

with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not establish technical standards. Therefore, the Agency has not conducted a search to identify potentially applicable test methods from voluntary consensus standard bodies. As part of this rulemaking effort, EPA has developed guidance for procuring agencies to use in complying with section 6002's obligation to purchase items with recovered materials content to the maximum extent practicable. These recommendations include reference to any known industry standards and, as previously noted, are published today in the companion RMAN for the designated items. In developing these recommendations, EPA did consider current voluntary consensus standards on recovered materials content.

VII. Supporting Information and Accessing Internet

The index of supporting materials for today's proposed CPG V is available in the OSWER Docket and on the Internet. The address and telephone number of the OSWER Docket are provided in the SUPPLEMENTARY INFORMATION section above. To access information on the Internet, go to the EPA Dockets Web site at <http://www.epa.gov/edocket/>. The index and the following supporting materials are available in the OSWER Docket and on the Internet:

"Background Document for Proposed CPG V and Draft RMAN V," U.S. EPA, Office of Solid Waste and Emergency Response, March 2003.

"Economic Impact Analysis for Proposed Comprehensive Procurement Guideline V," U.S. EPA, Office of Solid Waste and Emergency Response, March 2003.

Copies of the following supporting materials are available for viewing at the OSWER Docket only:

"Recovered Materials Product Research for the Comprehensive Procurement Guideline V," Draft Report, December 2002.

List of Subjects in 40 CFR Part 247

Environmental protection,
Government procurement, Recycling.

Dated: November 25, 2003.

Michael O. Leavitt,
Administrator.

For the reasons discussed in the preamble, EPA proposes to amend 40 CFR part 247 as follows:

PART 247—COMPREHENSIVE PROCUREMENT GUIDELINE FOR PRODUCTS CONTAINING RECOVERED MATERIALS

1. The authority citation for part 247 continues to read as follows:

Authority: 42 U.S.C. 6912(a) and 6962; E.O. 13101, 63 FR 49643, 3 CFR, 1998 Comp., P. 210.

2. Amend § 247.3 by revising the definition of "Compost" and by adding in alphabetical order a new definition for "Organic fertilizer" to read as follows:

§ 247.3 Definitions.

* * * * *

Compost is a thermophilic converted product with high humus content. Compost can be used as a soil amendment and can also be used to prevent or remediate pollutants in soil, air, and storm water run-off.

* * * * *

Organic fertilizer is a single or blended substance, made from organic matter such as plant and animal by-products, manure-based/biosolid products, and rock and mineral powders, that contains one or more recognized plant nutrient(s) and is used primarily for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth.

* * * * *

3. In § 247.15, revise paragraph (b) and add paragraph (f) to read as follows:

§ 247.15 Landscaping products.

* * * * *

(b) Compost made from recovered organic materials.

* * * * *

(f) Fertilizers made from recovered organic materials.

* * * * *

[FR Doc. 03-30266 Filed 12-9-03; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[ET Docket No. 03-201; FCC 03-223]

Modification of the Commission's Rules for Unlicensed Devices and Equipment Approval

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to review and update certain rules contained in the Commission's rules. We take these actions as part of our ongoing process of updating our rules to promote more efficient sharing of spectrum used by unlicensed devices and remove unnecessary regulations that inhibit such sharing.

DATES: Comments must be filed on or before January 9, 2004, and reply comments must be filed on or before January 26, 2004.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418-2408, TTY (202) 418-2989, e-mail: Neal.McNeil@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket No. 03-201, FCC 03-223, adopted September 10, 2003, and released September 17, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov. Alternate formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before January 9, 2004, and reply comments on or before January 26, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed.

If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

Summary of Notice of Proposed Rulemaking

A. Proposed Revisions to Part 15

1. *Advanced Antenna Technologies.* Systems employing advanced antenna designs such as sectorized antennas and phased array adaptive antennas are now being used, or contemplated for use, as part of wide area network systems operating in the 2.4 GHz band. Sectorized antenna systems take a traditional omnidirectional coverage

area and subdivide it into fixed sectors that are each covered using a single beam or antenna element to transmit desired information to all devices in the sector. For example, a sectorized system can be made from two individual antennas, each covering 60° of azimuth around the antenna structure, resulting in 120° of coverage. Operationally, each sector is treated as a different cell, the range of which is greater than that of a system using a single omnidirectional antenna. A phased array antenna system consists of a group of radiating elements arranged and driven in such a way that their radiated fields add in some directions and cancel in others. The combined fields can produce a single beam, or multiple beams pointing in various directions while minimizing radiation in other areas. Properties of the resultant beams such as intensity, direction, or beamwidth can be adjusted by altering the input signal to each radiating element.

