

the best interest of the public or local economies. They said that fee increases would harm small businesses because they would have to pass along the fee increases to their customers.

A few respondents simply stated their fees should be lower. Others said the fees were not what industry had agreed to. One respondent stated that recent legislation reclassified certain private carrier radio operators and required regulation by the Federal Communications Commission. One respondent asked that the respondent's fee be considered in a special category, or reduced, because of the respondent's public service.

Many respondents stated that the schedule needed further clarification and was confusing in certain areas. Many building tenants were uncertain how the agency would apply the fee schedule, believing they would be subject to the proposed fees as tenants. Facility owners who do not own or operate equipment and lease building and antenna space to other commercial radio service providers expressed confusion about how or if the fee schedule would apply to them in existing situation, such as leases, and multi-user permits.

The Forest Service recognizes that the lack of clear explanation on application of the schedule for this use category led to misinterpretation and confusion.

The BLM proposal included commercial mobile radio service (CMRS) in a nonbroadcast rental schedule and proposed several changes. These changes include: (1) Expanding the original five population divisions to nine to reflect market areas ranging from zero to more than 2,000,000, (2) basing fees on the population of the largest county predominantly served by the transmitter, (3) proposing a separate category for facility managers (building owners), and (4) adjusting fees in most strata to reflect the findings of additional analysis.

While respondents to the BLM proposal generally favored the expanded fee strata, most respondents objected to using county population as a basis for setting fees. Respondents to BLM's proposal strongly opposed the fees in each strata, stating they were unfair and too high, and would drive many small businesses out of the market. Several respondents provided additional information showing the proposed schedule fees were above the private market rates.

Several respondents to the BLM proposal questioned the similarity of the CMRS category and facility manager category. They suggested that BLM eliminate the facility manager category

and incorporate it into the CMRS category. Other respondents said that CMRS is dependent on microwave communication equipment and pointed out that the difference in land rent between the two uses was less than 4 percent. In response to BLM's proposal, they asked that microwave communication equipment used to support a CMRS operation be charged one fee at the CMRS rate.

Response. In consideration of public comments to the agency's and BLM's proposed fee schedule, available market data, and additional industry information focusing primarily on rural areas, the final Forest Service policy and fee schedule for the CMRS category include the following changes:

1. The final fee schedule based on the standard RMAs establishes nine fee strata. Fees range from \$12,000 in the highest RMA to \$600 in the lowest RMA, reducing final fees in six of the nine strata.

2. The agency has adjusted the final fees to more closely coincide with fees for cellular telephone uses. The market analysis shows cellular telephone and CMRS providers often compete for sites in larger markets at similar private market rates. Comparable market information in less populated areas shows CMRS providers pay less than cellular telephone.

3. The definition for CMRS has been broadened to include facility managers and ancillary microwave link equipment.

Cellular Telephone Fees. The proposed Forest Service schedule defined three fee strata for cellular telephone based on populations within a Standard Metropolitan Statistical Area (SMSA). Fees within the strata ranged from \$7,500 to \$2,500.

Comment. Overall, respondents were supportive of the cellular fees. However, they suggested several modifications. They suggested that the agency abandon the term "SMSA" and determine the area a site covers based on contour maps filed with the Federal Communications Commission (FCC).

Two respondents to the BLM proposal suggested that they include specialized mobile radio, a similar wireless system, in the cellular category. They reasoned that Congress in recent legislation (Omnibus Budget Reconciliation Act of 1993) directed Federal agencies to regulate similar wireless telecommunications services consistently.

Other respondents were concerned about two emerging technologies: personal communication service (PCS) and microcells. PCS is smaller to cellular telephone service. The major

difference between PCS and cellular telephone is that PCS operates at a low power and has smaller area coverage. However, the PCS network is more concentrated and requires more sites than a cellular service. The respondents warned that it would be inappropriate to require PCS users to pay the same fees as a cellular telephone users. While PCS service is not yet available, a similar service using microcells is provided now in rural, sparsely populated areas as an addition to wireline and cellular telephone service. The respondents suggested a separate fee of \$2,500 per year.

Response. Because of the comments, other methods to determine the fee strata were explored and analyzed. The BLM proposal included cellular telephone in a nonbroadcast rental schedule and proposed expanding population divisions from three to nine. The BLM proposed basing fees on the population of the largest county predominantly served by the transmitter. The expanded strata, based on county populations, resulted in proposed fees ranging from \$10,000 to \$2,500.

Contrary to respondents' comments, additional analysis shows that in large metro markets, cellular telephone companies and commercial mobile radio service providers often pay similar rents in the private market. However, in small- to medium-size markets, commercial mobile service providers pay less than cellular telephone users. Therefore, the final Forest Service fee schedule reflects the differences in fees and maintains separate schedules for cellular telephone and commercial mobile radio service.

After considering the suggestions and gathering additional information from industry and the Federal Communications Commission (FCC), the Forest Service has deleted PCS from the definition for the cellular telephone category. Once site requirements are determined for PCS, the agency will consider amending the fee schedules. However, the agency has broadened the definition of cellular telephone to include other related technologies in the event PCS facilities are similar. It is the intent of the agency to apply the fee schedule to similar, emerging technologies when practical. Additionally, microcell service will not be included in the cellular telephone category at this time.

In consideration of the public comments and available market data, the final policy and fee schedule for the cellular category include the following changes: