

OMB Control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060-1135	Rules Authorizing the Operation of Low Power Auxiliary Stations (including Wireless Micro-phones).	08/31/13
3060-1136	Spectrum Dashboard Customer Feedback	08/31/13
3060-1138	Secs. 1.49 and 1.54	04/30/13
3060-1139	Residential Fixed Broadband Services Testing and Measurement	02/28/14
3060-1140	Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, Order, PS Docket No. 06-229, DA 10-2342.	06/30/14
3060-1142	Electronic Tariff Filing System (ETFS), WC Docket No. 10-141, FCC 10-127, NPRM	09/30/13
3060-1143	E-Rate Deployed Ubiquitously (EDU) 2011 Pilot Program	04/30/14
3060-1144	Consumer Survey	02/28/14
3060-1145	Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51	09/30/14
3060-1146	Implementation of the 21st Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210.	Pending OMB review and approval.
3060-1147	Wireless E911 Phase II Location Accuracy Requirements	05/31/15
3060-1148	Sec. 79.3	Pending OMB review and approval.
3060-1150	Structure and Practices of the Video Relay Service Program, Second Report and Order, CG Docket No. 10-51.	06/30/15
3060-1151	Secs. 1.1420, 1.1422, and 1.1424	01/31/15
3060-1152	Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band (Third Report and Order, PS Docket No. 06-229, FCC 11-6).	06/30/14
3060-1153	Satellite Digital Radio Service (SDARS)	07/31/14
3060-1154	Commercial Advertisement Loudness Mitigation ("CALM") Act; Financial Hardship and General Waiver Requests.	06/30/15
3060-1155	Secs. 15.713, 15.714, 15.715 and 15.717	02/28/15
3060-1157	Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52.	09/30/14
3060-1158	Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52.	09/30/14
3060-1159	Part 25—Satellite Communications; and Part 27—Miscellaneous Wireless Communications Services in the 2.3 GHz Band.	09/30/14
3060-1161	Sec. 27.14(g)-(l)	10/31/14
3060-1162	Closed Captioning of Video Programming Delivered Using Internet Protocol, and Apparatus Closed Caption Requirements.	Pending OMB review and approval.
3060-1165	Sec. 74.605	03/31/15
3060-1166	FCC 180	04/30/15
3060-1167	Accessible Telecommunications and Advanced Communications Services and Equipment	04/30/15
3060-1168	FCC 680	04/30/15
3060-1169	Part 11—Emergency Alert System (EAS), Fifth Report and Order, FCC 12-7	11/30/12
3060-1171	Secs. 73.682(e) and 76.607(a), Commercial Advertisement Loudness Mitigation ("CALM") Act	06/30/15

[FR Doc. 2012-19760 Filed 8-10-12; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket Nos. 11-90 and 10-28, RM-11555; FCC 12-72]

### Operation of Radar Systems in the 76-77 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Commission's rules to provide a more efficient use of the 76-77 GHz band, and to enable the automotive and aviation industries to develop enhanced safety measures for drivers and the general public. Specifically, the Commission is eliminating the in-motion and not-in-motion distinction for vehicular radars, and instead adopting new uniform

emission limits for forward, side, and rear-looking vehicular radars. This will facilitate enhanced vehicular radar technologies to improve collision avoidance and driver safety. The Commission is also amending its rules to allow the operation of fixed radars at airport locations in the 76-77 GHz band for purposes of detecting foreign object debris on runways and monitoring aircraft and service vehicles on taxiways and other airport vehicle service areas that have no public vehicle access. The Commission takes this action in response to petitions for rulemaking filed by Toyota Motor Corporation ("TMC") and Era Systems Corporation ("Era").

