

telemetry purposes. In consideration of all the proposals for the band 2360–2395 MHz, the Commission proposes to revise footnote US276.

17. Under the proposal, the amateur service would retain its current primary allocation at 2390–2400 MHz, but would be required to share the lower 5 megahertz with new Federal and non-Federal Government operations on a co-primary basis. The Commission indicates that such sharing would not have a significant impact on amateur operations. Under its band plan, the Amateur Radio Relay League (ARRL) has designated the 2390–2396 MHz segment for use by “Fast Scan TV,” which is a form of Amateur Television (ATV). However, there are numerous other bands designated for ATV. Because of equipment availability, most ATV use appears to be in the bands 420–450 MHz and 902–928 MHz. The Commission proposes to amend § 97.303 of its amateur Rules to reflect this spectrum sharing proposal. The Commission solicits comment on whether limits should be imposed on the amateur and/or mobile services in order to enhance spectrum sharing; if limits are necessary, comment is sought on the limits that should be adopted.

18. The Commission observes that non-Federal Government flight test stations in the band 2310–2390 MHz have long been subject to the emission limitations that are specified in § 87.139 of its Rules. The Commission proposes to continue to employ these emission limitations for non-Federal Government flight test stations in the band 2385–2390 MHz. NTIA has established significantly less stringent limits for unwanted emissions from aeronautical telemetry operations in this band than those requested by the Satellite Radio Licensees (25 to 55 dB less stringent than the WCS fixed and mobile limits). Therefore, the Commission requests comment on the appropriate out-of-band emission limits that are necessary to protect Satellite DARS reception from both aeronautical (ground) stations and from aircraft stations.

19. Under the proposal, the band 2385–2390 MHz would be available for aeronautical telemetering and associated telecommand for both Federal and non-Federal Government licensees and thus, footnote US363, which grandfathered various Federal and non-Federal Government sites for aeronautical telemetering and associated telecommand purposes, would no longer be needed. The Commission therefore proposes to delete footnote US363. The proposal would also limit non-Federal Government use of the band 2385–2390 MHz to flight test

stations and thus, footnote NG174, which states that frequencies in the band 2385–2400 MHz are not available for assignment to stations in the aeronautical mobile service in Puerto Rico, would no longer be needed. The Commission also proposes to delete footnote NG174.

20. The Commission proposes to rescind numerous changes to its WCS service rules that were made as part of its action on the transfer and reallocation of the band 2385–2390 MHz. Specifically, the Commission proposes to add the band 2385–2390 MHz back to the frequencies available to flight test stations in § 87.303 of its aviation service rules. It also proposes to rescind the changes made in the 27 *Megahertz Service Rules R&O* for the band 2385–2390 MHz in parts 1, 27, and 87 of its Rules by removing regulations containing this band from § 1.1307 (Environmental Assessments); 27.1(b)(7) (Basis and Purpose); 27.4 (Terms and definitions); 27.5(g) (Frequencies); 27.6(g) (Service areas); 27.11(h) (Initial authorization); 27.12(b) (Eligibility); 27.13(f) (License period); 27.50(f) (Power and antenna height limits); 27.53(i) (Emission limits); and 87.173, note 1 (Frequencies); and by removing part 27, Subpart K (2385–2390 MHz Band). In the Table of Frequency Allocations, the Commission also proposes to revise the entry for the band 2385–2390 MHz by replacing the cross reference to part 27 of its Rules (Miscellaneous Wireless Communications Services) with a cross reference to part 87 of its Rules (Aviation Services) to reflect the re-designation of the band 2385–2390 MHz.

21. Nearly seven years after the Commission made the band 2390–2400 MHz available for unlicensed use, there is still no equipment authorized or anticipated for this band. In order to remove possible sources of harmful interference to primary radiocommunication services in the 2390–2395 MHz segment, the Commission proposes to no longer make the band 2390–2400 MHz available for unlicensed PCS use. Specifically, the Commission proposes to revise part 15 of its Rules by removing the band 2390–2400 MHz from various technical rules that apply to asynchronous devices, *i.e.*, §§ 15.301 (Scope); 15.303(a), (g), and (i) (Definitions); 15.319(a) (General technical requirements); and 15.321(a), (b), and (g) (Specific requirements for asynchronous devices operating in the 2390–2400 MHz band).

Initial Regulatory Flexibility Analysis

22. As required by the Regulatory Flexibility Act (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *Fourth Notice of Proposed Rule Making (4th NPRM)*. Written public comments are requested on this IRFA and must be filed by the deadlines for comments on the *4th NPRM* provided in paragraph 66 of the *4th NPRM*. The Commission will send a copy of the *4th NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.² In addition, the *4th NPRM* (or summaries thereof), including the IRFA, will be published in the **Federal Register**.³

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

23. The Commission proposes to allow DOD to use the band 2025–2110 MHz on a co-equal, primary basis with non-Federal Government operations for DOD earth stations at 11 sites that support DOD space operations. DOD access to the band 2025–2110 MHz may make more spectrum available in the band 1755–1850 MHz for absorbing certain DOD systems displaced from the band 1710–1755 MHz. In addition, the Commission proposes to permit the military services to operate stations in the fixed and mobile services in the band 2025–2110 MHz on a secondary (non-interference) basis at six sites in the southwestern region of the United States.

24. The Commission also proposes to make numerous allocation changes to the band 2360–2400 MHz, the most significant of which would rescind the recent establishment of Wireless Communications Services at 2385–2390 MHz, allow Federal and non-Federal Government flight test stations to operate in the band 2385–2395 MHz, and no longer make the band 2390–2400 MHz available for use by unlicensed Personal Communications Services devices. These allocation changes would permit DOD to relocate all aeronautical mobile systems out of the band 1710–1755 MHz, which is a major objective for facilitating the introduction of AWS. In addition, these allocation changes would provide needed

¹ See 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, 110 Stat. 847 (1996).

² 5 U.S.C. 603(a).

³ *Id.*