

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 00–258, RM–9911, RM–9920, FCC 00–455]

New Advanced Wireless Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document explores the possible use of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generation (“3G”) as well as future generations of wireless systems. Advanced wireless systems could provide, for example, a wide range of voice, data, and broadband services over a variety of mobile and fixed networks. By these actions, we initiate proceedings to provide for the introduction of new advanced wireless services to the public, consistent with our obligations under section 706 of the 1996 Telecommunications Act, and promote increased competition among terrestrial services.

DATES: Comments must be submitted on or before February 22, 2001, and reply comments on or before March 9, 2001.

FOR FURTHER INFORMATION CONTACT:

Rodney Small, Ira Keltz, or Geraldine Matise, Office of Engineering and Technology, (202) 418–2452, (202) 418–0616, or (202) 418–2322, respectively; internet: rsmall@fcc.gov, ikeltz@fcc.gov, or gmatise@fcc.gov, respectively.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Notice of Proposed Rule Making, ET Docket No. 00–258, FCC 00–455, adopted December 29, 2000, and released January 5, 2001. The full text of this decision is available on the Commission’s Internet site, at www.fcc.gov. It is also available for inspection and copying during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission’s duplication contractor, International Transcription Service, Inc., (202) 857–3800.

Summary of Notice of Proposed Rule Making

1. In November 1999, the Commission issued a Policy Statement, in which we set forth guiding principles for our spectrum management activities in the new millennium and discussed reallocating several bands for new advanced mobile and fixed communications services. In developing

the allocation proposals presented below, we have been guided in large measure by the principles set forth in our Policy Statement, 14 FCC Rcd 19868 (1999). We are proposing a flexible allocation approach for the provision of advanced wireless services. As indicated in the Policy Statement, a flexible allocation approach will allow licensees freedom in determining the services to be offered and the technologies to be used in providing those services. This flexibility will allow licensees to make the most efficient use of their assigned frequencies in response to market forces.

2. The fundamental issues in this proceeding are the amount of additional spectrum that should be made available for use by new advanced mobile and fixed services, including 3G systems, and the frequency bands in which this spectrum should be located. The International Telecommunication Union (“ITU”) has identified a number of frequency bands that could be used for advanced mobile and fixed communications services, including 3G systems. Some of these bands already are used in the United States for first or second generation wireless systems that may transition to advanced wireless systems over time. Consequently, this NPRM will focus primarily on additional frequency bands for possible use by advanced mobile and fixed systems, including two frequency bands that are not currently available for non-Federal Government use. We have included these bands in our analysis in order to develop a complete record on all possible frequency bands for new advanced mobile and fixed systems. We expect that the record developed in response to this NPRM will inform our decisions on the amount of spectrum to allocate or designate from each candidate band for advanced wireless systems.

A. Service Requirements

3. We request comment on a variety of issues regarding the introduction of advanced wireless services, including: the types of services likely to be offered and the time period over which they would be introduced; the technical standards for systems likely to be deployed (e.g., data rates, modulation techniques); the ability to transition existing systems to advanced systems; and steps to facilitate global or regional roaming. We request comment on how much additional spectrum will be needed to satisfy unmet and projected mobile requirements such as toll-quality voice, high-speed data including Internet and other multimedia

applications, and full-motion video. What size spectrum blocks would be appropriate to implement advanced wireless systems? What is the minimum spectrum block size needed? When will additional spectrum be needed? We note that whether spectrum is clear, shared, or segmented may impact the amount of spectrum required, and the amount of spectrum that may be made available. Commenters should be mindful that the total amount of spectrum and the size of spectrum blocks will affect the amount of competition that could be introduced in the provision of advanced wireless services.

B. Spectrum Requirements

4. In this proceeding, we believe that it is prudent to explore the possible use of several frequency bands that could be used for advanced wireless systems. We believe in this way we can ensure that the spectrum needs for advanced services, such as 3G, can best be met. We first explore the possible use of frequency bands already being used by cellular and PCS systems and other spectrum that will soon be available for additional mobile and fixed service use. We then explore the possible use of five additional frequency bands for advanced wireless systems. We propose to allocate for mobile and fixed services the 1710–1755 MHz band that was designated for reallocation from Federal Government to non-Federal Government use under two statutory directives, the 1993 Omnibus Budget Reconciliation Act (“OBRA–93”) and the Balanced Budget Act of 1997 (“BBA–97”). Next, we seek comment on providing mobile and fixed service allocations for the 1755–1850 MHz band, if spectrum in the band is made available for non-Federal Government use, with some continued Federal use. Next, we propose to designate advanced mobile and fixed service use of the 2110–2150 MHz and 2160–2165 MHz bands that were identified for reallocation under the Commission’s 1992 Emerging Technologies proceeding. Finally, we seek comment on various approaches for the 2500–2690 MHz band.