2. We believe that it is in the public interest to accommodate efficiently configured sectorized and phased array antenna technologies. To date, the Commission has not generally authorized the operation of sectorized antennas by spread spectrum systems, but, by individual interpretation of its rules, we have allowed a few phased array systems to operate. However, we are receiving an increasing number of questions about how to accommodate these multiple beam systems in spread spectrum operations. After taking these requests under consideration, we tentatively conclude that spread spectrum systems using sectorized and/or phased array systems could provide important benefits for providing communications to a local area. Therefore, we believe that we should revise the rules to clearly facilitate broader deployment of advanced antenna designs with spread spectrum systems and to provide a stable environment in which to foster the continued development and installation of these spectrum efficient technologies.

3. We seek comment regarding the characteristics that a system would need to exhibit in order to be classified as a sectorized or phased array antenna system. As an initial matter, we propose to clarify that sectorized or phased array antenna systems must be capable of forming at least two discrete beams. Second, we propose to limit the total simultaneous beamwidth radiating from the antenna structure to 120°, regardless of the number of beams formed. The 120° of bandwidth need not be continuous and may be divided among various independent beams pointing in different directions around the antenna

structure. Commenting parties should provide detailed suggestions regarding any additional modes of operation that should be considered acceptable as a definition for sectorized or phased array installations.

4. Sectorized and phased array antenna systems divide the total power from a transmitter among various transmission azimuths and the power may be distributed equally or at varying levels among those azimuths. The radiated emissions are directionalized along each sector or azimuth in order to communicate with an associated receiver. Accordingly, these antenna systems may resemble point-to-point operation at any given moment. Therefore, we propose to allow such systems to operate at the same power levels as point-to-point directional antennas. Specifically, we propose to limit the total power that may be applied to each individual beam to the applicable power level specified in 47 CFR 15.247(b), *i.e.*, 0.125 watt or 1 watt, depending upon the type of modulation used. This implies that the total operating power, the aggregate power in all beams, could exceed the output power permitted for a single point-to-point system. We propose, therefore, to limit the aggregate power transmitted simultaneously on all beams to 8 dB above the limit for an individual beam. For instance, the 8 dB limit will enable antenna systems to create up to 6 individual beams or sectors, all operating at the point-to-point limit. Finally, we propose to require that the transmitter output power be reduced by 1 dB for each 3 dB that the directional antenna gain of the complete system exceeds 6 dBi. We seek comment on these proposals. Further, we seek comment with regard to whether the Commission should specify a maximum E.I.R.P. limit for each individual beam. If so, what should that limit be?

5. *Replacement Antennas for Unlicensed Devices.* We wish to develop more flexible antenna requirements for unlicensed devices. We propose to provide that flexibility by requiring testing only with the highest gain antenna of each type that would be used with the transmitter at the maximum output power of that transmitter. Any antenna of a similar type that does not exceed the antenna gain of tested antennas may be used without retesting. Use of an antenna of a different type than the tested antenna (*i.e.* yagi antenna vs. a horn antenna) or one that exceeds the gain of a tested antenna would require retesting and new approval by either a Telecommunication Certification Body or the Commission. Manufacturers would be expected to

supply a list of acceptable antenna types with applications for equipment authorization.

6. *Flexible Equipment Authorization for Radio Transmission Systems.* We are proposing a number of rule changes to enable WISPs to customize their transmission systems without the need to obtain a new equipment authorization for every combination of components. Specifically, we will allow professional radio system installers and parties that offer a commercial radio service under the unlicensed rules to substitute technically equivalent components in systems that have been granted equipment authorization. We believe such parties have the technical competence to ensure that the systems they deploy continue to comply with the FCC rules. We invite comment as to whether specific criteria are necessary to qualify as a professional radio system installer or commercial service provider, and if so, what those criteria should be. We also request views as to whether any other parties should be afforded similar flexibility. We will require the professional installer or commercial service provider to place a label on the transmission system that lists the FCC Identification Number of the system that was granted equipment authorization, identifies any components that were substituted, and designates a point of contact for the party that installed the system.

7. We also propose to allow marketing of separate radio frequency power amplifiers on a limited basis. We will restrict such marketing to amplifiers that are only capable of operation under the spread spectrum rules in § 15.247 and under the U–NII rules for the 5750–5850 MHz band. Further, we propose to require that such amplifiers obtain an equipment authorization (certification) and demonstrate that they cannot operate with an output power of more than 1 Watt, which is the maximum permitted under the rules. We believe that this rule change would be of benefit not only for WISPs, but also for consumers and businesses generally. We invite comment as to whether we should instead provide only a more narrow relaxation to allow separate marketing of power amplifiers that are designed in a way such that they can only be used with a specific system that is covered by an equipment authorization, such as through use of a unique connector or via an electronic handshake with a host device. We also recognize that frequency hopping systems that employ fewer than 75 hops are limited to an output power of 125 mW and invite comment as to whether the unique connector requirement may

be necessary to ensure that 1 Watt amplifiers are not used with devices that are limited to 125 mW. We invite comment on these proposals and solicit views on other ways the equipment authorization rules might be modified to provide added flexibility without creating undue risk of interference to radio services or unlicensed devices.

