established by the Small Business Administration (''SBA'').[2]

The Commission has not developed a definition of small entities applicable to unlicensed communications devices. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA regulations, unlicensed transmitter manufacturers must have 750 or fewer employees on order to qualify as a small business concern.[3] Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[4] The Census Bureau category is very broad, and specific figures are not available as to how many of these firms will manufacture unlicensed communications devices. However, we believe that many of them may qualify as small entities.

11. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with Stated Objectives. None.

List of Subjects 47 CFR Parts 2 and 15

Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–15393 Filed 6–9–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 25, and 68

[GEN Docket No. 98–68; FCC 98–92]

Streamlining the Equipment Authorization Process; Implementation of Mutual Recognition Agreements and the GMPCS MOU

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing to amend the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. It is also proposing rule changes to implement a Mutual Recognition Agreement (MRA) for product approvals with the European Community (EC) and to allow for similar agreements with other foreign trade parties. These actions are intended to eliminate the need for manufacturers to wait for approval from the Commission before marketing equipment in the United States, thereby reducing the time needed to bring a product to market. The Commission is also proposing an interim procedure to issue equipment approvals for Global Mobile Personal Communication for Satellite (GMPCS) terminals prior to domestic implementation of the GMPCS–MOU Arrangements. That action would benefit manufacturers of GMPCS terminals by allowing greater worldwide acceptance of their products.

DATES: Comments are due July 27, 1998, reply comments are due August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Hugh L. Van Tuyl, (202) 418–7506 or Julius P. Knapp, (202) 418–2468, Office of Engineering and Technology. For part 68 specific questions, contact Geraldine Matise, (202) 418–2320 or Vincent M. Paladini, (202) 418–2332, Common Carrier Bureau. For part 25 specific questions, contact Tracey Weisler at 202–418–0744.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, GEN Docket 98–68, FCC 98–92, adopted May 14, 1998, and released May 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the Notice of Proposed Rule Making

1. The Commission proposes to further streamline its part 2 equipment authorization program and to commence streamlining of part 68 of its rules in order to enable designated private parties to certify and register equipment. The Commission also proposes modifications to parts 2 and 68 of its rules to implement the Mutual Recognition Agreement between the United States and the European Community (US/EC MRA) and to prepare for future mutual recognition agreements that the United States may enter into. The US/EC MRA serves the interests of the United States by promoting trade and competition in the provision of telecommunications products and increasing access to EC markets by reducing the costs, delays, and other burdens upon manufacturers seeking to have their products approved for sale in the EC. The Commission also proposes to approve terminals used in the GMPCS service prior to domestic implementation of the GMPCS–MoU Arrangements.

Part 2 Authorization Program Streamlining

2. In the *Report and Order* (''Order'') in ET Docket No. 97–94, adopted April 2, 1998, and released, April 16, 1998, the Commission took several important steps to reduce the burden of the part 2 equipment authorization program. Those actions simplified the equipment authorization rules, thus making it easier to understand and comply with the rules. Many types of equipment that previously required Commission approval were shifted to manufacturer self-approval, thereby eliminating delays in bringing products to the market. Finally, the FCC equipment authorization process was streamlined by implementing an electronic filing system for applications.

3. While manufacturer self-approval is appropriate for many types of products, certain products require closer oversight due to such factors as a high risk of noncompliance, the potential to create significant interference to safety and other communications services, and the need to ensure compliance with requirements to protect against radio frequency exposure. Products that currently require FCC certification include mobile radio transmitters, unlicensed radio transmitters and scanning receivers. The Commission is not proposing any further relaxations of the certification requirements for various equipment at this time. It requests comments on these conclusions. The Commission notes, however, that in 1996 Congress gave it explicit authority to authorize the use of private organizations for testing and certifying equipment. See 47 U.S.C. 302(e). The Commission believes that it would be beneficial to exercise this authority by allowing parties other than the Commission to certify equipment. Allowing parties other than the Commission to certify equipment would provide manufacturers with alternatives where they could possibly obtain certification faster than available from the Commission. Further, by providing for other product certifiers, manufacturers would have the option of obtaining certification from a facility in a more convenient location. An additional benefit of allowing other parties to certify equipment would be a

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[2] See 15 U.S.C. 632.

[3] See 13 CFR 121.201, (SIC) Code 3663.