5. We also solicit comment on several options for pairing these frequency bands. Although our options do not exhaust the range of all possible spectrum options, we believe that asking for comment on specific options will help focus the record. We also solicit comment on other possible arrangements and pairing options across all of the bands discussed in the NPRM. In soliciting comment on these options, we tentatively conclude that we should not reserve any spectrum exclusively for

advanced wireless systems, but rather should make additional spectrum available generally for mobile and fixed use as proposed in our November 1999 Policy Statement. We believe that reserving spectrum in the United States exclusively for 3G mobile is not the best approach and that the determination of the best use of these bands should be left to market forces. Finally, we note that we recently adopted a Policy Statement, 15 FCC Rcd 80367 (2000), and a Notice of Proposed Rule Making, 15 FCC Rcd 81475 (2000) on secondary markets, in which we recognized that a functioning system of secondary markets could increase the amount of spectrum available to prospective users, uses, and to new wireless technologies by making more effective use of spectrum already assigned to existing licensees. The deployment of advanced wireless services in some of the frequency bands described below could be facilitated by the introduction of increased flexibility and other features designed to encourage secondary markets for spectrum in these bands.

(a) Currently Allocated Spectrum

6. As noted in the NPRM, the ITU has identified for possible 3G systems several frequency bands, portions of which in the United States (approximately 210 megahertz of spectrum) are already allocated or in use for Mobile and Fixed services. The 806–960 MHz and the 1850–1910/1930–1990 MHz bands, which are currently used by cellular, Specialized Mobile Radio, and broadband Personal Communications services, may eventually be transitioned for use by advanced wireless systems. In addition, approximately 70 megahertz of spectrum that is already allocated for Mobile and Fixed services and could be used to deploy new advanced wireless systems has yet to be auctioned in many parts of the country. Approximately 40 megahertz of new spectrum is in the 1850–1910/1930–1990 MHz bands, and approximately 30 megahertz of new spectrum is in the 746–806 MHz band, which was recently allocated for fixed and mobile services. We seek comment on the potential use of these bands for deploying advanced wireless systems. Commenters should address when advanced wireless systems could be deployed in this spectrum; how much spectrum in these bands could be used for advanced wireless systems; any regulatory impediments for using this spectrum for advanced wireless systems; the impact of using these bands on global roaming, harmonization and economies of scale; and any other considerations relevant to deploying

advanced wireless systems in this spectrum.

(b) Additional Candidate Spectrum

7. We seek comment on the potential use of the bands below for deploying advanced wireless systems. In addition to the specific proposals below, commenters should address how much spectrum in these bands could be used for advanced wireless systems; when advanced wireless systems could be deployed in this spectrum; any regulatory impediments for using this spectrum for advanced wireless systems; the impact of using these bands on global roaming, harmonization and economies of scale; and any other considerations relevant to deploying advanced wireless systems in this spectrum.

(1) 1710–1755 MHz

8. This band is allocated in Region 2 on a primary basis to the Fixed and Mobile Services. The band in the United States is currently used by the Federal Government for point-to-point microwave communications, military tactical radio relay, airborne telemetry, and precision guided munitions. The National Telecommunications and Information Administration (“NTIA”) identified this spectrum for transfer to the Commission for mixed use, effective in 2004, to satisfy the requirements of the OBRA–93. As required under OBRA–93, all microwave communication facilities in the 1710–1755 MHz band that are operated by Federal power agencies will continue to operate and must be protected from interference. A list of exempted Federal power agency microwave systems is presented in the 1995 NTIA Spectrum Report. Additionally, 17 Department of Defense sites must also be protected indefinitely for continued military use. BBA–97 requires this spectrum to be assigned for commercial use by competitive bidding, with the auction to commence after January 1, 2001. According to the NTIA report issued in response to OBRA–93, non-exempt Federal Government incumbents do not have to vacate the band until January 2004 and are entitled to compensation for relocation to another band.

