

size standard, the great majority of firms can be considered small. However, no equipment authorizations have been issued for devices operating in the 1910–1920 MHz band.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

9. The *Third NPRM* addresses the possible use of frequency bands below 3 GHz to support the introduction of new AWS, but does not propose service rules. Thus, the item contains no new reporting, recordkeeping, or other compliance requirements.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

10. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): “(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 and reporting requirements under the rule for such 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 such small entities.”³¹

11. Providing spectrum to support the introduction of new advanced mobile and fixed terrestrial wireless services is critical to the continuation of technological advancement. As an initial matter, we believe that the provision of additional spectrum that can be used to support AWS will directly benefit small business entities by providing new opportunities for the provision of innovative new fixed and mobile wireless services.

12. We realize that some entities must be displaced to clear a sufficient quantity of contiguous spectrum to support new services. We endeavored to avoid this effect by identifying unencumbered spectrum, but spectrum in the suitable frequency range is heavily used already and a sufficient amount of unencumbered spectrum simply does not exist. We have also sought to minimize an adverse impact by proposing to reallocate frequency bands for those incumbents, including small entities, which might be accommodated in other spectrum. The

spectrum we propose to allocate in the 2160–2165 MHz band was previously identified as an Emerging Technology band; thus, we have previously considered relocation consequences and established relocation procedures for incumbent operators in this band. Small entities operating in this band have known for a decade that they are subject to relocation and may have taken steps (such as deploying more efficient systems in different spectrum in lieu of upgrading existing equipment) that could minimize the consequences of relocation vis-à-vis licensees in another spectrum band that had not heretofore been identified as a candidate for reallocation. Thus, the existing relocation procedures should serve to ease the relocation of small entity incumbents in the 2160–2165 MHz band, and make reallocation of this band a preferable alternative to the reallocation of other bands where we would have to establish new relocation rules.

13. The Commission has already received extensive comments in this proceeding on issues related to the possible reallocation of the 2150–2160 MHz (2.1 GHz) spectrum for advanced wireless purposes. Comments filed by the multipoint distribution/instructional television fixed services industry and several equipment manufacturers argue that the 2.1 GHz band is necessary for the continued roll-out of fixed wireless services across the country. Other commenters support the use of 2.1 GHz for advanced wireless services. In a recent decision, the Commission determined that it was necessary to reallocate MDS operations at 2150–2155 MHz to create a 45 megahertz block of contiguous spectrum that can be used to provide advanced services, but did not decide how to relocate these operations or what to do with remaining MDS operations in the 2155–2160/62 MHz band. One option proposed is the reallocation of the remaining MDS spectrum. By taking this action, we would be able to provide opportunities associated with the provision of contiguous and/or paired blocks of spectrum that can be used for fixed and mobile applications, including AWS.

14. The *Third NPRM* discusses reallocation of UPCS spectrum in the 1910–1920 MHz band for AWS. Because no equipment is currently certified for this band, we conclude that our decision is unlikely to affect any users or equipment manufacturers that are small entities. We also explore options for providing increased flexibility of unlicensed use in the remaining UPCS spectrum, including modifying our rules to allow for expanded voice-based

applications in the 1915–1920 MHz portion of the band if we decide to reallocate only the 1910–1915 MHz band segment. We note that we had sought comment on use of the entire 1910–1930 MHz band for AWS, and that the record reflects that numerous small entities may use or manufacture UPCS voice equipment on the 1920–1930 MHz portion of the band. Thus, the *Third R&O* represents a means to provide additional opportunities both to small entities that provide AWS while providing minimal disruption to small entities that are UPCS users and manufacturers (and possibly providing additional benefits, if the proposal to expand permitted UPCS use of the 1915–1920 MHz band is adopted). For this reason we conclude that our action is preferable to other alternatives, such as retaining the existing UPCS allocation in its entirety.

Rules That May Duplicate, Overlap or Conflict With the Proposed Rules

15. None.

List of Subjects in 47 CFR Part 15

Communications equipment.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 15 as follows:

PART 15—RADIO FREQUENCY DEVICES

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

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

2. Section 15.319 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 15.319 General technical requirements.

(a) The 2390–2400 MHz band is limited to use by asynchronous devices under the requirements of § 15.321.

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3. Section 15.321 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 15.321 Specific requirements for asynchronous devices operating in the 2390–2400 MHz band.

(a) Operation shall be contained within the 2390–2400 MHz band. The emission bandwidth of any intentional radiator operating in these bands shall be no less than 500 kHz.

employment of 1,500 or fewer employees; the largest category provided is “Firms with 1,000 employees or more.”

³¹ 5 U.S.C. 603(c)(1)–(c)(4).