[4] See U.S. Dept. of Commerce, *1992 Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663.

reduction in the number of applications filed with the Commission. This would enable the Commission to redirect resources to enforcement of the rules. Finally, allowing equipment to be certified by parties located in other countries is an essential and necessary step for concluding mutual recognition agreements, as discussed further below. In light of these considerations, the Commission is proposing to allow private organizations to certify equipment as an alternative to certification by the Commission. The Commission will refer to these organizations as ''Telecommunication Certification Bodies'', or TCBs, since their purpose will be to grant certification to telecommunication equipment.

4. *Qualification Criteria for TCBs.* The Commission believes that it is important to establish appropriate qualification criteria for Telecommunication Certification Bodies to ensure that the equipment they certify complies with the Commission's rules. The Commission notes that section 302(e) of the Communications Act gives it authority to establish qualifications and standards for private organizations that may be authorized to certify equipment. The Commission observes that an international standard already exists that establishes appropriate qualifications for product certifiers: the International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) Guide 65 (1996), *General requirements for bodies operating product certification systems.* ISO/IEC Guide 65 requires that product certifiers must:

- Be impartial.
- Be responsible for their decisions.
- Have a quality system.
- Have personnel with knowledge and experience relating to the type of work performed.
- Document the certification system.
- Maintain records of approvals.
- Conduct internal audits.
- Perform post-market surveillance.

Further requirements and details are included in the standard. The Commission tentatively concludes that for the purposes of part 2 of the Commission's rules, ISO/IEC Guide 65 provides appropriate qualification criteria for TCBs. Further, the Commission notes that ISO/IEC Guide 65 is expected to be used as the primary qualification criteria for TCBs under mutual recognition agreements, so use of this document for domestic purposes will facilitate acceptance of U.S. certifications internationally and thereby promote U.S. trade abroad. The Commission invites comment on its proposal to use ISO/IEC Guide 65 as the qualification criteria for TCBs.

5. In addition to the general requirements of ISO/IEC Guide 65, the Commission believes certain additional specific requirements are appropriate to qualify as a TCB. The telecommunication certification body must demonstrate expert knowledge of the regulations for each product with respect to which the body seeks designation. Such expertise must include familiarity with all applicable technical regulations, administrative provisions or requirements, as well as the policies and procedures used in the application thereof. The Commission also believes that the telecommunication certification body should have the technical expertise and capability to test the equipment it will certify and must also be accredited in accordance with ISO/IEC Guide 25, *General Requirements for the Competence of Calibration and Testing Laboratories,* to demonstrate it is competent to perform such tests. The prospective telecommunication certification body must demonstrate an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel must demonstrate a knowledge of how to obtain current and correct technical regulation interpretations. Finally, the Commission will require TCBs to make a commitment to participate in any consultative activities identified by the Commission to establish a common understanding and interpretation of applicable regulations. The Commission invites comments on these proposals and whether any additional requirements may be appropriate.

6. *Procedure for Designating TCBs.* To show compliance with the Commission's qualification criteria, the Commission is proposing to require that parties desiring to be TCBs be evaluated and approved by the National Institute of Standards and Technology under its National Voluntary Conformity Assessment System Evaluation (NVCASE) program. The Commission proposes to designate as a TCB any organization that is accredited by NIST under the NVCASE program, and will publish a list of all designated TCBs. The Commission invites comments as to any concerns about requiring accreditation by NIST, particularly regarding cost issues. An alternative to requiring NVCASE accreditation would be for the Commission to establish and administer its own program for designating TCBs. Comments are invited on this alternative.

7. The Commission understands that under the NVCASE program a TCB's accreditation may be suspended or revoked for just cause. The Commission invites comment regarding enforcement and monitoring of TCB standards and performance. The Commission also invites comment as to the procedures that may be appropriate for suspension or revocation of a TCB's designation. In the event of suspension or revocation or other disciplinary action against a TCB, any equipment that was certified by that TCB can continue to be imported and marketed provided that equipment otherwise conforms with the Commission's rules. The Commission seeks comment on this proposal.

8. *Implementation Matters.* With respect to the designation of TCBs for certification of product compliance with part 2 of the Commission's rules, the Commission recognizes that there are a number of details that must be addressed before it can allow TCBs to certify equipment. As a general matter, the Commission expects TCBs to perform much the same application processing functions that are currently performed at the Commission's laboratory in Columbia, Maryland. In this regard, the Commission is proposing the following policies and guidelines with regard to certification of products by TCBs:

(a) Certification must be based on the submittal to the TCB of an application that contains all the information required under the Commission's rules.

(b) TCBs will be required to issue a written grant of certification.

(c) The grantee of certification will remain the party responsible to the Commission for compliance of the product.

(d) The certification must be based on type testing as defined in subclause 1.2(a) of ISO/IEC Guide 65, and the type testing should normally be done on only one unmodified sample of the equipment for which approval is sought. This is the way the Commission currently handles the certification of products, which its experience has shown works well.

(e) The Commission will not restrict the fees that TCBs may charge for certification.

(f) TCBs may either perform the required compliance testing themselves, or may accept and review the test data from manufacturers or other laboratories. TCBs may also subcontract with others to perform the testing. However, the TCB remains responsible for ensuring that the tests were performed as required and in this regard TCBs are expected to perform periodic

audits to ensure that the data they may receive from others is indeed reliable.

(g) Equipment certified by a TCB must meet all the Commission's labelling requirements, including the use of an FCC Identifier.

(h) The Commission will require TCBs to submit an electronic copy of each granted application to the Commission using the new electronic filing system for equipment authorization applications. This will allow the Commission to easily verify whether a piece of equipment has been approved without having to locate the TCB which approved it and obtain the records. It will also allow the Commission to monitor the activities of the TCBs to determine how many approvals are issued and for what types of equipment. Finally, this would create a common database that all parties can use to verify approvals and obtain copies of applications. Where appropriate, the file should be accompanied by a request for confidentiality for any material that qualifies as trade secrets.

(i) TCBs may approve requests for permissive changes to certified equipment, irrespective of who originally certified the equipment.

(j) The Commission will require TCBs to periodically perform audits of equipment on the market that they have certified to ensure continued compliance.

The Commission invites comment on these proposals and any other implementation issues that may need to be addressed. The Commission is particularly interested in any alternative proposals that are less burdensome while still ensuring the integrity of the certification program.

9. While the Commission proposes to empower TCBs with authority to certify equipment, it believes that certain functions related to certification should not be delegated by the Commission. TCBs may not waive the Commission's rules. TCBs may not address new or novel issues requiring interpretation of the Commission's technical standards, testing requirements, or certification procedures. TCBs will not be empowered to authorize transfers of control of grants of certification. TCBs may not take enforcement action and must refer to the Commission any matters of noncompliance of which they become aware. Finally, any decision made by a TCB would be appealable to the Commission. The Commission solicits comment on these proposals. The Commission intends to give TCBs clear guidelines as to how to exercise their new authority and seek comment on what those guidelines should be.

10. The Commission believes that a transition period of 24 months will be necessary before it may allow TCBs to certify equipment. This is similar to the provisions contained in the EC MRA and would provide parity between domestic and international product certifiers. The Commission would seek to have the 24 month period coincide with the transition period for the EC MRA. During the 24 month period, the Commission will work closely with NIST on the evaluation and accreditation of TCBs. The Commission will also work with the TCBs to ensure that they are fully familiar with the Commission's rules and will follow the same procedures the Commission does in approving equipment. The Commission seeks suggestions for ways it can make the transition to allowing TCBs to certify equipment as quick, smooth and effective as possible.

11. The Commission plans to continue to certify equipment for the foreseeable future, for a number of reasons. First, it will help smooth the transition to the new system until any major problems with it are resolved. Also, some manufacturers may prefer FCC certification for business reasons, since an approval issued by the U.S. Government may seem more legitimate to potential customers than one issued by another party. Finally, it is possible that certifiers may not emerge for certain types of equipment, so the Commission may be the only party available to approve it. However, the Commission requests comments on whether it should eventually stop issuing approvals, and rely solely on designated TCBs. The Commission also invites comments on concerns with the implementation of a new system, and any areas not covered above that need to be addressed.

The Part 68 Registration Program

12. In anticipation of the implementation of the US/EC MRA into part 68 of the Commission's Rules, the Commission recognizes the importance of maintaining parity between TCBs based in the United States and those based in the EC. The Commission tentatively concludes that the regulatory treatment of TCBs and the requirements for certification and registration of terminal equipment should be consistent, regardless of whether a TCB is located in the United States or in the EC. The Commission also tentatively concludes that manufacturers and suppliers in the United States and the EC should face comparable requirements with respect to part 68 certification and registration. The Commission seeks comment on these tentative conclusions.