9. We propose that the 1710–1755 MHz band be allocated for mobile and fixed services on a co-primary basis. This would allow this band to be used for the introduction of new advanced mobile and fixed communications services, including 3G systems. We seek comment on this proposal.

10. We recently adopted a Notice of Proposed Rulemaking (Notice) in ET Docket No. 00–221, FCC 00–395,

adopted November 1, 2000, and released November 20, 2000, that proposes to reallocate 27 megahertz of spectrum transferred from Federal Government use for non-Government services. As stated in that Notice, the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (“NDAA–99”) provides for mandatory reimbursement of Government spectrum users in the 1710–1755 MHz band, as well as reimbursement of Government spectrum users when future actions lead to the relocation of a Federal Government station. Specifically, NDAA–99 provides that any Government entity on such spectrum that is to be relocated proposes to relocate itself, shall notify NTIA of the marginal costs anticipated to be incurred in relocation or modifications necessary to accommodate prospective non-Government licensees. NTIA is directed in turn to notify the Commission of such costs before the auction concerned, and the Commission must then notify potential bidders prior to the auction of the estimated relocation or modification costs based on the geographic area covered by the proposed licenses. Further, NDAA–99 required any new licensee benefiting from Government station relocation to compensate the Government entity in advance for relocation or modification costs. Such compensation may take the form of a cash payment or in-kind compensation.

11. As we noted in the Notice in ET Docket No. 00–221, statutory authority is conferred on NTIA and the Commission to promulgate rules governing relocation for new licensees seeking to relocate Federal Government entities. In that rulemaking proceeding, we proposed the Commission’s relocation procedures for the transfer spectrum at issue in that proceeding and coordinated those proposals with NTIA. NTIA will conduct a rulemaking proceeding in the near future regarding relocation rules for Federal Government incumbents, and we will work jointly to establish an overall relocation policy. The proposals we have made in ET Docket No. 00–221 apply equally to the 1710–1755 MHz band, and thus we propose to apply to the 1710–1755 MHz band the same relocation procedures that are ultimately adopted in ET Docket No. 00–221. We seek comment on this proposal.

12. As noted above, there will be continuing permanent and temporary use of the 1710–1755 MHz band by Federal users. We request comment on the effect of advanced mobile and fixed operations on Federal incumbents, and vice versa, in the band. Finally, we

request comment on potential mitigating techniques to protect incumbent Federal users of this band.

(2) 1755–1850 MHz

13. This band is allocated in Region 2 on a primary basis to the Fixed and Mobile Services, and to the space operation service (Earth-to-space) and space research service (Earth-to-space) by footnote S.5386. The 1755–1850 MHz band is currently used by the Federal Government for four main functions. Those functions are space telecommand, tracking, and control (“TT&C,” or space operations); medium capacity fixed microwave services; tactical radio battlefield networks; and aeronautical mobile applications, including telemetry, video, target scoring systems, and precision munitions. As noted above, NTIA is studying the possible use of the 1755–1850 MHz band for advanced wireless systems. If spectrum in the 1755–1850 MHz band ultimately is made available for non-Federal Government use, we seek comment on allocating the spectrum for mobile and fixed services on a co-primary basis. This would allow the spectrum to be used for the introduction of new advanced mobile and fixed communications services, including 3G systems.

14. In addressing our allocations for this band, commenters should take into consideration the NTIA Interim Report on the current use of and potential for co-frequency sharing or reallocation of the band. The NTIA Interim Report states that Federal Government use of the band encompasses several different types of use, and that electromagnetic compatibility analyses indicate potentially serious sharing problems between 3G systems and Federal Government systems, particularly uplink satellite control, military radiorelay, and air combat training systems. The NTIA Interim Report presents two possible segmentation options: (1) pairing two 45 megahertz segments within the 1710–1850 MHz band for 3G systems, e.g., 1710–1755 MHz (handsets) and 1805–1850 MHz (base stations), and (2) pairing approximately 80 megahertz of spectrum in the 1710–1790 MHz band, which would be made available for 3G systems (handsets) in phases, with spectrum above 2110 MHz (base stations). The band is undergoing further study, with a Final Report that will consider relocation options scheduled to be released in March, 2001.

15. As discussed in the NPRM, NDAA–99 provides for mandatory reimbursement of Federal Government

spectrum users when future actions lead to the relocation of a Federal station.

NDAA–99 therefore pertains to the 1755–1850 MHz band. Additionally, the National Defense Authorization Act of 2000 (NDAA–2000) sets certain conditions before the Department of Defense surrenders use of a band of frequencies in which it is a primary user. The proposals we have made in ET Docket No. 00–221 concerning relocation procedures, discussed above, apply equally to the 1755–1850 MHz band. We thus seek comment on applying to the 1755–1850 MHz band the same relocation procedures that are ultimately adopted in ET Docket No. 00–221.

16. If spectrum in the 1755–1850 MHz band is made available for advanced wireless systems, account would have to be taken of some Federal uses that will continue into the foreseeable future. Accordingly, we request comment on the effect of continuing permanent and temporary use of that band by Federal incumbents on potential advanced mobile and fixed use of the band. If incumbent users had to be relocated, we request comment on how those users could be accommodated in other frequency bands. In particular, we request that commenters identify which frequency bands could accommodate incumbent Federal Government services.

(3) 2110–2150 MHz and 2160–2165 MHz

17. These bands, which are allocated in Region 2 on a primary basis to the Fixed and Mobile Services, have been used in the United States for a variety of services. These bands were identified by the Commission in 1992 for reallocation to services using new and innovative technologies under its Emerging Technologies proceeding. In November 1998, the Commission proposed that portions of the 2110–2200 MHz band be reallocated as follows: the 2110–2150 MHz band would be allocated to the Fixed and Mobile Services for assignment by competitive bidding, the 2160–2162 MHz band would be allocated for shared use by the Multipoint Distribution Service (“MDS”) and Instructional Television Fixed Service (“ITFS”) and fixed microwave use, and the 2162–2165 MHz band would be allocated for fixed and mobile emerging technologies. In its 1999 Policy Statement, the Commission stated its intention to initiate a separate proceeding to propose using these bands for advanced mobile and fixed communication services. BBA–97 requires reallocation of the 2110–2150 MHz band and assignment by

competitive bidding by September 30, 2002.

18. Currently, these bands are used primarily for non-Federal Government Fixed and Mobile services licensed under either the Fixed Microwave Service in Part 101 of the Commission’s Rules or the Public Mobile Services under Part 22 of the Commission’s. We note that many of the stations were licensed subsequent to the Emerging Technologies First Report and Order, 57 FR 49020, October 29, 1992, and have secondary status. Additionally, licenses of stations with primary status that made major modifications were converted to secondary status.

19. The 2110–2150 MHz and 2160–2165 MHz bands are currently allocated to the Fixed, Mobile, and Space Research (Deep Space) services. We are not proposing to change this allocation. Instead, we are proposing that incumbent users of these bands (excluding the Space Research service) be relocated, if necessary, and the band be designated for the provision of advanced mobile and fixed communications services. We seek comment on this proposal.

20. In the 2110–2150 MHz and 2160–2165 MHz bands, fixed microwave service incumbents are entitled to compensation for relocation to other frequency bands under the policies adopted in the Emerging Technologies proceeding for incumbent fixed users in the frequency bands reallocated for broadband PCS (see 47 CFR § 101.69—§ 101.81 and § 101.99). Specifically, fixed microwave service incumbents are entitled to compensation for relocation of any links that may pose an interference threat to new fixed or mobile system licensees, including all engineering, equipment, site, and FCC fees. Also, the new licensees must complete all activities necessary for implementing the replacement facilities, including engineering and cost analysis of the relocation procedures, and must test the new facilities to ensure comparability with the existing facilities. We note that the Commission recently modified some of the relocation procedures for incumbent Fixed users at 2165–2200 MHz in order to accommodate the entry of the MSS in that band (see Second Report and Order and Second Memorandum Opinion and Order in ET Docket No. 95–18, 15 FCC Rcd 12315 (2000), recon. pending, petition for review pending), 65 FR 48174, August 7, 2000 and 65 FR 60382, October 11, 2000. Because channels at 2165–2200 MHz are paired with spectrum at 2115–2150 MHz, we also adopted a new procedure on reimbursement of relocation costs that

will apply to those paired links at issue in this proceeding that are relocated as a result of MSS entry in the higher band. The new procedure takes into account that different new licensees may be responsible for relocating each half of a channel pair for a given incumbent licensee. Consequently, it is possible that a new entrant in the 2110–2150 MHz band could be assigned spectrum that would have two sets of relocation procedures in effect.