8. *Measurement Procedures for Digital Modulation Systems.* We propose to harmonize the measurement procedures for digital modulation devices authorized under § 15.247 with the digital U–NII devices authorized under § 15.407. Specifically, we propose to allow entities performing compliance testing for § 15.247 devices to use an average, rather than overall peak, emission as provided by § 15.407, paragraphs (a)(4) and (a)(5) when measuring transmit power. We propose this change for devices using digital modulation that operate in the 915 MHz, 2.4 GHz and 5.7 GHz bands. We seek comment on whether a change in measurement procedure for such devices would have any detrimental impact on the installed base of products.

9. *Frequency Hopping Channel Spacing Requirements.* In its comments filed in response to the 2002 Regulatory Flexibility Act Review, the Bluetooth Special Interest Group (Bluetooth SIG) suggests a modification of the channel separation requirement for frequency hopping spread spectrum systems. Section 15.247(a)(1) of the rules requires that frequency hopping systems have hopping channel center frequencies separated by either a minimum of 25 kHz or the 20 dB bandwidth of the hopping channel, whichever is greater. The Bluetooth SIG requests that this channel spacing requirement be modified to allow hopping channel carrier frequencies to be more closely spaced. In particular, it seeks to modify the requirement to allow a separation of a minimum of 25 kHz or two-thirds of the 20 dB bandwidth of the hopping channel, whichever is greater. Although the request did not specify the operating band to which the changes should apply, we interpret the request as being applicable to devices operating in the 2.4 GHz band because the Bluetooth product line operates in the 2.4 GHz band.

10. We propose to modify the frequency hopping spacing requirement to permit certain systems in the 2.4 GHz band to utilize hopping channels separated by either 25 KHz or two-thirds of the 20 dB bandwidth, whichever is greater. We recognize that although a single device's channels will not overlap in time, the use of multiple devices simultaneously in a given area

may cause the spectral occupancy and power density to increase, leading to an increased risk of interference. Therefore, we seek comment on the interference potential of new waveforms with more gradual roll-off and potentially higher spectral power densities at the channel band edges.

11. *Part 15 Unlicensed Modular Transmitter Approvals.* The NPRM proposes to codify the requirements for authorization of modular transmitters into our rules. These transmitters are self-contained devices missing only a power supply and data source to make them functional. Once authorized, the transmitters can be installed into a number of different devices to provide wireless connectivity. The completed combination does not need further Commission approval, saving manufacturers the time and expense associated with multiple authorizations.

12. Currently, in order to have modular transmitters authorized, manufacturers must follow guidance contained in a public notice issued by the Office of Engineering and Technology. A new class of modular transmitters is now under development. These new modules consist of two or more sub-components, each of which may be incorporated in different assemblies. In order to accommodate this new technology, we propose to incorporate the guidance contained in the Office of Engineering and Technology public notice into the Commission's rules. We also propose appropriate changes to facilitate the authorization of developing modular transmitter technology.

13. *Improving Sharing in the Unlicensed Bands.* We invite comment on whether a spectrum sharing etiquette should be considered for devices that operate on an unlicensed basis, in addition to Unlicensed PCS devices. If so, should the Commission or the industry develop the criteria establishing access conditions? What characteristics need to be considered (e.g. spectrum monitoring requirements, bandwidth limits, variable output power levels)? Could an etiquette be implemented in such a way as to ensure continued flexibility for technological development, which has been the cornerstone of unlicensed operation? If a spectrum sharing etiquette is feasible, we seek comment regarding the bands to which the etiquette should apply. Finally, given the number of unlicensed devices currently in operation without a sharing etiquette, how effective will such an etiquette imposed on new entrants be in improving spectrum sharing?

14. *Special Temporary Authority.* We are proposing to delete the provisions in § 15.7 of the rules for obtaining a Special Temporary Authority (STA). The Office of Engineering and Technology has not granted any STAs under part 15 nor had any formal requests for an STA under these rules in the last 10 years. We believe that this need is being met through the allowances for STAs under the provisions in part 5 for experimental licenses. We invite comment as to whether there is any need to maintain the part 15 provisions for STAs.

B. Proposed Revisions to Part 2

15. *Import Conditions.* Section 2.1204 of the rules limits the importation of radio frequency devices that have not yet received equipment authorization and are not intended for operation within one of the Commission's licensed services to 200 or fewer units for testing and evaluation, and 10 or fewer units for demonstration at industry trade shows, provided the devices will not be offered for sale or marketed. Devices intended for use in a licensed service can be imported in greater numbers; 2000 or fewer for testing and evaluation and 200 or fewer for demonstration purposes.