13. The Commission seeks comment on the specific activities that certification bodies in the United States should be empowered to perform on behalf of domestic manufacturers and suppliers with respect to part 68 certification and registration of products marketed in the United States. In particular, the Commission seeks comment on whether certification bodies should be permitted to perform conformance assessment, certification and registration activities. The Commission also seeks comment on whether and to what extent Commission supervision of these activities is necessary.

14. The Commission seeks comment on practices and requirements that will enable it to designate certification bodies that are competent to perform part 68 activities without direct Commission supervision. With respect to this proposal, the Commission seeks comment on the range of issues presented for TCB designation under part 2 of the Commission's rules, including qualification criteria, procedures for designating TCBs and other implementation matters. Because part 68 test procedures differ from those used for parts 2, 15, and 18, TCBs that propose to certify equipment for compliance with part 68 will need to demonstrate competence in part 68 testing and knowledge of part 68 rules. The Commission tentatively concludes that TCB qualification criteria should be based on ISO/IEC Guide 65 and designation of TCBs would be performed by NIST in consultation with the Commission in the same manner as it has proposed with respect to part 2. The Commission seeks comment on these proposals.

15. The Commission also seeks comment on the methods by which TCBs may demonstrate their competence to test, certify and register products. For example, the Commission seeks comment on whether TCBs should use Form FCC 730 to transmit test data to the Commission for equipment registration. The Commission seeks comment identifying criteria for certification reports or notices that the Commission may require from TCBs that have been designated as competent to perform part 68 certification activity.

Mutual Recognition Agreements

16. The Office of the United States Trade Representative and the Department of Commerce have participated in negotiations over the past several years to develop a mutual recognition agreement for product approvals with the European Community. The Federal

Communications Commission has also participated in these negotiations, as have industry representatives from both the United States and Europe. These negotiations culminated on June 21, 1997 when the US/EC MRA was finalized by the United States Trade Representative and a representative of the European Community. The Agreement is expected to be signed in London on May 18, 1998.

17. A copy of the completed MRA is being inserted in the record for this proceeding. The Commission's regulations apply directly to two industry sectors, telecommunications equipment and electromagnetic compatibility (''EMC''), among the six specifically addressed by the US/EC MRA. The telecommunications sector addresses terminal equipment covered by part 68 of the rules, and transmitters covered by part 2 and other parts of the Commission's rules. The EMC sector applies to equipment addressed by parts 15 and 18 of the Commission's rules.

18. Under the US/EC MRA, products can be tested and certified in the United States in conformance with the European technical requirements. The products may be shipped directly to Europe without any further testing or certification. In return, the MRA obligates the United States to permit parties in Europe to test and authorize equipment based on the United States technical requirements. The US/EC MRA thereby promotes bilateral market access and competition in the provision of telecommunications products and electronic equipment. The US/EC MRA also will reduce industry burdens and delays caused by testing and approval requirements for products marketed in the United States and Europe.

19. The US/EC MRA provides a 24 month transitional period that will be used to implement the regulatory or legislative changes necessary for both parties to implement the US/EC MRA. The period would begin on the effective date of the MRA, which at this time is anticipated to be July 1, 1998. At the end of this period the parties should be prepared for full mutual recognition of product certifications and registrations. The Commission tentatively concludes that legislative changes will not be required for the United States to implement the US/EC MRA with regard to telecommunications equipment and electromagnetic compatibility. In this proceeding, the Commission proposes amendments to its rules to commence regulatory implementation of the US/EC MRA. Accordingly, the Commission tentatively concludes that it is appropriate to issue specific proposals at this time to advance the process as promptly as possible.

20. *Designation of TCBs for equipment exported to the United States from Europe.* In accordance with the US/EC MRA, the United States and each member state of the European Community will identify a ''Designating Authority'' in its territory. A Designating Authority is a body with power to designate, monitor, suspend, remove suspension of or withdraw conformity assessment bodies, such as TCBs, in accordance with the US/EC MRA. Designating Authorities will in turn designate a number of TCBs, also within each country's territory, that will be empowered to certify products for conformity with the technical requirements of countries to which the equipment is exported.