**DATES:** Effective September 12, 2012.

**FOR FURTHER INFORMATION CONTACT:** Aamer Zain, Office of Engineering and Technology, 202-418-2437, [aamer.zain@fcc.gov](mailto:aamer.zain@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, ET Docket Nos. 11-90, 10-

28, FCC 11-171, adopted July 3, 2012 and released July 5, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: [www.fcc.gov](http://www.fcc.gov). People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

### Summary of Report and Order

1. In the Report and Order (Order), the Commission modified §§ 15.35 and 15.253 of the rules to enable enhanced vehicular radar technologies in the 76-

77 GHz band for improved collision avoidance and driver safety and to allow fixed radar applications at airport locations to improve safety for airport personnel and equipment. With respect to § 15.253, the Commission eliminated the requirement that vehicular radars decrease power when the vehicles on which the radar is mounted is not in motion. In addition, the Commission also modified § 15.253 to specify a new emission limit for 76–77 GHz vehicular radars that will apply to front, side, and rear illuminating vehicular radars. The Commission takes this action in response to petitions for rulemaking filed by Toyota Motor Corporation (TMC) and Era Systems Corporation (Era).

2. The Commission also modified § 15.253 to allow fixed radar applications in the 76–77 GHz band at airport locations. These fixed radars can detect foreign object debris (FOD) on runways and monitor aircraft traffic as well as service vehicles on taxiways and other airport vehicle service areas that have no public access. The modifications to the rules that the Commission adopted will provide more efficient use of the spectrum, and enable the automotive and aviation industries to develop enhanced safety measures for drivers and the general public.

3. The 76–77 GHz band, which is allocated to the Radio Astronomy service (RAS) and the Radiolocation service on a primary basis and to the Amateur and Space research (space-to-Earth) services on a secondary basis, is in the region of the radiofrequency spectrum known as “millimeter wave” spectrum. The frequencies above 30 GHz are commonly called millimeter wave frequencies because of their wavelength. At these frequencies, radio propagation decreases more rapidly with distance than at other frequencies and antennas that can narrowly focus transmitted energy are practical and of modest size. While the limited range of such transmissions might appear to be a major disadvantage for many applications, it does allow the reuse of frequencies within very short distances and, thereby enables a higher concentration of transmitters to be located in a geographical area than is possible at lower frequencies.

4. On July 21, 2009, the Toyota Motor Corporation (TMC) filed a petition for rulemaking requesting that the Commission modify the emission limits for vehicular radar systems operating within the 76–77 GHz band. Specifically, TMC requested that the Commission eliminate the in-motion and not-in-motion distinctions in the emission limits for vehicular radar

systems and establish a single emission limit that applies in all directions from a vehicle. On September 8, 2009, Era filed comments in CB Docket No. 09–102 requesting that the Commission amend § 15.253 to permit fixed use of 76–77 GHz radars at airports for monitoring air traffic and airport service vehicles only. Emissions from these fixed radars would not illuminate any public access roads.

5. On May 24, 2011, the Commission issued a *Notice of Proposed Rule Making (NPRM)*, 77 FR 35176, June 16, 2011, in which it sought public comment on proposed amendments to §§ 15.35 and 15.253 of the rules regarding operation within the 76.0–77.0 GHz band. Specifically, the *NPRM* proposed modifications to § 15.253 to increase the average power density limit to 88  $\mu\text{W}/\text{cm}^2$  at 3 m (average EIRP of 50 dBm) and to decrease the peak power density limit to 279  $\mu\text{W}/\text{cm}^2$  at 3 m (peak EIRP of 55 dBm) regardless of the illumination direction of the vehicular radar, and to eliminate the in-motion and not-in-motion distinction for vehicles equipped with such radars. In the *NPRM*, the Commission also proposed to allow fixed radars to operate in the 76–77 GHz band in addition to vehicular radar systems, and to require that such fixed radar systems meet the proposed limits for vehicular radar systems.

6. The Commission finds that the 76–77 GHz band is well suited for unlicensed use by vehicular radar technologies and by fixed radar systems limited to airport locations, and are adopting the proposed modifications to §§ 15.35 and 15.253 accordingly. The modifications to the rules that the Commission adopted are intended to foster the development of improved radar systems that will offer significant safety benefits to the public. Studies show that use of collision avoidance technology can prevent or lessen the severity of a significant number of traffic accidents. By modifying our rules for 76–77 GHz radars to align generally with international automotive industry standards, the Commission expects these life-saving devices to be placed on more passenger vehicles by enabling economies of scale. Furthermore, it believes that the changes in power levels and use as discussed will not result in a significant increase in the potential of interference to other users of the 76–77 GHz band. The Commission notes that these rule changes facilitate expanded use of existing technologies and do not appear to impose any new costs. While no party has provided any specific data, these technologies have the potential to help

avoid accidents thereby save lives and damage to property.

