliance with the real-party-in-interest rules, as well as with ownership restrictions such as the CMRS spectrum cap, cellular cross-ownership restrictions, eligibility for treatment as a small business at auction, and foreign ownership limitations. Entities who hold or apply for multiple licenses may be required to submit duplicative or inconsistent ownership information with each application.

33. The development of ULS provides an opportunity to fully implement the decision in the *Part 1 Third Report and Order* streamline the Commission's ownership disclosure requirements.

The Commission proposes to adopt a consolidated rule governing all submissions of ownership information by wireless applicants and licensees. The Commission proposes to utilize the new Form 602, developed for ULS, as the common form on which all wireless applicants and licensees submit required ownership information in connection with any application or licensing change. For entities applying for a license for the first time, whether by initial licensing, assignment, or transfer of control, an applicant subject to ownership reporting requirements would file this form simultaneously with the relevant license application (Form 175, 601, 603, or 604). The applicant would be required to submit only a single Form 602 in connection with multiple applications (whether in one wireless service or multiple services), and would be able to reference the same information in all future applications without refile the form. The licensee would also use the Form 602 to provide amended or updated ownership information as required by the relevant rules, e.g., in connection with transfers and assignments. The licensee would only have to file one ownership form to update this data for all of its licenses. The Commission seeks comment on this proposal.

34. The Commission also proposes to streamline and consolidate the rules regarding the types of ownership information that must be submitted by wireless applicants and licensees. The Commission proposes to eliminate all duplicative and inconsistent reporting requirements in service-specific rule parts that deal with auctionable services, e.g. the reporting requirements in part 22. This proposal does not preclude requiring different or more specific ownership information where circumstances warrant; e.g., applicants seeking small business eligibility for auction purposes must typically file more detailed information regarding ownership and financial structure than other entities.

35. The Commission also seeks comment on whether to revise the rules regarding ownership information to be provided by applicants and licensees in non-auctionable services that are not subject to the disclosure requirements of the *Part 1 Third Report and Order*. For example, under part 101, all applicants, including private licensees operating systems exclusively for internal use, are required to disclose real party in interest information and certify that they are not representatives of foreign governments, but are not otherwise subject to ownership reporting requirements. The Commission also seeks comment on whether ULS should collect ownership information from applicants and licensees in non-auctionable services beyond what is currently required. For example, in some instances, licenses in private, non-auctionable services are held by commercial enterprises such as railroads or utilities, which could also hold licenses or interests in licenses in auctionable wireless services. The Commission seeks comment on whether the possible holding of both types of licenses raises potential competitive or spectrum management issues that would justify requiring such entities to provide ownership information in connection with applications for non-auctionable as well as auctionable licenses.

The Commission also seeks comment on what types of information should be provided. The Commission tentatively concludes that there is no need to extend ownership reporting requirements to applications or licenses held by governmental entities. The Commission also tentatively concludes that such requirements are unnecessary for the Amateur or General Mobile Radio Services or for Commercial Radio Operators, because these services are essentially personal in nature. The Commission seeks comment on these tentative conclusions.

4. Frequency Coordination of Amendment and Modification Applications

36. *Background.* In services requiring frequency coordination in parts 90 and 101 there are differing rules pertaining to coordination for amendments and modifications that involve substantial engineering changes to applications. Section 90.175 of the Commission's rules identifies numerous changes that do not require frequency coordination. However, § 101.103(d) of the rules requires all applicants seeking to amend applications or modify their authorizations to obtain a new frequency coordination.

37. *Discussion.* The Commission proposes amending § 101.103 by requiring frequency coordination only for those applicants filing amendments and modifications that involve changes to technical parameters that are classified as major.

Licensees making minor changes to technical parameters would only be required to notify the Commission, as well as the entity(ies) with which it normally engages in frequency coordination, of the minor change. The Commission seeks comment on this proposal.

5. Returns and Dismissals of Incomplete or Defective Applications

38. *Background.* Currently, electronic filing of applications involves the completion of a form on a computer and forwarding the completed application to the Commission. Incomplete or incorrectly filed applications are returned and/or dismissed in accordance with service-specific rules. The ULS filing system will reduce filing errors by assisting applicants who file electronically to fill in all required information. For example, ULS will prefill ownership and address information for applicants who are already Commission licensees. It will also interactively check that required elements of applications are completed and prompt applicants to correct errors. ULS can also be programmed to interactively perform certain clearances such as verifying tower registration. The Commission anticipates that this system, in combination with the consolidated rules proposed herein, will result in a higher percentage of grantable applications and help to ensure the integrity of the data in the licensing database.

39. There will be two means for parties to electronically file applications with the Commission: batch and interactive. Batch filing involves data transmission in a single action, without

any interaction with the Commission's ULS system. Batch filers will follow a set Commission format for entering data. Batch filers will then send via file transfer protocol (FTP) batches of data to the Commission for compiling. ULS will compile such filings overnight and respond the next business day with a return or dismissal for any defective applications. Thus, batch filers will not receive immediate corrections from the system as they enter the information.

40. Interactive filers will use a WWW browser to contact the Commission on the secure network and complete the appropriate Commission form in real time. Interactive filing will be accomplished through the Commission's WAN. No filing will be done over the Internet. The Commission's WAN can be accessed by using software available for downloading from the Commission's web site at <http://www.fcc.gov/wtb/uls>. Interactive filing involves data transmission with screen-by-screen prompting from the Commission's ULS system. Interactive filers will receive prompts from the system identifying data entries outside the acceptable ranges of data for the individual fields at the time the data entry is made. Interactive filers will be able to enter corrected information in real time; thus, they are less likely to submit applications that are incomplete or incorrect with respect to information in these fields.

41. *Discussion.* The Commission proposes to conform filing rules for all wireless radio services applicants so that batch, interactive, and, where applicable, manual filers will be subject to the same requirements and procedures for defective or incomplete applications. Interactively filed applications will be screened in real time by the ULS system; therefore, errors will be unlikely but may occur in some instances where erroneous information is entered. In the case of batch and manually filed applications, incomplete or erroneous filings will not be detected until after the application is filed. Manually filed applications, if erroneous, will not be returned until the WTB staff reviews the application and detects the problem. The Commission proposes that an applicant who submits an application that is accepted by ULS but that subsequently is found to have missing or incorrect information be notified of the defect in all cases, regardless of filing method, except as indicated below. The Commission seeks comment on allowing applicants 30 days from the date of this notification to correct or amend the application if the amendment

is major, the applicant's ability to refile will depend on whether major amendments are allowed under the circumstances (e.g., whether the relevant filing window has closed). Notwithstanding the above, in all cases applications that are submitted without a sufficient fee or outside of an applicable filing window and manually filed applications that do not contain a valid signature will be immediately dismissed. The Commission seeks comment on these proposals.