16. Hewlett-Packard ("HP") asks that the Commission increase the number of devices, not intended for use in a licensed service, that may be imported to 2000 or fewer for testing and evaluation and 100 or fewer for demonstration purposes. Furthermore, HP requests that the modified rules be expanded to permit demonstration prototypes to be used, in addition to trade shows, for any other purpose designed to build market awareness. As an alternative to the suggested rule changes, HP states that the Commission could consider combining §§ 2.1204(a)(3) and 2.1204(a)(4) to create a limit of 2100 devices for all pre-authorized units to be used for, "design refinement, software development, marketing and customer support program development, or any other needed product development purpose, including promoting market awareness."

17. We believe that a relaxation of the import restrictions may be appropriate for devices not intended for use in licensed services. However, we seek comment on the potential for abuse of a revised importation rule. Further, we seek comment on HP's proposal to modify our rules to permit demonstration prototype to be used "for any purpose designed to build market awareness."

18. *Electronic Filing. Section 2.913(c) Submittal of equipment authorization application or information to the Commission.* Currently, the Commission requires applications for equipment certification to be filed electronically, but provides a waiver process for manual filing. In the five years that this rule has been in place, we have not received any waivers requests. Thus we propose to delete the provisions for a paper filing of an application for Certification.

19. *Section 2.926(c) FCC Identifier, Grantee Code.* The FCC Identifier listed on equipment authorizations issued by the Commission consists of a grantee code assigned by the Commission and an equipment product code assigned by the grantee. Section 2.926(c) permits applicants to submit a written request for assignment of a grantee code. We propose to modify this section of the rules to require electronic filing for all grantee code assignment requests.

20. *Section 2.929(c) and (d) Changes in name, address, ownership or control of grantee.* The current rules require the grantee of an equipment authorization to supply the Commission with a written notification whenever a change in name, address, ownership, or control of grantee occurs. We believe that notification can be accomplished faster and more efficiently electronically. Therefore, we propose to modify these sections of the Rules to require electronic filing for all changes in address, company name, contact person, and control/sale of the grantee.

21. *Accreditation of Test Laboratories. Section 2.948 Description of Measurement Facilities.* Currently the Commission's rules do not address re-evaluation intervals for laboratories that submit part 15 and part 18 test data for certification. Accrediting bodies that evaluate the laboratories generally determine these intervals themselves. While domestic laboratories are generally re-evaluated at two-year intervals, some Accrediting Bodies reassess foreign laboratories only every 7 years. We believe that it is important that all laboratories, both foreign and domestic, be re-certified on a common interval. Accordingly, we propose to clarify that all test sites, both foreign and domestic, must be reassessed by their Accrediting Body every two years.

22. *Section 2.962 Requirements for a Telecommunication Certification Body.* Section 2.962(e)(1) states that the Commission will designate as a Telecommunications Certification Body any organization that meets the qualification criteria and is accredited by NIST or its recognized accreditor. The rule section does not place

requirements on re-accreditation periods. We believe that it is important that Telecommunications Certification Bodies are routinely re-accredited to ensure continued compliance with applicable standards. Accordingly, in this section, we propose to clarify that every Telecommunications Certification Body must be re-accredited every 2 years for continued accreditation.

Initial Regulatory Flexibility Analysis

23. As required by the Regulatory Flexibility Act (RFA),¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in paragraph 62 of the item. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).²

A. Need for, and Objectives of, the Proposed Rules

24. Section 11 of the Communications Act of 1934, as amended, and section 202(h) of the Telecommunications Act of 1996 require the Commission (1) to review biennially its regulations pertaining to telecommunications service providers and broadcast ownership; and (2) to determine whether economic competition has made those regulations no longer necessary in the public interest. The Commission is directed to modify or repeal any such regulations that it finds are no longer in the public interest.

25. On September 6, 2002, the Commission released a *Public Notice* seeking comments regarding Commission rules which may be outdated and in need of revision.³ The *Public Notice* identified a number of rule sections in parts 2 and 15 as candidates for review, and encouraged interested parties to provide comment on these rules. Subsequently, on September 26, 2002, the Commission released a separate *Public Notice* seeking suggestions as to which rule

¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104-112, 110 Stat. 847 (1996)(CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² See 5 U.S.C. 603(a).

³ See Public Notice, "FCC Seeks Comment Regarding Possible Revision or Elimination of Rules Under The Regulatory Flexibility Act, 5 U.S.C. 610," released September 6, 2002, DA 02-2152.