21. We thus propose to use the modified relocation procedures (*i.e.*, those designated for fixed microwave service incumbents in the 2165–2200 MHz and 2115–2150 MHz bands) for any incumbent user of the 2110–2150/2160–2165 MHz bands, including MDS entities at 2160–2162 MHz. We seek comment on this proposal. We also invite comment from MDS/ITFS licensees on the current and planned use of the MDS channels 1, 2, and 2a in the 2150–2162 MHz band. Because the 2150–2162 MHz spectrum was not the focus of the FCC Interim Report, we ask the MDS/ITFS licensees to discuss the use of those channels in their business plans in conjunction with the channels in the 2500–2690 MHz band. In particular, we ask MDS/ITFS licensees what effect reallocation or relocation of the 2150–2162 MHz band would have on their current and planned use of the spectrum. We also invite comment from other interested parties on the current and future use of the 2150–2160 MHz band since this band is adjacent to the 2110–2150 MHz and 2160–2165 MHz bands.

22. In the Emerging Technologies proceeding, we reallocated the 4 GHz, 6 GHz, 10 GHz, and 11 GHz microwave bands to provide that private and common carrier fixed wireless users, and fixed satellite users, where appropriate, would each have co-primary status. This action was taken to provide spectrum relocation options to incumbent users. We realize that this action was taken over seven years ago and spectrum use has changed since that time. Additionally, because spectrum coordination is accomplished by industry, we are not in a position to determine the number of frequency coordination conflicts that arise when new stations are proposed in any of these frequency bands. However, we believe that many of the incumbents in the 2110–2150 MHz and 2160–2165 MHz bands can be accommodated in the 4 GHz, 6 GHz, 10 GHz, and 11 GHz bands. Additionally, we note that relocation is not strictly a spectrum issue. Incumbents can be relocated using other mediums, such as fiber, and our relocation policies take this factor

into consideration in allowing for the provision of comparable facilities. We seek comment on the various relocation options that exist for incumbents in the affected bands.

23. Finally, we note that the 2110–2150 MHz bands must be auctioned by September 30, 2002. Due to similarities in allocation, usage, and current licensing, we propose to auction the 2160–2165 MHz band in this same timeframe. We request comment on this proposal.

(4) 2500–2690 MHz

24. This band is allocated in Region 2 on a primary basis to the Fixed, Fixed Satellite, Mobile except aeronautical mobile, and Broadcasting-Satellite Services. In the United States, this band is allocated to the Fixed service and is used primarily by two non-Federal Government services, Multichannel MDS and ITFS. There are currently thirty-one 6 megahertz channels and one 4 megahertz channel, or 190 MHz of spectrum, allocated to MDS and ITFS in this band. About 2,500 MDS licensees transmit programming from one or more fixed stations, which is received by multiple receivers at various locations. ITFS stations are licensed on a site specific basis as was MDS originally. However, in 1996, the Commission awarded one geographic MDS license in each of 487 Basic Trading Areas. In general, the ITFS channels are grouped at the lower end of the band from 2500–2596 MHz and the MDS channels occupy the 2596–2660 MHz portion of the band. The remaining ITFS and MDS channels are interleaved in the portion of the band above 2660 MHz. MDS and ITFS operators typically operate in a symbiotic relationship, with MDS operators providing funding used by ITFS licensees for their educational mission in exchange for the extra channel capacity needed to make MDS systems viable. Today, most ITFS licensees lease excess capacity to MDS operators.

25. The FCC Interim Report considered three band segmentation plans that could provide 90 megahertz of spectrum for advanced mobile and fixed communications systems while retaining 100 megahertz of spectrum for ITFS/MDS. The Interim Report concluded that large separation distances between 3G and ITFS/MDS systems are needed to allow co-channel sharing. The Interim Report also found that there are few geographic areas where incumbent systems are not operating, and that segmenting the band would raise technical and economic difficulties for incumbents, especially in their ability to provide service to rural

areas. The band is undergoing further study, with a Final Report that will consider relocation options scheduled to be released in March, 2001. We request comment on all aspects of the FCC Interim Report.

26. If spectrum in this band is made available for advanced wireless systems, we seek comment on allocating the spectrum for Mobile and Fixed services on a co-primary basis. An allocation for Mobile service would allow for additional flexibility in the use of this band, allowing the spectrum to be used for the introduction of new advanced mobile and fixed communications services, including 3G systems.

27. We also invite comment on the public interest costs and benefits of adding a mobile allocation to these bands without any mandatory relocation. Consistent with our secondary markets initiative, are there any steps that the FCC should take to facilitate a secondary market in these bands to allow them to evolve to their highest valued use, whether that be fixed broadband, mobile applications, or some other use? Could current ITFS/MDS licensees reorganize their systems to continue providing current services and also offer new mobile services on a competitive basis with other wireless system providers, such as cellular or PCS? Could a portion of this spectrum be made available to new entities? If so, which portion of the band and how much spectrum could be made available? How would reallocation of a portion of this band affect MDS operations at 2150–2160/2162 MHz band? We invite ITFS licensees to discuss whether adding a Mobile service allocation in the 2500–2690 MHz band would be beneficial to educators and, if so, how such operations could be utilized in an educational context. We also ask ITFS licensees to comment on what effect, if any, reallocation or relocation will have on their distance learning programs and overall educational mission. We also invite MDS licensees to discuss whether adding a mobile service allocation in the 2500–2690 MHz band would be beneficial to their plans for use of the band. In addressing these issues, commenters should take into consideration that 66 megahertz of this band has already been auctioned to MDS licensees and that the current MDS/ITFS sharing and leasing arrangements in this band are complex.

28. If a portion of this band were to be made available for advanced services and incumbent users had to be relocated, we request comment on how incumbent users could be accommodated in other frequency

bands. In particular, we request that commenters identify which frequency bands could accommodate incumbent MDS/ITFS services. If a portion of this band were made available for advanced services, either through reallocation or relocation, we seek comment on applying to incumbent users in this band the same relocation procedures that we decide to apply to incumbent users in the 2110–2150 MHz and 2160–2165 MHz bands. In particular, we request that commenters provide information about the type and the amount of costs to relocate incumbent MDS/ITFS operations. For example, could equipment be retuned or would facilities need to be replaced? What would be the cost to retune or replace equipment? We expect to rely on some of the information filed in response to this Notice in conducting the second phase of the study on the 2500–2690 MHz band, which will focus on relocation options and the costs and benefits of such action.

(5) Pairing Options

29. We recognize that the optimal use of the 1710–1755 MHz, 1755–1850 MHz, 2110–2150 MHz, 2160–2165 MHz, and 2500–2690 MHz bands for introducing advanced mobile and fixed services may be achieved by pairing these bands with one another or with other spectrum that has been identified for these services. As a way to focus this discussion, we solicit comment on several possible band pairing schemes, including those discussed in the FCC Interim Report. When evaluating pairing options, commenters should specify how much spectrum they believe will be required for advanced mobile and fixed communications systems from each band in each option addressed; the time period in which spectrum in the paired bands could be made available and whether those time periods are consistent with deployment plans; and whether the separation distance between the paired bands would impair the economical development of duplex equipment. Commenters also should address the following topics: the potential for sharing or segmenting the frequency bands to facilitate the implementation of advanced wireless systems; whether reallocation or relocation of incumbent users may be needed; and the identification of frequency bands to accommodate incumbent users that would have to be relocated.

Initial Final Regulatory Flexibility Analysis

30. As required by the Regulatory Flexibility Act (“RFA”), 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 NPRM. Comment is 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. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

Need for, and Objectives of, the Proposed Rules

31. The NPRM proposes the possible use of several frequency bands that could be used for advanced wireless communications systems, and solicits comments on various pairing options for those bands. The objective of these proposed actions is to allocate spectrum that could be used to provide a wide range of voice, data, and broadband services over a variety of mobile and fixed networks.

Legal Basis

32. The proposed action is authorized under Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply

33. 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 Regulatory Flexibility Act 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. 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 SBA.

34. A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of 1992, there were approximately 275,801 small organizations. The definition of “small governmental jurisdiction” is one with populations of fewer than 50,000. There are 85,006 governmental jurisdictions in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are

no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that 96 percent, or about 81,600, are small entities that may be affected by our rules. Nationwide, there are 4.44 million small business firms, according to SBA reporting data. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms from a total of 1,178 such firms that operated during 1992 had 1,000 or more employees; therefore, at least 1,166 radiotelephone firms in 1992 had 1,500 or fewer employees. We are unable at this time to quantify the specific impact of our proposals on these firms, but invite comment on this issue.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

35. This item deals only with the possible use of frequency bands below 3 GHz to support the introduction of new advanced wireless services, and does not propose service rule. Thus, the item proposes no new reporting, recordkeeping, or other compliance requirements.