42. Finally, the Commission proposes a method for handling confidential attachments to applications filed in the ULS. Currently, because applicants may submit proprietary or market sensitive data as attachments to their applications, they may request that the Commission treat these attachments as confidential. If the Commission does not grant this request for confidential treatment, the attachments in question are returned to the applicant, who may decide whether or not to resubmit them without restriction. Under the ULS applicants may request that an electronically submitted attachment be treated as confidential by checking the appropriate box on the attachment form. To ensure that these attachments are kept confidential in ULS, the Commission proposes the following security measures: (1) Any attachment designated as confidential will not be accessible from publicly available query utilities; and (2) a special user name and password will be required for Commission employees to view confidential attachments. To provide the same treatment under ULS as under the current system, the Commission proposes that if the request for confidential treatment is denied, the applicant would be informed and the attachments in question be deleted from the ULS database. The Commission requests comment on this proposal.

6. Discontinuation of "Reinstatement" Applications

43. *Background.* Presently, licensees in the Private Land

Mobile Services and Fixed Microwave Radio Services who do not file a timely renewal application are given a 30-day period following the expiration of their licenses in which to request reinstatement. See 47 CFR 1.926(c). This practice is inconsistent with other wireless radio service licensing rules where reinstatement is not permitted. See, e.g., 47 CFR 22.145. The Commission seeks comment on whether to modify the rules to utilize ULS to notify applicants of the renewal period for their licenses. This would eliminate the reinstatement period and instead

automatically cancel the license following expiration.

44. *Discussion.* In order to provide regulatory symmetry among all wireless services, the Commission proposes to provide automatic pre-expiration notification to all wireless radio services licensees through ULS and to eliminate the reinstatement period in those services that currently allow reinstatement applications. This proposal does not affect the five-year grace period within which holders of Commercial Radio Operator licenses may renew expired licenses without retaking the required examination. See 47 CFR 13.13(b). Specifically, the Commission proposes that ULS would send notices to all wireless radio services licensees, both site-specific licensees and geographic area licensees, 90 days before the expiration of their licenses. The Commission seeks comment on this proposal. Commenters should address whether 90 days is the appropriate amount of time prior to expiration to send this information. Under this procedure, failure to file for renewal of the license before the end of the license term would result in automatic cancellation of the license. The Commission tentatively concludes that existing rules allowing reinstatement of expired licenses should be eliminated because, under the proposed new rules: (1) Licensees will receive notification that their licenses are about to expire and, therefore, should be responsible for submitting timely renewal applications; and (2) interactive electronic filing will make it easier for all licensees to timely file renewal applications. In addition, Commission forms are widely available to the public on the FCC's web page, <http://www.fcc.gov/formpage.html>; via toll free telephone number, 1-800-418-3676; and through fax-on-demand service, (202) 418-0177. Licensees should be able to obtain the form more easily than before to timely file their renewal application. The Commission seeks comment on the tentative conclusions and on whether this approach will have a negative effect on public safety and local government licensees. In particular, the Commission requests comment on whether such entities should be subject to a different procedure, and if so, what that procedure should be.

45. To the extent that the Commission adopts its automatic cancellation proposals, licensees whose licenses have been automatically cancelled may file a petition for reconsideration of the cancellation or may file a new license application. The ULS system will show a license expiration as final 30 days

after the automatic cancellation date if no petition for reconsideration is filed. Such licenses would then be available for the Commission to react or otherwise reassign. If a petition for reconsideration is filed, the license would remain in the ULS pending action on the petition. If the Commission determines that the spectrum is available for reassignment or reaction, the license cancellation will be placed on public notice and a separate public notice will be issued indicating filing procedures for that spectrum. This system comports with the current rules in certain services that allow a filing window for renewals, and those services that have automatic cancellation provisions for failure to file a timely renewal application. The Commission seeks comment on these proposals. Neither the ULS procedures nor this NPRM is intended to affect the rules in place governing the amateur vanity call sign system cancellation and reassignment procedures.

46. The Commission now informs applicants and licensees of Commission actions in writing. The Commission proposes to allow licensees to choose whether they want to continue to be notified in writing via regular mail or instead be notified of Commission actions concerning applications contained in the ULS via electronic mail. The Commission proposes that notification by electronic mail be considered the same notice as notification by regular mail. The Commission further proposes that if the licensee does not choose electronic mail regular mail will be used for such notifications. The Commission seeks comment on these proposals.

7. Construction and Coverage Verification

47. *Background.* In all wireless radio services, licensees are subject to construction and, in some instances, coverage requirements, and are subject to automatic license cancellation if these requirements are not met. Different procedures have evolved in different services for verifying whether licensees have in fact met these requirements. In some wireless radio services, the rules provide that licenses are cancelled if the licensee fails to notify the Commission that it has met its construction or coverage requirement. See, e.g., 47 CFR 21.44. In other services, licenses are cancelled automatically if a licensee fails to construct by its construction deadline. See, e.g., 47 CFR 22.142, 90.155, 90.629, 101.63, 101.65. In some, but not all, of the latter services, the Commission staff sends letters to determine compliance

and then notifies licensees that their licenses are cancelled when licensees fail to certify compliance or state that they did not meet the construction or coverage requirements. In some services that are licensed by geographic area, licensees may forfeit their license by failing to meet coverage requirements, but no procedures have been established for notifying licensees of approaching deadlines or confirming that these deadlines have been met.

48. *Discussion.* The ULS can be programmed to remind licensees by letter or electronic mail that a construction or coverage deadline is approaching and can also be programmed to permit construction notifications to be filed electronically. The Commission proposes to establish uniform procedures for using the ULS to notify all wireless radio licensees of upcoming construction or coverage deadlines. This will conform the rules for all wireless radio services licensees so that similarly situated applicants and licensees are treated equally. In addition, this will lessen the burden on applicants and will ensure that deadlines are met or that the public receives timely notification of terminations. Under this proposal, ULS would automatically send each licensee via e-mail or regular mail a reminder letter before the applicable construction or coverage deadline. The Commission seeks comment on how far in advance the notification should be sent. After receiving notification, licensees would then verify that they have met these requirements by updating their FCC Form 601 already on file with ULS. The Commission notes that the notification procedure proposed is not intended to replace the basic construction and coverage requirements. Thus, even if a licensee does not receive a reminder letter, it remains obligated to meet its construction and coverage benchmarks and cannot site the lack of notification as an excuse for non-compliance.

49. The Commission proposes requiring notifications filed by wireless radio services licensees to be filed electronically. If a licensee does not file the required notification of completion of construction or satisfaction of the coverage requirements, the ULS would send a letter advising the licensee of the termination of the authorization. The ULS would then generate a public notice announcing the termination, which would be deemed final 30 days after the public notice date. The Commission seeks comment on this proposal.

50. The Commission proposes to require wireless radio licensees to certify compliance with construction

requirements relating to modification applications that involve additional frequencies. The Commission also proposes to require fixed microwave licenses awarded on a site-by-site basis to certify compliance with construction requirements for additional or increased service area coverage (e.g., a new station, a change in antenna height or EIRP). In addition, the Commission proposes to amend § 101.63 of the rules, 47 CFR 101.63, to require fixed microwave licensees to file a further modification application if they fail to construct a granted modification. This proposal, if adopted, will codify the processing practice as it currently exists in which licensees failing to construct a granted modification must file a further modification application to return the license to its pre-grant status. The Commission seeks comment on these proposals.