7. The Commission also finds that the use of 76–77 GHz fixed radars at airports for detecting foreign objects on runways, as well as for monitoring aircraft and service vehicles on taxiways and other airport vehicle service areas that have no public access (e.g., gate areas) to be in the public interest and compatible with vehicular radar use. The Commission finds that the benefits of allowing fixed radar systems at airports for these applications will improve the safety of the general public and airport personnel without increasing the potential for inference to licensed users. The Commission notes that these rule changes enable expanded use of existing technologies and do not appear to impose any new costs. Recent studies estimate the annual direct and indirect cost to U.S. aviation industry caused by the FOD damage to be approximately \$1 billion and \$4 billion, respectively. Enhanced technologies for FOD detection and for other airport monitoring services will help prevent accidents and substantially mitigate damage attributable to FOD.

#### Vehicular Radars

8. *Proposal.* In the *NPRM*, the Commission proposed to modify § 15.253 to eliminate the in-motion and not-in-motion distinction for vehicular radars and to adopt uniform emission limits for forward, side, and rear-looking radars. In lieu of separate emission limits for in-motion and not-in-motion, the Commission proposed to increase the average power density limit to 88  $\mu\text{W}/\text{cm}^2$  at 3 meters (average EIRP of 50 dBm) and to decrease the peak power density limit to 279  $\mu\text{W}/\text{cm}^2$  at 3 meters (peak EIRP of 55 dBm) for vehicular radar systems regardless of the direction of illumination. The Commission also sought comment on TMC's request to modify § 15.253 to specify a limit on peak EIRP instead of average power density in addition to, or as an alternative to, the limits currently specified in the rules. Furthermore, because the Commission proposed to modify § 15.253(b) to specify a peak emission limit that is less than 20 dB above the average limit, it also proposed to modify § 15.35(b) to specify that the 20 dB peak to average limit does not apply to vehicular radars authorized under § 15.253(b).

9. *Decision.* The Commission modified § 15.253 to (1) Eliminate the in-motion and not-in-motion distinction for vehicular radars, (2) adopt a single set of emission limits for forward, side, and rear-looking radars, and (3) amend the emission limits for vehicular radars

to specify the average and peak radiated emission limits as both EIRP and a power density limit of 88  $\mu\text{W}/\text{cm}^2$  at 3 m (average EIRP of 50 dBm) and 279  $\mu\text{W}/\text{cm}^2$  at 3m (peak EIRP of 55 dBm), respectively. In light of this, the Commission modified § 15.35(b) to specify that the 20 dB peak limit provision will no longer apply to vehicular radars in the 76–77 GHz band. Devices operating under the provisions of these rules continue to be subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of the FCC rules, as appropriate.

10. The Commission finds that the new set of emission limits will not measurably increase potential for interference from vehicular radar systems to RAS operations in the 76–77 GHz band. First, the reduced peak limit adopt for vehicular radars will increase the level of interference protection afforded to RAS system because it is lower than the current peak limit. Second, the average power limit is being increased by only 1.7 dB from the current maximum for vehicular radars in the 76–77 GHz band, i.e., from 48.3 dBm to 50 dBm. Under worst-case free space conditions a 1.7 dB increase is only a 1.2-fold increase in signal range. The very short distances that these radars operate under, plus the propagation characteristics of the band, translate in practice to a minimal increase in interference potential that the Commission does not believe will yield any increase in actual interference to RAS operations. Because the radio astronomy observatories typically have control over access to a distance of one kilometer from the telescopes to provide protection from interference caused by automobile spark plugs and other uncontrolled RFI sources, the potential for interference caused by the incremental increase in average power limits at that distance (one kilometer) would be negligible. Furthermore, the effect of an increase in average power level of 1.7 dB is negligible when also taking into account the variability in propagation characteristics due to terrain, weather and other propagation factors.