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

36. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include 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. We considered proposing spectrum for the mobile-satellite service in the 2500–2520/2670–2690 MHz bands, as requested by the Satellite Industry Association, but rejected that alternative for technical

reasons and because the MSS already has access to a significant amount of spectrum below 3 GHz. We believe that our proposal to explore the possible use of several frequency bands that could be used to provide a wide range of voice, data, and broadband services over a variety of mobile and fixed networks may provide new opportunities for small entities. We request comment on alternatives that could minimize the impact of this proposed action on small entities.

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

37. None.

Ordering Clauses

38. Pursuant to the authority contained in sections 1, 4(i), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(i), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j), this Notice of Proposed Rulemaking Is *Adopted*.

39. The petition filed by the Cellular Telecommunications Industry Association, RM-9920, *Is Granted* to the extent consistent with the terms of the Notice of Proposed Rulemaking.

39. The petition filed by the Satellite Industry Association, RM-9911, *Is Denied*.

40. The Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A); and shall also send a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 2

Communications equipment, Radio, Table of frequency allocations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[ET Docket No. 00-221; FCC 00-395]

Reallocation of 27 MHz of Spectrum

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to reallocate a total of 27 megahertz of spectrum transferred from Federal Government use for non-Government services pursuant to the Omnibus Budget Reconciliation Act of 1993 and the Balanced Budget Act of 1997. These actions and proposals will benefit consumers by permitting and encouraging the introduction of new wireless technologies. This document also proposes procedures for the reimbursement of Federal incumbents for relocation pursuant to statutory requirements.

DATES: Comments must be submitted on or before February 22, 2001, and reply comments on or before March 26, 2001.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of Secretary, Federal Communications Commission, 445 12th Street, SW., TW-A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418-2450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 00-221, FCC 00-395, adopted November 1, 2000, and released November 20, 2000. The full text of this Commission decision is available on the Commission's Internet site, at <http://www.fcc.gov>. It is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036. Comments may be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>, or by e-mail to ecfs@fcc.gov.

Summary of the Notice of Proposed Rule Making

1. The Notice of Proposed Rule Making ("NPRM") proposes to allocate a total of 27 megahertz of spectrum from the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz,

1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz bands transferred from Government to non-Government use pursuant to the provisions of the Omnibus Budget Reconciliation Act of 1993 (OBRA-93) and the Balanced Budget Act of 1997 (BBA-97). These seven bands have a variety of continuing Government protection requirements and incumbent Government and non-Government uses. Despite these constraints and the relatively narrow bandwidth contained in each of the bands, we believe that the proposals presented will foster a variety of potential applications in both new and existing services. The transfer of these bands to non-Government use should enable the development of new technologies and services, provide additional spectrum relief for congested private land mobile frequencies, and fulfill our obligation as mandated by Congress to assign this spectrum for non-Government use. The NPRM also requests comments on procedures for the reimbursement of relocation costs incurred by incumbent Federal Government users as mandated by the National Defense Authorization Act of 1999. Of the bands considered in this proceeding, the 216-220 MHz, 1432-1435 MHz, and 2385-2390 MHz bands are subject to competitive bidding and reimbursement of Federal incumbents.

216-220 MHz Band

2. We propose to allocate the 216-220 MHz band generally to the fixed (FS, Base Station Only) and mobile services (MS, except aeronautical mobile) on a co-primary basis. We further propose to require that any MS licensees that may be licensed in the band use the 216-218 MHz segment for base station transmit and the 218-220 MHz segment for mobile station transmit, in order to minimize the likelihood of interference to television channel 13 reception. As requested by NTIA, we also propose to remove the Wildlife and Ocean Tracking allocation from this band. We request comment on these proposals. The 216-220 MHz band is heavily encumbered by incumbent services. Because of the limited Government use of the band, there is relatively little new capacity, which is likely to be made available by vacation of the band by Government operations. Given the significant constraints on additional use of the 216-220 MHz band, however, it is unclear how this band might accommodate additional services and how we might further assign licenses in this spectrum. Accordingly, we invite comment on how we should proceed. We also invite comment on our tentative conclusion that we have fulfilled the