8. Assignments of Authorization and Transfers of Control

51. *Background.* The Communications Act requires the Commission to approve assignments of licenses and transfers of control of licensees. See 47 U.S.C. 310(d). In the wireless radio services, the Commission currently process applications for proposed assignments and transfers of control in two ways. Under the CMRS rules, requests for approval of both assignments and transfers are filed on a common application form. Following the approval of the assignment or transfer, the licensee must then file a notification with the Commission that the transaction has been consummated, at which point the Bureau amends its licensing database. See, e.g., 47 CFR 22.137, 24.839, 26.324, 27.324. In the private and common carrier microwave services, licensees use one of two forms to request Commission approval, depending on whether the proposed transaction is an assignment of license or a transfer of control. The rules applicable to part 90 services and microwave transfers and assignments also differ from the equivalent CMRS rules in that no post-consummation notice is required; instead, the Bureau amends its database upon approval of the assignment or transfer without seeking confirmation that the transaction was consummated. See, e.g., 47 CFR 80.29, 87.31, 90.153, 101.53.

52. We note that we recently exercised our forbearance authority for certain *pro forma* transfers of control and assignments or licenses involving telecommunications service providers licensed by the Wireless Telecommunications Bureau. Specifically, we granted a petition for

forbearance filed by the Federal Communications Bar Association regarding the prior notification and approval requirements for *pro forma* transfers and assignments. Rather than requesting approval of the *pro forma* transaction before it has occurred, licensees must submit written notification of the *pro forma* transaction within 30 days after consummation, either in letter form or by using the appropriate FCC transfer and assignment form, and must update their records as necessary. See 47 CFR 22.137(a)(1), (b); 24.439(a)(3); 24.839(a)(1); 27.324(a)(3), (b)(3); 90.153(a)(1), (b); 101.53(a)(1). Those licensees subject to unjust enrichment provisions, and those transactions involving proxy mechanisms, require additional review and may not take advantage of this forbearance.

53. *Discussion.* The Commission proposes to consolidate the transfer and assignment rules for all wireless services in part 1, and to eliminate inconsistencies between the procedures that currently govern CMRS and microwave licenses. First, the Commission proposes to replace the multiple existing forms for transfers and assignments in the various services with two ULS forms, FCC Form 603 for assignment of licenses and FCC Form 604 for transfers of control. See proposed rule 47 CFR 1.931(c). The Commission proposes using two different forms tailored to the two categories of transactions. This will make entering the required information easier and will thereby reduce the filing burden on licensees. The Commission seeks comment on these proposals.

54. The Commission also proposes to conform the rules with respect to post-transaction notification that a Commission-approved transfer or assignment has been consummated. The Commission proposes to require post-consummation notification prior to changing the database to reflect the grant. See proposed rule 47 CFR 1.913. Problems can occur when an assignment or transfer approved by the Commission is entered into the licensing database under this streamlined procedure and is not subsequently consummated. In the absence of a notification procedure, no efficient mechanism exists for correcting the database under these circumstances. Instead, the Commission has generally required the filing of a second transfer application that reflects the "return" of the license from the putative transferee to the original licensee.

55. With the advent of ULS, a uniform post-consummation notification process can be established that will be efficient and easy to use for all wireless

licensees. Using the electronic filing capabilities of the system, licensees will be able to provide such notification by accessing their previously filed Form 603 or 604 associated with a transaction and entering updated information regarding its consummation. The Commission proposes to require post-consummation notification under ULS using procedures similar to those currently applicable to CMRS transfers and assignments. The Commission also tentatively concludes that these notification procedures should be reinstated for transfers and assignments of microwave licenses, notwithstanding the prior elimination of the post-consummation notification requirement in the microwave services. Under ULS, the burden of filing such notifications will be substantially reduced. In addition, uniform procedures will ensure regulatory symmetry and will help avoid database errors associated with unconsummated transactions. The Commission seeks comment on this approach.

56. Finally, the Commission proposes to apply these same post-consummation procedures to *pro forma* transactions for which the streamlined procedures were recently adopted. Thus, in the case of *pro forma* transfers and assignments involving telecommunications carriers, for which prior Commission approval is no longer required, the Commission tentatively concludes that licensees should provide the required post-consummation notification and related information regarding the transaction on Form 603 or 604.

9. Change to North American Datum 83 Coordinate Data

57. *Background.* To perform its licensing role, WTB requires that certain applicants submit coordinate data with their applications. In these rules, applicants are required to submit coordinate data using the 1927 North American Datum (NAD27) geographical survey. A more recent North American Datum (NAD83) was completed in 1983, which provides updated coordinate data. NAD83 was adopted as the official coordinate system for the United States in 1989.

58. *Discussion.* The Commission tentatively concludes that use of NAD83 will result in more accurate licensing decisions via the ULS and will also conform with the current Federal Aviation Administration regulations which require the use of NAD83 data. The Commission proposes that all wireless radio services application processing rules requiring the submission of site coordinate data should be revised to require that such

data be supplied using the NAD83 datum for sites located in the coterminous United States and Alaska. Additionally, the Commission proposes that the rules be revised to require site coordinate data for sites in areas such as Hawaii, Puerto Rico, the South Pacific Islands, etc., be submitted using WGS84. Adoption of this proposal would conform the rules with those of the FAA. The Commission seeks comment on this tentative conclusion and proposal.

10. Use of Taxpayer Identification Numbers

59. *Background.* In 1996, Congress enacted the Debt Collection Improvement Act as part of an effort to increase collection from private entities of delinquent government debts. See Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-34, Chapter 10, 110 Stat 1321, 1321-1358 (1996) (DCIA). As a result of DCIA, the Commission and executive agencies are required to monitor and provide information about their regulatees to the U.S. Treasury. This provision includes a requirement that the Commission collect Taxpayer Identifying Numbers (TIN) and share them with the U.S. Treasury to ensure that the Commission does not refund monies to entities that have an outstanding debt with the federal government. TINs are 9-digit identifiers required of all individuals and employers to identify their tax accounts. Individuals use their Social Security Number as their TIN. Therefore, for the purposes of this NPRM, the term "Taxpayer Identification Number" shall mean "Social Security Number" for individuals. Employers use their Employer Identification Number (EIN) as their TIN. Such numbers are sometimes referred to as Federal Identification Numbers (FIN). EINs are issued by the IRS to all employers whether or not they pay taxes. These employers include corporations, sole proprietors, partnerships, state and local governments, limited liability companies, non-profit organizations, and federal government/military agencies. TINs are an integral part of the DCIA system and are necessary for the collection of delinquent debt owed to federal agencies. The TIN matches payment requests with delinquent information. As a result, federal agencies have been required to share the TINs of payment recipients since April 26, 1996, the effective date of DCIA. The Financial Management Service of the U.S. Treasury has recommended that agencies obtain the TIN when an agency first has direct contact with a person.

60. The Commission has already taken steps to ensure proper collection of TINs from parties seeking to make filings using ULS. Development of the ULS will require that we continue to collect TINs from wireless radio services applicants and licensees because some of these parties may be the recipients of a refund for overpayment of filing and/or regulatory fees or auction bids. The WTBS has received approval from OMB to require existing licensees to register their TIN using FCC Form 606. Form 606 is for use on an interim basis, until the ULS is operational.