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

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

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

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

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

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

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

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

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

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

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

B. Legal Basis

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

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

29. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁶ The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act.⁷ Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operations; and (3) meets many additional criteria established by the Small Business Administration (SBA).⁸

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

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

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

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

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

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

¹³ 13 CFR 121.201, NAICS code 334220.

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

⁶ See U.S.C. 603(b)(3).

⁷ Id. 601(3).

⁸ Id. 632.

⁹ 5 U.S.C. 601(4).

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

¹¹ 5 U.S.C. 601(5).

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

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

⁵ 47 CFR 15.247.

the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

34. At this time, the Commission does not believe the proposals contained in this NPRM will have a significant economic impact on small entities. The NPRM does not propose new device design standards. Instead, it relaxes the rules with respect to the types of devices which are allowed to operate pursuant to the Commission's regulations. There is no burden of compliance with the proposed changes. Manufacturers may continue to produce devices which comply with the former rules and, if desired, design devices to comply with the new regulations. The proposed rules will apply equally to large and small entities. Therefore, there is no inequitable impact on small entities. Finally, this notice does not recommend a deadline for implementation. We believe that the proposals are relatively simple and do not require a transition period to implement. An entity desiring to take advantage of the relaxed regulations may do so at any time.

35. Unless our views are altered by comments, we find that the proposed rule changes contained in this NPRM will not present a significant economic burden to small entities. Therefore it is not necessary at this time to propose alternative rules. Notwithstanding our finding, we request comment on alternatives that might minimize the amount of adverse economic impact, if any, on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

36. None.

Ordering Clauses

37. Pursuant to the authority contained in sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 USC 154(i), 301, 302, 303(e), 303(f), 303(r), 304, and 307, the Notice of Proposed Rule Making is adopted.

38. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this NPRM, including the Initial

Regulatory Flexibility Analysis, to the chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Communications equipment.

47 CFR Part 15

Communications equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons set forth in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2 and 15 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303 and 336, unless otherwise noted.

2. Section 2.913 is revised to read as follows:

§ 2.913 Submittal of equipment authorization application or information to the Commission.

(a) All applications for equipment authorization must be filed electronically via the Internet. Information on the procedures for electronically filing equipment authorization applications can be obtained from the address in paragraph (c) of this section and from the Internet.

(b) Unless otherwise directed, fees for applications for the equipment authorization, pursuant to § 1.1103 of this chapter, must be submitted either electronically via the Internet or by following the procedures described in § 0.401(b) of this chapter. The address for fees submitted by mail is: Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251-5315. If the applicant chooses to make use of an air courier/package delivery service, the following address must appear on the outside of the package/envelope: Federal Communications Commission, c/o Mellon Bank, Mellon Client, Service Center, 500 Ross Street—Room 670, Pittsburgh, PA 15262-0001.

(c) Any equipment samples requested by the Commission pursuant to the provisions of subpart J of this part shall, unless otherwise directed, be submitted to the Federal Communications Commission Laboratory, 7435 Oakland Mills Road, Columbia, Maryland, 21046.

3. Section 2.926 is amended by revising paragraph (c) to read as follows:

§ 2.926 FCC identifier.

* * * * *

(c) A grantee code will have three characters consisting of Arabic numerals, capital letters, or combination thereof. A prospective grantee or his authorized representative may receive a grantee code electronically via the Internet. The code may be obtained at any time prior to submittal of the application for equipment authorization. However, the fee required by § 1.1103 of this chapter must be submitted and validated within 30 days of the issuance of the grantee code, or the code will be removed from the Commission's records and a new grantee code will have to be obtained.

* * * * *

4. Section 2.929 is amended by revising paragraphs (c) and (d) to read as follows:

§ 2.929 Changes in name, address, ownership or control of grantee.

* * * * *

(c) Whenever there is a change in the name and/or address of the grantee of an equipment authorization, notice of such change(s) shall be submitted to the Commission via the Internet within 30 days after the grantee starts using the new name and/or address.

(d) In the case of transactions affecting the grantee, such as a transfer of control or sale to another company, mergers, or transfer of manufacturing rights, notice must be given to the Commission via the Internet within 60 days after the consummation of the transaction. Depending on the circumstances in each case, the Commission may require new applications for equipment authorization. In reaching a decision the Commission will consider whether the acquiring party can adequately ensure and accept responsibility for continued compliance with the regulations. In general, new applications for each device will not be required. A single application for equipment authorization may be filed covering all the affected equipment.

5. Section 2.948 is amended by revising paragraph (d) introductory text and removing paragraph (d)(3) to read as follows:

§ 2.948 Description of measurement facilities.