21. *Designation of TCBs for equipment exported to Europe from the United States.* The US/EC MRA lists the Designating Authorities for the United States as the National Institute of Standards and Technology (NIST) and the Federal Communications Commission. The Federal Aviation Administration (FAA) is also a designating authority for EMC aboard aircraft. NIST will designate Conformity Assessment Bodies in the United States for equipment that will be exported to Europe through its National Voluntary Conformity Assessment System Evaluation (NVCASE) program. NIST will oversee the United States Conformity Assessment Bodies on an ongoing basis to ensure that they are performing in a satisfactory manner. The Commission believes it is unnecessary for it to play a direct role in designating or supervising TCBs with respect to equipment going to Europe. However, the Commission will provide assistance and guidance to NIST as may be necessary. For example, if questions arise as to the performance of a United States-based Conformity Assessment Body, the Commission would make its expertise in testing and measurements available as needed to resolve such matters. Comments are invited on this general approach.

22. *Administration of the US/EC MRA.* The US/EC MRA provides for oversight of implementation by a Joint Sectorial Committee (''JSC''). The Agreement provides that Commission representatives will participate as appropriate in the Joint Committee, and will chair the JSCs for the United States with regard to telecommunications equipment and electromagnetic compatibility sectors. The Commission invites comments on this general approach to administration and oversight of the US/EC MRA.

23. The Commission notes that the JSC for telecommunications equipment and EMC will produce a guidance document confronting these and other, more detailed issues relevant to bilateral implementation of this Agreement. The Commission seeks comment, however, recommending and discussing specific additions and modifications to its rules that will support and amplify both the Commission's and the JSC's efforts to ensure that all products introduced into the United States' marketplace remain in conformity with its rules.

24. *Authority to approve equipment.* The Commission proposes amending its rules as required to permit parties in MRA partner economies to certify radio frequency devices for conformance with parts 2, 15, 18 and other rule parts and to test, and eventually register telecommunications equipment for conformance with part 68. The Commission tentatively concludes that these privileges should only be granted subject to the terms and conditions specified in the US/EC MRA. Specifically, the Commission notes that both the United States and its MRA partners retain the right to remove noncompliant equipment and impose penalties for marketing noncompliant equipment as provided under the applicable domestic law. The Commission solicits comments on this general approach and invites suggestions as to any specific or additional steps that may be necessary or appropriate to transition its procedures and ensure continued compliance with the Commission's rules.

25. *Asia-Pacific Economic Cooperation (APEC) MRA.* The Office of the United States Trade Representative, at the request of the United States telecommunication industry, is negotiating an MRA for Conformity Assessment for Telecommunication products in the Asia-Pacific Economic Cooperation (APEC). APEC is a trade cooperative of eighteen economies, soon to be expanded to twenty-one economies, along the Pacific Rim. The APEC Telecom MRA is intended to facilitate trade in telecommunications and radio equipment among the APEC economies.

26. The key elements of the APEC Telecom MRA text are likely to be substantially similar to the key elements of the US/EC MRA text. A copy of the text of the draft APEC Telecom MRA will be placed in the record of this proceeding. The Commission tentatively concludes that the rules proposed in this proceeding to implement the US/EC MRA may be sufficient to implement the APEC Telecom MRA. The

Commission seeks comment on this tentative conclusion, and requests comment identifying further rule changes that may be required to implement the APEC Telecom MRA.

27. *The GMPCS–MoU and Arangments.* The Commission recognizes, that certain GMPCS systems are now in operation or expected to commence operation before it can adopt final rules in the final GMPCS implementation proceeding. The Commission believes it must allow for the expedient certification of GMPCS equipment as soon as possible to remove a potential barrier to the success of the service. Accordingly, the Commission will immediately begin to certify, on an interim basis, GMPCS equipment that meets all the acceptable regulations under parts 1, 2, and 25 of its rules and a stringent out-of-band emission standard.

28. There is currently no requirement in the Commission's rules to obtain an equipment certification for a GMPCS terminal before it can be used or marketed. However, it is evident that the truly global, ubiquitous nature of GMPCS service delivery can be ensured only when the user has the capability of transporting the GMPCS terminal across national territories without delay or fees.