61. *Discussion.* The Commission proposes that all parties seeking to make filings through ULS should be required to submit a TIN as a prerequisite for using the system and the Bureau should use TINs as the unique identifier for such parties. Parties submitting manually filed applications should also be required to supply their TIN on their application form because all such applications will be placed on the ULS and a TIN is necessary to track these applications. Parties filing applications using ULS would be required to complete Form 606 to register their TIN. Parties seeking to file a pleading electronically through ULS would not be required to submit a TIN but rather will be permitted to register with the ULS using a unique identifier and password of their choosing. Members of the public would not be required to register to simply view applications or search the ULS database. The Commission seeks comment on whether requiring the use of TINs with the ULS system would satisfy the requirements of the DCIA and would provide a unique identifier for parties filing applications with the ULS that would ensure that the system functions properly. The Commission tentatively concludes that the TIN is the logical choice for the system identifier because it is unique to each licensee and applicant, and these parties will likely have already obtained a TIN from the Internal Revenue Service in order to conduct their business. The Commission would take steps to prevent misuse of TINs; for example, the ULS system would be designed so that TINs will not be available to the public. Only a small number of Commission employees would have access to TIN information in conjunction with their work. Finally, a Privacy Act submission would be published in the **Federal Register** to obtain the requisite public and Congressional comment and OMB approval prior to implementation of the ULS system. The Commission seeks

comment on these tentative conclusions and proposals.

C. Collection of Licensing and Technical Data

1. Overview

62. The Commission has identified certain existing data collection requirements and licensing requirements that no longer serve a useful purpose or that can be further streamlined. Accordingly, the Commission takes this opportunity to propose the elimination or streamlining of such requirements. The Commission seeks comment on the types of technical data that should be collected from applicants and licensees, and whether there are particular data collection requirements that should be either added or deleted.

63. *Background.* Prior to geographic area licensing, all wireless radio services were licensed on a site-by-site basis. The Commission's rules currently require most applicants for site-specific licenses in the wireless radio services to submit technical details regarding their proposed stations. For example, all applicants are required to disclose the location of all antenna sites, transmit power, and emission characteristics. See, e.g., 47 CFR 90.119. Such detail is necessary for site-specific licensing (1) to minimize the potential for harmful interference between stations; (2) to meet the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4335; (3) to perform international coordination; (4) to carry out spectrum management responsibilities; and (5) to ensure the proper enforcement of our rules. The collection of technical data for each site may not be appropriate under geographic area licensing. The Commission has reduced the amount of technical information required by geographic area licensees; however, geographic area licensees currently have different reporting requirements depending on the service under which they are licensed. For example, PCS licensees must comply with the technical rules of 47 CFR part 24, but are not required to submit any technical data to the Commission on their application forms and cellular licensees need only submit technical data for the cell sites that comprise their Cellular Geographic Service Area (CGSA). In contrast, the service specific rules for the Local Multipoint Distribution Service (LMDS), 220 MHz, and 800 MHz Specialized Mobile Radio (SMR) require that applicants submit technical data for all sites even though licenses for these services either have been or are

scheduled to be auctioned on a geographic basis.

64. *Discussion.* The Commission proposes to examine the technical reporting requirements for all geographic area licensees with a view toward equalizing, as much as possible, the reporting burden on such license holders. This proposal will ensure that similarly situated licensees are treated in a consistent manner, and allow the Commission to more effectively collect the data needed to fulfill the statutory mandates. The Commission believes that applicants for geographic area licenses in the wireless telecommunications services should, at a minimum, provide technical information (1) when an Environmental Assessment is needed, as prescribed by 47 CFR 1.1307; or (2) to effect international coordination, when necessary. Site data is also needed where towers will extend more than 200 feet above ground or will be located near an airport in order to maintain safety in air navigation.

65. The Commission believes that a reduced filing burden would be in the public interest. The Commission believes that it can eliminate those rules and requirements that are no longer necessary by changing the rules to make the technical reporting requirements more consistent. The Commission realizes that technical data is needed in situations other than those cited above (e.g., for coordination between adjacent geographic areas, for enforcement purposes, or to improve our overall management of the spectrum), and that some licensees may be required to submit more detailed information than previously required. The Commission seeks comment on what reporting requirements, both technical and non-technical, should be established for geographic area licensees. Commenters should indicate those rules and requirements that can be eliminated from the wireless radio services rules, those that will need to be modified, and any additional requirements that may be necessary to make the reporting requirements consistent across services. When providing comments on this issue, commenters should clearly distinguish between the reporting requirements for geographic area and site-specific licensees. Additionally, there are many instances where geographic area licenses have been granted in areas that have site-specific, incumbent licensees (e.g., LMDS, 220 MHz, 800 MHz SMR). These situations should also be considered when addressing reporting requirements. Finally, when discussing rule and reporting requirement changes,

commenters should suggest specific procedures to allow the collection of required information in a way that puts the least burden on licensees.

2. Use of Notification or Certification in lieu of Informational Filings

66. *Discussion.* The Commission proposes to replace many data or other informational filing requirements with either certification or notification, where appropriate. As with applications, the Commission proposes to require that wireless radio services licensees file certifications and notifications electronically. Some certification statements will be made directly on a form or schedule, while others will be made in an exhibit. Only certifications made on a form or schedule will be searchable in ULS. An example of a new certification requirement in lieu of an information filing requirement can be found in proposed § 101.701, which requires common carrier fixed microwave licensees to certify that substantial non-private use is being made of facilities used to relay broadcast television signals.

67. The Commission is proposing to change some informational filings to notification. An example of a new notification requirement in lieu of an informational filing is in proposed section 101.305, where non-dominant common carriers planning to discontinue service must give electronic notification of discontinuance to the Commission. The Commission seeks comment on these proposals.

3. Public Mobile Radio Service Data Requirements

68. *Discussion.* Under part 22 of the Commission's rules, applicants for certain Public Mobile Radio Service licenses are required to file antenna model, manufacturer, and type with the Commission. See 47 CFR 22.529(b)(2). This antenna information is no longer required due to the way that service contours and CGSAs are determined. Accordingly, the Commission tentatively concludes that the antenna information that is presently collected is superfluous. The Commission proposes to eliminate this filing requirement.

69. In addition, the rules currently require that unserved area applicants in the Cellular Radiotelephone Service submit paper copies of: (1) An application cover, (b) transmittal sheet, (c) table of contents, and (d) numerous engineering exhibits. See 47 CFR 22.953. These paper copy requirements are inconsistent with the proposal to require electronic filing by cellular applicants. The Commission proposes to

eliminate this requirement for cellular unserved applicants. The Commission seeks comment on this proposal.