* * * * *

(d) A laboratory that has been accredited with a scope covering the required measurements shall be deemed competent to test and submit test data for equipment subject to verification,

Declaration of Conformity, and certification. Such a laboratory shall be accredited by an approved accreditation organization based on the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Standard 17025, "General Requirements for the Competence of Calibration and Testing Laboratories." The organization accrediting the laboratory must be approved by the Commission's Office of Engineering and Technology, as indicated in § 0.241 of this chapter, to perform such accreditation based on ISO/IEC 58, "Calibration and Testing Laboratory Accreditation Systems—General Requirements for Operation and Recognition." The frequency for revalidation of the test site and the information that is required to be filed, or retained by the testing party shall comply with the requirements established by the accrediting organization. However, in all cases, test site revalidation shall occur on an interval not to exceed two years.

* * * * *

6. Section 2.962 is amended by revising paragraphs (c)(4), (e) introductory text, (f)(1), (f)(3), (g)(3) and by adding paragraph (c)(7) to read as follows:

§ 2.962 Requirements for Telecommunication Certification Bodies.

* * * * *

(c) * * *

(4) The TCB shall demonstrate an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel shall demonstrate a knowledge of how to obtain current and correct technical regulation interpretations. The competence of the Telecommunication Certification Body shall be demonstrated by assessment. The general competence, efficiency, experience, familiarity with technical regulations and products included in those technical regulations, as well as compliance with applicable parts of the ISO/IEC Guides 25 and 65, shall be taken into consideration.

* * * * *

(7) A Telecommunication Certification Body shall be reassessed for continued accreditation on intervals not exceeding two years.

* * * * *

(e) Designation of a TCB. * * *

* * * * *

(f) * * *

(1) A TCB shall certify equipment in accordance with the Commission's rules and policies.

* * * * *

(3) A TCB may establish and assess fees for processing certification applications and other tasks as required by the Commission.

* * * * *

(g) * * *

(3) If during post market surveillance of a certified product, a Telecommunication Certification Body determines that a product fails to comply with the applicable technical regulations, the Telecommunication Certification Body shall immediately notify the grantee and the Commission. A follow-up report shall also be provided within thirty days of the action taken by the grantee to correct the situation.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

7. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 304, 307, 336, and 544A.

§ 15.7 [Removed]

8. Section 15.7 is removed.

9. Section 15.203 is revised to read as follows:

§ 15.203 Antenna requirement.

(a) An intentional radiator shall be designed to ensure that no antenna other than that certificated with the device may be used. The use of a permanently attached antenna or of an antenna that uses a unique coupling to the intentional radiator shall be considered sufficient to comply with the provisions of this section. The manufacturer may design the unit so that a broken antenna can be replaced by the user, but the use of a standard antenna jack or electrical connector is prohibited. This requirement does not apply to carrier current devices or to devices operated under the provisions of §§ 15.211, 15.213, 15.217, 15.219, or 15.221. Further, this requirement does not apply to intentional radiators that must be professionally installed, such as perimeter protection systems and some field disturbance sensors, or to other intentional radiators which, in accordance with § 15.31(d), must be measured at the installation site. However, the installer shall be responsible for ensuring that the proper antenna is employed so that the limits in this part are not exceeded.

(b) Intentional radiators may be certificated with multiple antenna

types. Manufacturers must supply a list of acceptable antenna types with applications for equipment authorization. Compliance testing must be performed using the highest gain antenna of each type of antenna to be certified and with the transmitter operating at its maximum output power. Any antenna meeting the specifications of tested antennas can be used with the device without retesting. Use of an antenna of a different type than the tested antenna, one that exceeds the gain of a tested antenna, or one that does not meet the tested antenna specifications will require retesting and new approval by either a TCB or the Commission.

10. Section 15.204 is amended by adding paragraphs (b)(1), (b)(2) and (b)(3) and by revising paragraph (c) to read as follows:

§ 15.204 External radio frequency power amplifiers and antenna modifications.

* * * * *

(b) * * *

(1) A transmission system consisting of an intentional radiator, an external radio frequency power amplifier, and an antenna, may be authorized, marketed and used under this part. However, when a transmission system is authorized as a system, it must always be marketed as a complete system and must always be used in the configuration in which it was authorized. Except as described in paragraph (b)(3) of this section, an external radio frequency power amplifier shall be marketed only in the system configuration with which the amplifier is authorized and shall not be marketed as a separate product.

(2) Professional radio system installers and parties that offer commercial radio services may substitute technically equivalent components, including external radio frequency power amplifiers and/or antennas, in systems that have been granted prior equipment authorization. The professional installer or commercial service provider must place a label on the transmission system that lists the FCC Identification Number of the system that was granted equipment authorization, identifies any components that were substituted, and designates a point of contact for the party that installed the system.

(3) An external radio frequency power amplifier may be marketed for individual sale provided it is intended for use in conjunction with a transmitter that operates in the 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz bands pursuant to § 15.247 or a transmitter that operates in the 5.725–

5.825 GHz band pursuant to § 15.407. The output power of such an amplifier must not exceed the maximum permitted output power of its associated transmitter.