29. To date, the Commission has issued mobile earth terminal authorizations to GMPCS service providers under a ''blanket license.'' These authorizations specify general operating parameters for a specific number of terminals and specific requirements for the protection of radiocommunication services, consistent with § 1.1307, and §§ 25.135(b) and (c), 25.136(a) and (b), 25.202(a)(3), 25.202(a)(4), 25.202(d), 25.202(f), and 25.213(a)(1) and 25.213(b) of the Commission's rules. The Commission also indicated that, when applicable, licensees must meet any spurious emission restrictions established by the Commission in order to protect the Russian Global Navigation Satellite System (GLONASS) which is operating in bands adjacent to those used by some GMPCS terminals.

30. Since granting certain blanket licenses for some MSS systems which fall under the GMPCS umbrella, certain international and domestic organizations have proposed additional requirements for protecting radionavigation systems, beyond those included for Global Positioning Systems (GPS) in section 25.213 of the rules, concerning both suppression of emissions below 1610 MHz and preventing harmful interference from Big LEO systems operating in the adjacent 1610–1626.5 MHz band. First, the International Telecommunication Union's Radio Sector Study Group WP 8D has adopted a recommended standard for suppression of spurious emissions for MSS systems with mobile earth terminals operating in the 1610–1626.5 MHz band and will soon consider setting similar standards for other types of GMPCs terminals. The European Commission/CEPT adopted a European Testing and Standards Institute (ETSI) standard late last year for both CDMA and TDMA-type Mobile Satellite Service (MSS) systems based on this ITU–R recommendation.

31. The National Telecommunications and Information Administration (NTIA) proposed yet another set of standards to protect GPS and GLONASS as part of the Global Navigation Satellite System (GNSS). In September 1997, the NTIA petitioned the Commission to begin a rulemaking to amend part 25 of the FCC's rules to incorporate additional limits to protect GNSS equipment operating within the 1559–1605 MHz radionavigation satellite service band. The NTIA recommended that, for MSS mobile earth terminals operating in the 1610–1660.5 MHz band, out-of-band signals must ultimately be limited to −70 dBW/MHz for wide band emissions and −80 dBW/700 Hz for narrow band emissions in the 1559–1605 range. The Commission will initiate a separate rule making to consider the NTIA proposal.

32. *Authorization of GMPCS transmitters.* The Commission intends to allow GMPCS equipment to be voluntarily submitted for certification, on an interim basis, upon meeting all of the relevant part 1 and 25 standards concerning frequency range, tolerance, out-of-band emission, spurious emission limits to protect GPS, and radiation hazards. Concerning the Commission's pending proceeding on additional protection standards for GNSS, it will be conditioning this interim approval for GMPCS terminal equipment operating in the band 1610–1626.5 MHz on the ability of the applicant to meet the strictest out-of-band emission limit proposed at this time, specifically, NTIA's out-of-band emission limit proposed for implementation by the year 2005. NTIA proposes an out-of-band emission limit of −70 dBW/MHz averaged over any 20 ms period for wide band emissions occurring between 1559–1605 MHz and −80 dBW/700 Hz for narrow band emissions occurring between 1559–1605 MHz. However, the NTIA's proposed limit on narrowband emissions specifies a measurement bandwidth of 700 Hz. As there is some question whether current instrumentation is capable of measuring across 700 Hz, it will suffice for purposes of interim type approval for manufacturers to demonstrate compliance with the narrowband standard of −80 dBW across 700 Hz *or less* in accordance with the RTCA Inc. Final Report in the context of GPS protection requirements.

33. Finally, MSS satellite operators, service providers and mobile earth terminal manufacturers are advised that all final FCC equipment approvals will be conditioned on meeting the requirements and procedures adopted in the future GMPCS MoU implementation proceeding, including the specific spurious and out-of-band emission limits adopted in that proceeding.

Initial Regulatory Flexibility Analysis

34. 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 *NPRM*.[2] 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 this *NPRM*. The Office of Public Affairs, Reference Operations Division, will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 603(a). In addition, the *NPRM* and IRFA will be published in the **Federal Register**.

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

35. The Commission is proposing to amend parts 2, 25 and 68 of the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. We are also proposing rule changes to implement a Mutual Recognition Agreement (MRA) for product approvals with the European Community (EC) and to allow for similar agreements with other foreign trade parties. These actions would eliminate the need for manufacturers to wait for approval from the Commission

[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 No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 1998 Biennial Review—Amendment of parts 2, 25 and 68 of the Commission's Rules to Further Streamline the Equipment Authorization Process for Radio Frequency and Telephone Terminal Equipment and to Implement Mutual Recognition Agreements.

before marketing equipment in the United States, thereby reducing the time needed to bring a product to market. We are also proposing an interim procedure to issue equipment approvals for Global Mobile Personal Communication for Satellite (GMPCS) terminals prior to domestic implementation of the GMPCS–MOU Arrangements.[3] [4] That action would benefit manufacturers of GMPCS terminals by allowing greater worldwide acceptance of their products.