4. Fixed Microwave Service Data Requirements

70. *Discussion.* Effective August 1996, the Commission consolidated all regulations concerning fixed microwave services from parts 21 and 94 of the Commission's rules into a single consolidated part 101, eliminating and combining a number of rules. Fixed microwave service applicants are required to file the following four items of technical information: Type acceptance number, line loss, channel capacity, and baseband signal type for each application. See 47 CFR 101.21. The Commission proposes to eliminate these filing requirements for fixed microwave service applicants because it is not critical that such information be filed with the Commission, nor does it provide useful data in support of WTB licensing processes. The Commission seeks comment on this proposal.

5. Maritime and Aviation Services Data Requirements

71. *Discussion.* Presently, applicants for certain types of station licenses in the Maritime and Aviation radio services are required to submit written showings with their applications in order to provide specific information concerning eligibility, to verify frequency coordination, or to show that the U.S. Coast Guard or Federal Aviation Administration approves of the operation of the proposed station. In order to facilitate electronic filing for these radio services, the Commission proposes to eliminate various rules which currently require applicants to attach the types of showings and coordination statements described above. See 47 CFR 80.21, 80.33, 80.53, 80.469, 80.511, 80.513, 80.553, 80.605, 87.37, 87.215, 87.239, 87.301, 87.305, 87.307, 87.321, 87.323, 87.347, 87.419, 87.421, 87.423, 87.447, 87.475, 87.481, 87.527. The Commission proposes to allow applicants to certify that certain information is correct or that appropriate coordination has taken place in lieu of these written showings. Where applications involve safety of life at sea or in air navigation, the Commission proposes to reserve the right to contact applicants to obtain additional information where such action serves the public interest. The Commission seeks comment on whether this proposal could negatively affect the quality of maritime or aviation communications. Commenters opposing the proposed rule changes should identify which written showings should

be retained, why they should be retained, and any alternative rule changes that could aid in achieving our goal of facilitating electronic filing in the wireless services.

72. Section 87.305 requires flight test station applications to include a statement from a frequency advisory committee, including detailed technical information to be specified at the time of licensing. This is in contrast to other coordination statements required for these services. The Commission seeks comment on how best to implement these proposals. The Commission seeks comment on whether the frequency advisory committee should be required to submit the application on behalf of the applicant, as is current practice in the Private Land Mobile Radio Services. Alternatively, the Commission seeks comment on whether individual applicants should be allowed to specify the technical data at time of application and certify that it is correct and represents the committee's recommendation.

73. In addition to the written showings, there is another inconsistency between the current procedures for licensing Maritime and Aviation radio stations and other types of wireless systems. The rules currently prohibit the assignment of ship and aircraft station licenses between entities otherwise eligible for licensing. See 47 CFR 80.56 and 87.33. The intent of these rules is to maintain the integrity of the data stored in the Commission's ship and aircraft licensing databases. As a practical matter, this means that when a ship or aircraft is sold, the former owner is required to submit its license to the Commission for cancellation and the new owner must request a new station license. The Commission tentatively concludes that prohibiting the assignment of ship and aircraft station licenses no longer serves any regulatory purpose and that better service to the public could be provided by allowing licensees to assign their station licenses, as is done for other wireless services. Therefore, the Commission proposes to eliminate the prohibition against assigning ship and aircraft station licenses, so long as applicants provide updated information concerning the stations in question upon application for assignment. The Commission seeks comment on this tentative conclusion and proposal.

6. Commercial Radio Operator License Data Requirements

74. *Discussion.* Commission-licensed Commercial Radio Operators serve as radio officers aboard U.S. vessels, repair and maintain maritime or aviation radio

equipment, and use international maritime and aviation frequencies to communicate with foreign stations. In order to obtain a license, an applicant must contact a Commission-certified examination manager, pass one or more written tests, obtain a proof of passing certificate (PPC) from the examination manager, and provide the original PPC to the Commission upon application for a license. See 47 CFR 13.9. The Commission tentatively concludes that it must retain measures to verify whether an applicant has passed the requisite examinations. License holders are responsible for emergency communications aboard vessels and for repairing radio equipment that serves as a mariner's or pilot's lifeline during emergencies. In the future, the Commission's role in ship inspections may be performed by the private sector and license holders may be responsible for inspecting compulsory radio installations aboard U.S. vessels. Because of the critical, safety-related responsibilities of license holders, the Commission must ensure that only qualified individuals receive a Commercial Radio Operator license. The Commission seeks comment on ways to automate the verification of applicants' PPCs. One alternative would be for examination managers to electronically file with the Commission data showing which examination elements an examinee has passed. A second option would be for examination managers to establish procedures that would allow them to verify the authenticity of a PPC, upon Commission request. A third option would be to require examination managers to submit applications on behalf of applicants. Commenters should discuss the administrative burdens associated with automating the verification of PPCs, and any alternative solutions.

7. Amateur Radio Services

75. *Discussion.* The United States has reciprocal arrangements with 65 countries to allow amateur operators to operate their stations temporarily in the other country. The Commission currently grants annually some 2,000 reciprocal permits for alien amateur licensee (FCC Form 610-AL) to amateur operators from those countries. The visitor must obtain the application form (FCC Form 610-A)—which is often difficult to do in a foreign country—and file it with the Commission. No standards are required of these applicants other than possession of the license document issued by their country of citizenship. There is no fee. The FCC-issued permit simply confirms that the holder of the permit also holds

a license from his or her home country. No permit is required for Canadian amateur operators who visit the United States because they are authorized to operate by rule. See CFR 97.5(c)(2), 97.7(b). The Commission tentatively concludes that there is little or no need to continue issuing the reciprocal permit for alien amateur licensees because the license from any foreign country with which the United States has reciprocity would stand as the proof that the foreign operator is qualified for the reciprocal operating authority. The Commission proposes to authorize all reciprocal operation by rule. No citizen of the United States, regardless of any other citizenship held, would be eligible under this authorization procedure. United States citizens would continue to have to acquire an FCC-issued amateur operator license by passing the requisite examinations.

76. Currently, the Commission processes annually some 1,500 applications for new, renewed, and modified amateur service club, military recreation, and radio amateur civil emergency service ("RACES") station grants. Application is made on FCC Form 610-B. There is no fee. The resulting license grant simply authorizes the use of a unique call sign in the station identification procedure; it does not authorize any operating privileges. Section 4(g)(3)(B) of the Communications Act authorizes the Commission, for purposes of providing club and military recreation station call signs, to use the voluntary, uncompensated and unreimbursed services of amateur radio organizations that have tax-exempt status under section 501(c)(3) of the Internal Revenue Code. ULS provides an opportunity to utilize the electronic batch filing services provided by the private sector. The Commission proposes to accept the services of any organization meeting the minimum requirements of section 4(g)(3)(B) of the Communications Act that completes a pilot electronic autogrant batch filing project similar to that completed by the 16 volunteer-examiner coordinators ("VECs"). The Commission anticipates that many VECs would be likely to volunteer their service as club station call sign administrators. The Commission seeks comment on this proposal.

8. General Mobile Radio Service

77. *Background.* The GMRS is a land mobile radio service for short-distance two-way communications. It is used to facilitate the business or personal activities of licensees and their immediate family members. There are fifteen channels allocated to this

service. Applicants may be authorized to use up to ten of these channels. Applicants are currently required to submit technical information and location information for control points and small base stations.