(c) Except as otherwise described in paragraph (b) of this section, only the antenna with which an intentional radiator is authorized may be used with the intentional radiator.

11. Section 15.212 is added to read as follows:

§ 15.212 Modular transmitters.

(a) The radio elements of the modular transmitter must have its own shielding. If the modular transmitter consists of two or more partitioned sections, the interface between the sections of the modular system must be digital with a minimum signaling amplitude of 150 mV peak-to-peak. The physical crystal and tuning capacitors for partitioned modules can be located external to the shielded radio elements.

(b) The modular transmitter must have buffered modulation/data inputs (if such inputs are provided) to ensure that the module will comply with part 15 requirements under conditions of excessive data rates or over-modulation. For partitioned modules, control information and other data may be exchanged between the firmware and radio front end.

(c) The modular transmitter must have its own power supply regulation.

(d) The modular transmitter must comply with the antenna requirements of §§ 15.203 and 15.204(c). The antenna must either be permanently attached or employ a "unique" antenna coupler (at all connections between the module and the antenna, including the cable). Any antenna used with the module must be approved with the module, either at the time of initial authorization or through a Class II permissive change. The "professional installation" provision of § 15.203 may not be applied to modules.

(e)(1) The modular transmitter must be tested in a stand-alone configuration, *i.e.*, the module must not be inside another device during testing. Unless the transmitter module will be battery powered, it must comply with the AC line conducted requirements found in § 15.207. AC or DC power lines and data input/output lines connected to the module must not contain ferrites, unless they will be marketed with the module (*see* § 15.27(a)). The length of these lines used during testing shall be a length typical of actual use or, if that length is unknown, at least 10 centimeters to insure that there is no coupling between the case of the module and supporting test equipment. Any accessories, peripherals, or support equipment

connected to the module during testing shall be unmodified or commercially available (*see* § 15.31(i)).

(2) A module comprised of two or more sections shall be tested installed on a reference platform or final host device. Signal injection testing shall be performed on the implementation with a length of cable not exceeding ten centimeters connecting the module components and platform.

(f) The modular transmitter must be labeled with its own FCC ID number, and, if the FCC ID is not visible when the module is installed inside another device, then the outside of the device into which the module is installed must also display a label referring to the enclosed module. This exterior label can use wording such as the following: "Contains Transmitter Module FCC ID: XYZMODEL1" or "Contains FCC ID: XYZMODEL1." Any similar wording that expresses the same meaning may be used. The Grantee may either provide such a label, an example of which must be included in the application for equipment authorization, or, must provide adequate instructions to parties that may include the module in their product that such a label must be placed on the outside of the device. In the latter case, a copy of these instructions must be included in the application for equipment authorization.

(g) The modular transmitter must comply with any specific rule or operating requirements applicable to the transmitter and the manufacturer must provide adequate instructions along with the module to explain any such requirements. A copy of these instructions must be included in the application for equipment authorization.

(h) The modular transmitter must comply with any applicable RF exposure requirements.

(i) The type number of a partitioned module will consist of a digital word 4 bytes in length with the following bit definition: 16 bits for the company information, 16 bits for the Device Number.

12. Section 15.247 is amended by revising paragraph (a)(1) introductory text and by adding paragraphs (b)(6), (b)(7), (b)(8), (b)(9), (b)(10), (b)(11) and (e) to read as follows:

§ 15.247 Operation within the bands 902–928 MHz, 2400–2483.5 MHz, and 5725–5850 MHz.

(a) * * *

(1) Frequency hopping systems shall have hopping channel carrier frequencies separated by a minimum of 25 kHz or the 20 dB bandwidth of the hopping channel, whichever is greater.

Frequency hopping systems in the 2.4 GHz band may have hopping channel carrier frequencies separated by 25 kHz or two-thirds of the 20 dB bandwidth of the hopping channel, whichever is greater, provided the systems employ fewer than 75 hopping channels and operate with an output power no greater than 125 mW. The system shall hop to channel frequencies that are selected at the system hopping rate from a pseudorandomly ordered list of hopping frequencies. Each frequency must be used equally on the average by each transmitter. The system receivers shall have input bandwidths that match the hopping channel bandwidths of their corresponding transmitters and shall shift frequencies in synchronization with the transmitted signals.

* * * * *

(b) * * *

(6) A device that operates in the 2.4 GHz band and transmits to multiple receivers (simultaneously or sequentially) will be permitted to operate at point-to-point power levels if it satisfies both of the following conditions:

(i) It must form multiple directional beams (simultaneously or sequentially) for the purpose of focusing energy on different receivers or groups of receivers.