11. The Commission agrees with the automotive industry that given the horizontal direction of vehicular radar beams, the propagation characteristics of terrain and the geographical location of the RAS equipment, the modified emission limits pose no additional risk of interference or damage to the RAS equipment compared to the current rules. Accordingly, it believes that there is no need to restrict vehicular radar systems based on coordination zones or

to impose requirements for a GPS-aware automatic or a user operated cut-off switch.

12. The National Telecommunications and Information Administration (NTIA) noted that the National Science Foundation (NSF)-sponsored a study documenting measurements performed jointly by representatives from the radio astronomy community and several vehicular radar manufacturers. The measurements performed using the University of Arizona's 12 Meter Telescope located at Kitt's Peak examined the impact that vehicular radar emissions would have on radio astronomy installations. Emissions of two different vehicular radars manufactured by Robert Bosch GmbH and Continental Corporation were measured in the adjacent 77–80 GHz band. The measurements of the emissions from a single vehicular radar system at two distances (1.7 km and 26.9 km from the radio astronomy installation) indicated that the received signal level at the radio astronomy installation exceeded the protection criteria specified in Recommendation International Telecommunication Union Radiocommunications Sector (ITU-R) RA.769-2. The study acknowledges that mitigation factors such as terrain shielding, orientation of the vehicular radar transmitter antenna with respect to the observatory, or attenuation of the vehicular radar transmitter if mounted behind the vehicle bumper were not taken into account and would tend to reduce the distance at which interference occurred. NTIA requested that this study be included as part of the public record for this proceeding, and asked that the Commission encourage the radio astronomy community and the vehicular radar manufacturers to continue this cooperative effort to examine and implement mitigation techniques that can be employed to address the potential interference concerns. The Commission recognizes the concerns of the radio astronomy community in both the 76–77 GHz band at issue in this proceeding and in the 77–80 GHz band examined in the study. As discussed, the Commission's rules have permitted vehicular radars to operate in the 76–77 GHz band since 1995. Further, it expects any increase in potential interference in the 76–77 GHz band as a result of the technical rules changes the Commission makes here to be negligible when compared to the overall effect caused by the variability in propagation characteristics due to terrain, weather and other propagation factors. The Commission has not found anything in the NSF study that suggests

that the increase in the potential for harmful interference resulting from these rule revisions will not be negligible. Further, it always encourage cooperation between parties with respect to compatibility of systems that use the radio spectrum, thus we specifically encourage continued cooperation between the radio astronomy community and the vehicular radar industry.

13. Finally, the Commission agrees with the commenters that there has been significant growth in the use of automobile radar systems, and it anticipates that these systems will become relatively commonplace within a few years because of consumer demand for increased vehicle safety. The Commission believes that these developments will make automotive safety and convenience more affordable and readily available to the public, as the automotive industry will be able to develop new and improved vehicular radars with no measurable increase in potential interference to licensed services.

#### **Fixed Radar in the 76–77 GHz Band**

14. *Proposal.* The Commission proposed to allow the use of fixed radar systems at any location rather than restrict their use to only airport locations, as requested by Era in its petition for rulemaking. It stated that Era's proposal to limit fixed radar operations to specific locations such as airports or other places where fixed radars would not illuminate public roads may be overly restrictive and could cause unnecessary burdens to the public if implemented. The Commission stated that fixed radars operating at the same maximum power levels as vehicular-mounted radars would be even less likely to interfere with the RAS and Radiolocation services than vehicle-mounted radars because the locations where they are used would not change. It stated that fixed radars should be able to co-exist with vehicular radars because they both would operate with the same power level and use antennas with narrow beamwidths, thus reducing the chances that the signal from one radar would be within the main lobe of the receive antenna of the other. In a worst-case scenario, where two radars are aiming directly at each other, fixed radar should have no more impact on a vehicular radar system than another vehicular system would.