78. *Discussion.* All GMRS channels are shared and no frequency coordination is required; therefore, the Commission proposes to revise the rules for GMRS to limit the data collection required of individuals applying for a license to contact information, such as name, address, and telephone number. Additionally, the Commission proposes to authorize stations to transmit on any authorized channel from any geographical location where the FCC regulates communication without the need for temporary licensing. The Commission believes that there is no regulatory purpose to be served by limiting the number of frequencies for which a licensee may be authorized or by collecting technical information from applicants. The Commission seeks comment on these proposals.

III. Conclusion

79. In this proceeding, the Commission has set forth proposals to consolidate the licensing rules into a single set of rules for all wireless radio services. The Commission's goal is to establish a streamlined set of rules that minimizes filing requirements as much as possible; eliminates redundant, inconsistent, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data. These consolidated rules will eliminate duplication and inconsistencies that exist in the rules and will make it easier for applicants to determine our application requirements by referencing a single set of licensing rules. Such consolidation will allow the ULS to function more efficiently and provide licensing information to members of the public. The Commission also believes that development of full electronic filing and universally available databases for the wireless radio services will shorten application filing times for applicants, make the most recent data available to them concerning other spectrum uses, and allow the Commission to operate with greater efficiency.

IV. Procedural Matters and Ordering Clauses

A. Regulatory Flexibility Act

Summary: As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities

of the rules proposed in the Notice of Proposed Rulemaking (*NPRM*) in WT Docket No. 98-20. Written public comments are requested on the IRFA. Comments on the IRFA must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Reason for Action: In this *NPRM*, the Commission proposes to revise, consolidate, and streamline the rules governing application procedures for radio services licensed by the Wireless Telecommunications Bureau ("wireless radio services").

Objectives: The Commission proposes to modify and consolidate the rules to: (1) Facilitate the development of electronic filing through the universal licensing system (ULS); (2) require, where appropriate, electronic filing of applications; (3) streamline licensing processes and procedures; and (4) conform application and filing rules for all wireless radio services licensees so that similarly situated applicants and licensees are treated fairly.

Reporting, Recordkeeping and Other Compliance Requirements: All wireless radio services will be subject to processing through the ULS, if the proposed rules are adopted. Therefore, under the proposed rules, all new wireless radio services license applications will be processed through ULS using one or more of the new forms to the *NPRM*. In addition, any modification to an existing license will also use the new forms and will be entered and processed in the ULS. Other notifications that are required by the proposed rules will also be filed with the new standard forms and processed through ULS.

Under the proposed rules, each applicant or licensee must submit the appropriate application form depending on the purpose of the application. In addition, some licensees may be required to submit or confirm ownership information on an annual basis. The *NPRM* seeks comment on whether manual filing will be permitted. Electronic filing through the ULS should be easier for applicants than the current system. The ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. The system will allow the applicants to correct applications prior to submitting them, saving time and processing steps for the FCC and the

applicants. The Commission notes that electronic filing will require a modem equipped computer to file interactively through the FCC private wide area network, which may be burdensome for some filers.

The ULS was designed to identify each individual licensee by their taxpayer identification number (TIN) assigned to the entity or individual (social security number will be used in the case of an individual filing for a license). The TIN is required by licensees pursuant to the Debt Collection Act of 1995. All existing licensees will be required to identify all of their call signs and their TIN. The system will assign a unique sequential identification number to each entity or individual. This number will be used instead of the TIN for public queries to the ULS database. Uniquely identifying entities and associating their license records to the entity will eliminate the data collection requirement for modifications and new license applications that are filed electronically through the ULS.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules: None.

Description and Number of Small Entities Involved: The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by our rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, there are 275,801 small organizations. "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 85,006 such jurisdictions in the United States.

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 which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

The rule changes proposed in the *NPRM*, if adopted, will affect all small businesses filing new license applications or modifying or renewing

an existing license. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide estimates of the number of small entities who will be affected by the rules proposed in this *NPRM*. The Commission estimates the following number of small entities may be affected by the proposed rule changes:

1. Cellular Radiotelephone Services

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 SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. The size data provided by the SBA does not enable the Commission to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 500 or more employees. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, is the most recent information available. This document shows that only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. The Commission assumes, for purposes of this IRFA, that all of the current cellular licensees are small entities, as that term is defined by the SBA. In addition, the Commission notes that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to the data released in November, 1997, there are 804 companies reporting that they engage in cellular or PCS service. It seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees; however, the Commission is unable at this time to estimate with greater precision the number of cellular service carriers qualifying as small business concerns under the SBA's definition.

For purposes of this IRFA, the Commission estimates that there are fewer than 804 small cellular service carriers.

2. Broadband and Narrowband PCS

Broadband PCS. The broadband PCS spectrum is divided into six frequency blocks designated A through F. The Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than \$40 million in the three previous calendar years. This definition of "small entity" in the context of broadband PCS auctions has been approved by the SBA. The Commission has auctioned broadband PCS licenses in blocks A through F. All qualified bidders in the C and F block auctions were entrepreneurs. Entrepreneur was defined for these auctions as entities, together with affiliates, having gross revenues of less than \$125 million and total assets of less than \$500 million at the time the FCC Form 175 application was filed. Ninety bidders, including C block reaction winners, won 493 C block licenses and 88 bidders won 491 F block licenses. For purposes of this IRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS licensees, a total of 178 licensees, are small entities.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Given that nearly all radiotelephone companies have no more than 1,500 employees, and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

3. 220 MHz Radio Services

Since the Commission has not yet defined a small business with respect to 220 MHz radio services, it will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500

persons. With respect to the 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) For Economic Area (EA) licensees, a firm with average annual gross revenues of not more than \$6 million for the preceding three years; and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than \$15 million for the preceding three years. Given that nearly all radiotelephone companies employ no more than 1,500 employees, for purposes of this IRFA the Commission will consider the approximately 3,800 incumbent licensees as small businesses under the SBA definition.

4. Paging Services

The Commission has proposed a two-tier definition of small businesses in the context of auctioning geographic area paging licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$15 million. Since the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, there were 172 "paging and other mobile" carriers reporting that they engage in these services. Consequently, the Commission estimates that there are fewer than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

5. Air-Ground Radiotelephone Service

The Commission has not adopted a definition of small business specific to the Air-Ground radiotelephone service. Accordingly, the Commission will use the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground radiotelephone service, and the Commission estimates that almost all of

them qualify as small entities under the SBA definition.

6. Specialized Mobile Radio (SMR) Service

The Commission awarded bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years. This regulation defining "small entity" in the context of 900 MHz SMR has been approved by the SBA. The Commission does 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 annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes for purposes of this IRFA that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded 800 MHz SMR auction there were 524 licenses won by winning bidders, of which 38 licenses were won by small or very small entities.

7. Private Land Mobile Radio Service

Private Land Mobile Radio systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. The Commission has not developed a definition of small entities specifically applicable to Private Land Mobile Radio licensees due to the vast array of Private Land Mobile Radio users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. The Commission's 1994 Annual Report on Private Land Mobile Radio indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the Private Land Mobile Radio bands below 512 MHz. Any entity engaged in a commercial activity is eligible to hold a Private Land Mobile Radio license, therefore these proposed rules could potentially impact every small business in the United States.