B. Legal Basis

36. 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. 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

37. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). This standard also applies in determining whether an entity is a small business for purposes of the RFA.

38. The Commission has not developed a definition of small entities applicable to RF Equipment Manufacturers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to manufacturers or ''Radio and Television Broadcasting and Communications Equipment.'' According to the SBA's regulation, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business.[5] Census Bureau data indicates that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[6] We believe that many of the companies that manufacture RF equipment may qualify as small entities.

39. The Commission has not developed a definition of small manufacturers of telephone terminal equipment. The closest applicable definition under SBA rules is for manufacturers of telephone and telegraph apparatus (SIC 3661), which defines a small manufacturer as one having 1,000 or fewer employees.[7] According to 1992 Census Bureau data, there were 479 such manufacturers, and of those, 436 had 999 or fewer employees, and 7 had been between 1,000 and 1,499 employees.[8] We estimate that there fewer than 443 small manufacturers of terminal equipment that may be affected by the proposed rules.

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

40. We are proposing to allow designated Telecommunication Certification Bodies (TCBs) in the United States to issue equipment approvals. Applicants for equipment authorization may apply either to the FCC or to a TCB, and they will be required to submit the same application form and exhibits that the rules currently require. We are also proposing to carry out a mutual recognition agreement with the European Community that will permit certain equipment currently required to be authorized by the FCC to be authorized instead by TCBs in Europe. As with TCBs in the United States, applicants would be required to submit the same application form and exhibits they do now. We are proposing that TCBs submit a copy of each approved application to the FCC. Applications for equipment authorization under part 2 of the rules will be sent and stored electronically using the new OET electronic filing system. Paper copies of part 68 applications will be required, since there is not yet an electronic filing system for those applications. However, we are requesting comments on alternatives to these proposals.

We are also proposing to require equipment authorization for mobile transmitters used in the Global Mobile Personal Communications by Satellite (GMPCS) service. This will require manufacturers to file an application and technical exhibits to the FCC or a designated TCB and wait for an approval before the equipment can be marketed. While this action would impose a new authorization requirement, it should ultimately reduce the burden on manufacturers. Under the terms of the GMPCS MOU and Arrangements, the single approval obtained in the United States could eliminate the need to obtain approvals from multiple other countries.

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

41. Certain equipment that uses radio frequencies must be approved by the Commission before it can be marketed. Allowing parties other than the Commission to certify equipment would provide manufacturers with alternatives where they could possibly obtain certification faster than available from the Commission. Further, by providing for other product certifiers, manufacturers would have the option of obtaining certification from a facility in a more convenient location. An additional benefit of allowing other parties to certify equipment would be a reduction in the number of applications filed with the Commission. This would enable us to redirect resources to enforcement of the rules. Finally, allowing equipment to be certified by parties located in other countries is an essential and necessary step for concluding mutual recognition agreements. Therefore, we are proposing to allow private organizations to certify equipment as an alternative to certification by the Commission.

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

42. None.

List of Subjects in 47 CFR Parts 2, 25, and 68

Communications equipment, Report and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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[3] ''Global Mobile Personal Communications by Satellite'' (GMPCS) service is defined in the 1996 Final Report of the World Telecommunications Policy Forum as: ''any satellite system, (i.e., fixed or mobile, broadband or narrow-band, global or regional, geostationary or non-geostationary, existing or planned) providing telecommunication services directly to end users from a constellation of satellites.''

[4] The GMPCS MOU and Arrangements are intended to allow the worldwide transport and use of GMPCS equipment. They are described in more detail in the Notice.

[5] *See* 13 CFR 121.201, Standard Industrial Classification (SIC) Code 3663.

[6] *See* U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities (issued may 1995), SIC category 3663.

[7] 13 CFR 121.201, SIC 3661.

[8] 1992 Economic Census, Industry and Employment Size of Firm, Table 1D (data prepared by U.S. Census Bureau under contract to the U.S. Small Business Administration).