(ii) It must transmit different information to each receiver.

(7) For devices qualifying as point-to-point under this interpretation, total RF power supplied to the array or arrays that comprise the device (*i.e.*, sum of power supplied to all antennas, antenna elements, staves, etc. and summed across all carriers or frequency channels) is limited as follows:

(i) Total power is limited to the applicable power level as specified in paragraph (b)(1) or (b)(3) of this section.

(ii) Total power must be reduced by 1 dB for each 3 dB of directional gain above 6 dB of the antenna/array device, as defined in paragraph (b)(9) of this section.

(8) The power limits specified previously will be applied to the aggregate power of all simultaneously operated frequency channels and directional beams, except that, for devices that transmit on multiple beams simultaneously (on the same or different frequency channels), a higher total power level may be allowed. For such devices, both of the following power limits must be satisfied.

(i) The power supplied to each beam will be subject to the power limit as specified in paragraph (b)(7)(i) of this section.

(ii) Aggregate power transmitted simultaneously on all beams must not

exceed the power limit determined in paragraph (b)(7)(i) of this section by more than 8 dB.

(9) Directional gain shall be computed as follows:

(i) Directional gain will be assumed to be equal to the sum of 10 log (# of array elements or staves) and the directional gain of the individual elements or staves (or of the element or staff having the highest gain if all are not the same).

(ii) A value for directional gain less than that given by (b)(9)(i) of this section will be accepted only if sufficient evidence is presented that the directional gain cannot exceed the proposed value (for example due to shading of the array, or coherence loss in the beamforming).

(10) If a device transmits in only single sector (single directional beam), then it does not satisfy the conditions of paragraph (b)(6) of this section and must be evaluated under point-to-multipoint rules.

(11) If a device transmits in multiple sectors (multiple beams pointed in different directions) and satisfies the conditions of paragraph (b)(6)(i) of this section, then the device may operate at point-to-point power levels computed according to paragraphs (b)(7) and (b)(8) of this section. Power in each sector must satisfy the limit in paragraph (b)(7)(i) of this section, and total RF power supplied to all antennas (all sectors) simultaneously must satisfy the limit in (b)(8)(ii) of this section.

* * * * *

(e) The peak output power and peak spectral density for digitally modulated system may be determined in accordance with the provisions specified in §§ 15.407(a)(4) and 15.407(a)(5).

* * * * *

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 95-116; FCC 03-284]

Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document initiates an examination of how to facilitate wireless-to-wireline porting in cases where the rate center associated with the wireless number is different from the rate center in which the wireline

carrier seeks to serve the customer. In addition, this document examines whether to reduce the duration of the porting interval for ports between wireless and wireline carriers.

DATES: Comments are due on or before December 30, 2003, and reply comments are due on or before January 9, 2004.

FOR FURTHER INFORMATION CONTACT: Jennifer Salhus, Attorney, 202-418-1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission Further Notice of Proposed Rulemaking, (FNPRM) released November 10, 2003 (FCC 03-284). The full text of the FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th St., SW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. Additionally, the complete item is available on the Commission's web site at <http://www.fcc.gov/wtb>.

Synopsis of the FNPRM

1. In the FNPRM, the Commission seeks comment on how to facilitate wireless-to-wireline porting in cases where the rate center associated with the wireless number is different from the rate center in which the wireline carrier seeks to serve the customer. Specifically, the Commission seeks comment on technical impediments associated with requiring wireless-to-wireline number portability when the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned. In addition to technical factors, the Commission seeks comment on whether there are regulatory requirements that prevent wireline carriers from porting wireless numbers when the rate center associated with the number and the customer's physical location do not match.

2. Next, the FNPRM seeks comment on whether to reduce the current wireline four business-day porting interval for intermodal porting. Particularly, the Commission seeks comment on whether there are practical or technical impediments to requiring wireline carriers to achieve a reduced porting interval for intermodal ports. The Commission seeks comment on an appropriate transition period in the event a shorter porting interval is adopted, during which time carriers can

modify and test their systems and procedures.

Administrative Matters

Initial Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the FNPRM. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. This is a summary of the full text of the IRFA. The full text of the IRFA may be found at Appendix B of the full text of the FNPRM. The Commission will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

A. Need for, and Objectives of, the Proposed Rules

4. The FNPRM seeks comment on how to facilitate wireless-to-wireline porting where the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer do not match. The FNPRM also seeks comment on whether the Commission should reduce the current four-business day porting interval for intermodal porting.

B. Legal Basis for Proposed Rules

5. The proposed action is authorized under § 52.23 of the Commission's rules, 47 CFR 52.23, and in sections 1, 3, 4(i), 201, 202, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154(i), 201-202, and 251.

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

6. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. Under the Small Business Act, a "small business concern" is one that: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any