8. Aviation and Marine Radio Service

Small entities in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules. Most applicants for individual recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of the evaluations and conclusions in this IRFA, the Commission estimates that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA.

9. Offshore Radiotelephone Service

This service operates on several TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

10. General Wireless Communication Service (GWCS)

This service was created by the Commission by transferring 25 MHz of spectrum in the 4660-4685 MHz band from the federal government to private sector use. The Commission has scheduled the GWCS auction for May 27, 1998. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications.

11. Fixed Microwave Services

Microwave services include common carrier fixed, private operational fixed, and broadcast auxiliary radio services. At present, there are 22,015 common carrier fixed licensees and approximately 61,670 private operational fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, the Commission will utilize the SBA

definition applicable to radiotelephone companies, *i.e.*, an entity with less than 1,500 persons. The Commission estimates that for purposes of this IRFA all of the Fixed Microwave licensees (excluding broadcast auxiliary radio licensees) would qualify as small entities under the SBA definition for radiotelephone communications.

12. Commercial Radio Operators (restricted and commercial)

There are several types of commercial radio operator licenses. Individual licensees are tested by Commercial Operator License Examination managers (COLEMs). COLEMs file the applications on behalf of the licensee. The Commission has not developed a definition for a small business or small organization that is applicable for COLEMs. 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 * * *" The Commission's rules do not specify the nature of the entity that may act as a COLEM. However, all of the COLEM organizations would appear to meet the RFA definition for small organizations.

13. Amateur Radio Services

Amateur Radio Service licensees are coordinated by Volunteer Examiner Coordinators (VECs). 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 * * *" The Commission's rules do not specify the nature of the entity that may act as a VEC. All of the sixteen VEC organizations would appear to meet the RFA definition for small organizations.

14. Personal Radio Services

Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. These services include citizen band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS). Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition.

15. Public Safety Radio Services and Governmental Entities

Public Safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services. 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. All governmental entities with populations of less than 50,000 fall within the definition of a small business. There are approximately 37,566 governmental entities with populations of less than 50,000. The RFA also includes small governmental entities as a part of the regulatory flexibility analysis. The definition of a small governmental entity is one with a population of less than 50,000. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000; however, this number includes 38,978 counties, cities, and towns and of those, 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 Commission estimates that 96 percent or 81,600 are small entities that may be affected by our rules.

16. Rural Radiotelephone Service

The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing fewer than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

17. Marine Coast Service

The Commission has not adopted a definition of small business specific to the Marine Coast Service. The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing fewer than 1,500 persons. There are approximately 10,500 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

18. Wireless Communications Services (WCS)

WCS is a wireless service which can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined "small business" for the WCS auction as an entity with average gross revenues of \$40 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. There were seven winning bidders who qualified as very small business entities and one small business entity in the WCS auction. Based on this information, the Commission concludes that the number of geographic area WCS licensees affected include these eight entities.

In addition to the above estimates, new applicants in the wireless radio services will be affected by these rules, if adopted. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide information regarding how many small business entities will be affected by the proposed rules. Comments relating to the number of small business entities affected are due by the deadlines contained in the NPRM.

Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives:

1. *Electronic Filing and Consolidated Application Forms.* In services that do not require extensive technical data, such as Amateurs, Maritime, Aviation, Commercial Operators, and GMRS, the Commission proposed implementing a quick form to minimize the economic impact on small entities in these services. In addition, the forms have been developed to ensure that applicants are not required to duplicate information that has been already filed with the Commission. The Commission has also proposed to modify the current copy and microfiche requirements for electronically filed applications.

2. *Auction Long Form Application Submissions.* For auctionable services, the Commission proposes to modify the current process to allow winning bidders to file a single long-form application to cover all markets. Elimination of separate filing requirements will lift the administrative burden to small businesses of having to file separate long form applications for each license won in the auction.

3. *Filings of Pleadings.* The Commission proposes permitting, but not requiring, pleadings to be filed electronically. Manually filed pleadings will be scanned so that all pleadings will be easily accessible to the public.

Electronic filing through the ULS should be easier for applicants than the current system because the ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. ULS will allow the applicant to correct their applications prior to submitting them. This system will allow all interested parties, including small entities, easy access to pleadings that are filed in connection with applications and licenses.

4. *Standardization of Major and Minor Filing Rules.* The Commission proposes to consolidate major and minor filing standards to both amendments of pending applications and to modifications of existing licenses. The current fragmented system is confusing for applicants and licensees, including small entities, because they are required to keep track of different procedures for different radio services. Licensees, especially small entities, will find it easier and more convenient to have all standards in one place in the rules.

5. *Filing of Multiple Modifications.* The Commission proposes to adopt a unified approach to the filing of multiple modification applications: If a modification application is pending regarding a given station parameter, and the licensee decides to elaborate upon or change that request with an additional request to modify the same or a related parameter, the document filed to effect that change will be automatically deemed an amendment to the modification, rather than a separate modification application. This will prevent applicants from filing conflicting modification requests and will prevent the Commission from erroneously granting or dismissing modification applications because they were processed out of sequence.

6. *Construction Notification Requirements.* The Commission is proposing to notify licensees through the ULS by mailing a reminder letter before the construction or coverage deadline. Notifications of construction or coverage would be accepted either electronically or manually. If a licensee fails to file the required notification of completion of construction or satisfaction of the coverage or substantial service requirements, the ULS would send a letter terminating the authorization. The Commission seeks comment on whether to exempt public safety entities from this procedure.

7. *Annual Ownership Requirements.* The Commission proposes to require submission of annual ownership information. Private mobile radio services (PMRS) licensees, while subject

to some alien ownership restrictions, *i.e.*, they may not be granted to or held by a foreign government or a representative of a foreign government, are not subject to most of the other restrictions placed on commercial mobile radio services (CMRS) licensees. Accordingly, PMRS licensees and private fixed microwave licensees have not previously been required to submit detailed ownership information. The Commission proposes that PMRS licensees be required to certify their status with respect to foreign government ownership or ownership by a representative of a foreign government each time they submit a Form 601.

Legal Basis. The proposed action is authorized under sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 USC 154(i), 161, 303(g), 303(r), and 332(c)(7).

IRFA Comments. The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses of the IRFA and must be filed by the deadline for comments in response to the NPRM.

B. Paperwork Reduction Act

Dates: Written comments by the public on the proposed and/or modified information collections are due May 7, 1998. Written comments must be submitted by OMB on the proposed information collections on or before June 8, 1998.

Address: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

Further Information: For additional information concerning the information collections contained in this NPRM contact Judy Boley at (202) 418-0214, or via the Internet at jboley@fcc.gov.

Supplementary Information: This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under PRA. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and OMB to take this opportunity to comment on the

proposed or modified information collections contained in this *NPRM*. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB notification of action is due June 8, 1998. Comments should address (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060-XXXX.

Title: Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Service (Short Form).

Form No.: FCC Form 605.

Type of Review: New collection.

Respondents: individuals or households; businesses and other for-profit.

Number of Respondents: 170,000.

Estimated Time Per Response: 27 minutes.

Total Annual Burden: 75,366 hours.

Frequency of Response: On occasion.

Needs and Uses: FCC 605 is used to apply, or to amend a pending application, for an authorization to operate a license for Wireless Communications Bureau radio services. This includes the Ship Radio, Aircraft Radio, Amateur Radio, restricted and Commercial Operator Radio, and the General Mobile Radio Services. The data is used by the Commission to determine whether the public interest would be served by a grant of the requested authorization. The FCC 605 replaces FCC 404, 405A, 405B, 506, 574, 574R, 610, 610A, 610B, 610V, 753, 755 and 756.

OMB Approval Number: 3060-0797.

Title: Application for Transfer of Control.

Form No.: FCC Form 604.

Type of Review: Revision of an existing collection.

Respondents: individuals or households; businesses and other for-profit.

Number of Respondents: 23,368.

Estimated Time Per Response: 1.5 hours.

Total Annual Burden: 35,052 hours.

Frequency of Response: On occasion.

Needs and Uses: FCC 604 is used to apply for FCC consent to transfer of control of licenses in the Public Mobile

Services, Personal Communications Services, General Wireless Communications Services, Maritime Services (excluding ships), Private Land Mobile Radio Services, Fixed Microwave Services and Aviation Services (excluding aircraft). The data is used by FCC to determine whether the public interest would be served by a grant of the requested transfer. This form replaces FCC forms 490, 703, and 704.

OMB Approval Number: 3060-0800.

Title: Application for Assignment of Authorization.

Form No.: FCC Form 603.

Type of Review: Revision of an existing collection.

Respondents: Individuals or households; businesses and other for-profit.

Number of Respondents: 8,783.

Estimated Time Per Response: 2 hours.

Total Annual Burden: 17,566.

Frequency of Response: On occasion.

Needs and Uses: FCC 603 is used to apply for approval of assignment of authorizations in the For Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Maritime Services (excluding ships) and Aviation Services (excluding aircraft). This data is used by the FCC to determine whether the public interest would be served by the grant of the request assignment. This form replaces FCC forms 490, 702, and 1046.

OMB Approval Number: 3060-0799.

Title: FCC Ownership Disclosure Information for the Wireless Telecommunications Services.

Form No.: FCC Form 602.

Type of Review: Revision of an existing collection.

Respondents: Individuals or households; businesses and other for-profit.

Number of Respondents: 3,000.

Estimated Time Per Response: 2 hours.

Total Annual Burden: 6,000 hours.

Frequency of Response: On occasion.

Needs and Uses: FCC 602 is used to collect ownership data pertaining to the applicant for proposed authorization. The data is used by the FCC to determine whether the public interest would be served by a grant of the requested authorization. The form is to be filed by applicants who acquired their license by participation in an auction or who are applying for a license in a service which is subject to Part 1, subpart Q of the Commission's Rules, or by common carrier licensees

whether or not the service was originally subject to auctions under the following circumstances: Applicants for a new license or authorization who do not have a current FCC 602 on file with the FCC; Applicants filing to renew an existing license if there is no current FCC 602 on file with the FCC; Applicants for a transfer of control of a license or assignment of an authorization who do not have a current FCC 602 on file with the FCC; and Applicants who are going to participate in an FCC auction and do not have a current FCC 602 on file.

OMB Approval Number: 3060-0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC Form 601

Type of Review: Revision of an existing collection.

Respondents: Individuals or households; business and other for-profit.

Number of Respondents: 240,320.

Estimated Time Per Response: 1.25 hours.

Total Annual Burden: 300,400 hours.

Frequency of Response: On occasion.

Needs and Uses: FCC 601 is used to apply, or to amend a pending application, for an authorization to operate a license for Wireless Telecommunications Bureau (WTB) radio services. This includes Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Maritime Services (excluding ships), and Aviation Services (excluding aircraft). The data is used by the FCC to determine whether the public interest would be served by a grant of the requested authorization. This form replaces FCC Forms 313, 13R, 402, 402R, 405, 405A, 406, 415, 464, 464A, 489, 494, P3, 503R, 574, 574R, 600, and 701.

C. Ex Parte Presentations—Permit but disclose Proceeding

This is a permit but disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, 1.1206(a).

D. Comment Period

Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before May 7, 1998.

Reply comments are to be filed on or before May 22, 1998. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each

Commissioner to receive a personal copy of your comments, you must file an original and ten copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554. Parties should also submit two copies of comments and reply comments to Wilbert E. Nixon, Jr., Commercial Wireless Division, Wireless Telecommunications Bureau, 2100 M Street, NW., Room 7102, Washington, DC. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, INC., 1231 20th Street, NW., Washington, DC 20036.

E. Authority

The above action is authorized under the Communications Act of 1934, 1, 4(i), 152, 222, 252(c)(5), 301, and 303, 47 U.S.C. 151, 154(i), 222, 252(c)(5), 301, and 303, as amended.

F. Ordering Clauses:

It is ordered that pursuant to sections 4(i), 11, 303(g), 03(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c), this *notice of proposed rulemaking* is hereby *adopted*.

It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *notice of proposed rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98-9042 Filed 4-6-98; 8:45 am]

BILLING CODE 6712-01-U

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 803 and 852

RIN 2900-AJ06

Acquisition Regulations: Improper Business Practices and Personal Conflicts of Interest; Solicitation Provisions and Contract Clauses

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs Acquisition Regulations (VAAR) concerning the requirement to include an Ethics in Government Act certification in solicitations. This action is proposed in accordance with the requirements of the Federal Acquisition Reform Act of 1996 (also known as the Clinger-Cohen Act), 41 U.S.C. 425, which stipulate that certain certification requirements not required by statute be eliminated from agency supplemental acquisition regulations.

DATES: Comments must be received on or before June 8, 1998.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AJ06." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: John Corso, Office of Acquisition and Materiel Management, Acquisition Policy Team (95A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8754.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-602, since it does not contain any substantive provisions. This proposed rule would not cause a significant effect on any entities. This proposed rule deletes a requirement for contracting officers to include a particular provision in solicitations, which does not impact the

public. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects

48 CFR Part 803

Antitrust, Conflict of interests, Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Approved: March 26, 1998.

Togo D. West, Jr.,

Acting Secretary.

For the reasons set forth in the preamble, 48 CFR Chapter 8 is proposed to be amended as follows:

PART 801—VETERANS AFFAIRS ACQUISITION REGULATIONS SYSTEM

1. The authority citation for parts 803 and 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

PART 803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. In part 803, § 803.101-3, paragraph (c) is removed.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. In subpart 852.2, § 852.203-70 is removed.

[FR Doc. 98-9027 Filed 4-6-98; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

[I.D. 032498B]

Endangered and Threatened Species; Notice of Public Hearings on Proposed Listings and Proposed Designations of Critical Habitat for West Coast Steelhead, Chinook, Chum, and Sockeye Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: NMFS has proposed to list 13 evolutionarily significant units (ESUs)