15. The Commission sought comment on whether it should allow unlicensed fixed radar applications to operate within the 76–77 GHz band at the same power levels as those proposed for vehicular radars. The Commission also

sought comment on whether there is a need to limit fixed radar applications to specific locations such as airports and/or locations where they are not aimed at publicly accessible roads, or if some alternative criteria would be more appropriate.

16. *Comments.* The commenters overwhelmingly opposed the use of fixed radar applications in the 76–77 GHz band without regard to location as proposed by the Commission, although some argued that fixed radars could be permitted for airport use only. The opponents cited increased interference potential to vehicular radars and a lack of technical analysis and study for fixed radar in the 76–77 GHz band.

17. *Decision.* The Commission modified § 15.253 of its rules to allow the operation of fixed radars at airport locations with the same emission limits as those for vehicular radars in the 76–77 GHz band for purposes of detecting foreign object debris on runways and monitoring aircraft and service vehicles on taxiways and other airport vehicle service areas that have no public vehicle access (e.g., gate areas). Limiting the location of fixed radars in this way should prevent them from illuminating public roads, and thus reduce the likelihood of interference to vehicular radars while enabling airports to better monitor airport service vehicles and taxiways and to improve debris detection on the runways.

18. Moreover, airports are challenged with managing increasing congestion on the ground. This rule modification will add to the tools that enhance an airport's ability to determine the location of airplanes and airport ground vehicles that are operating in taxiways and runways. The presence of FOD in an airport's air operations area (AOA) poses a significant threat to the safety of air travel. Foreign object debris on taxiways and runways has the potential to damage aircraft during the critical phases of takeoffs and landings, which can lead to catastrophic loss of life and at the very least increased maintenance and operating costs. This rule modification will help reduce FOD hazards through the implementation of a FOD management program and the effective use of FOD detection and removal equipment.

19. The Commission disagrees with the commenters who state that only vehicular radars should be allowed to operate under the part 15 rules. It concludes that both vehicular radars and fixed radars at airports, under the limited circumstances we are providing for here, will be able to operate successfully in the 76–77 GHz band. Airport runways, taxiways and other

non-public areas at airports are generally not near public roadways, and fixed radars at airports should not illuminate public roadways in the vicinity. With respect to the use of fixed radars outside of airports, we continue to believe that vehicular radars should be able to share the band with fixed radars operating at the same levels and note that there are no conclusive test results indicating that there would be incompatibility issues between the two types of radars. The Commission recognizes, however, that no parties have come forward to support fixed radar applications beyond airport locations in this band. Therefore, in the absence of a clear demand, the Commission is not adopting provisions for unlicensed fixed radar operations outside of airport locations in the 76–77 GHz band at this time.

### Procedural Matters

#### *Paperwork Reduction Analysis*

20. This document does not contain a proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA, Pub. L. 104–13). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

### Final Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking* (NPRM) in this Docket 11–90.<sup>2</sup> The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. As described more fully, the Commission finds that the rules it adopted in the Report and Order will not have a significant economic impact on a substantial number of small entities.<sup>3</sup> The Commission did not receive comments from The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO). It has nonetheless provided this Final Regulatory Flexibility Analysis (FRFA) to provide a

fuller record in this proceeding. This FRFA conforms to the RFA.<sup>4</sup>

#### *Need for, and Objectives of, the Report and Order*

22. On May 24, 2011, the Commission released a NPRM seeking comments regarding petitions for rulemaking filed by Toyota Motor Corporation (TMC) and Era Systems Corporation (Era) requesting modifications to § 15.253 of the rules for vehicular radar systems operating in the 76–77 GHz band. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver's ability to perceive objects under bad visibility conditions or objects that are in blind spots. Some examples of vehicular radar systems include collision warning and mitigation systems, blind spot detection systems, lane change assist and parking aid systems. The NPRM proposed to eliminate the requirement that vehicular radars decrease power when the vehicle on which the radar is mounted is stopped, or not in motion, and to expand the use of unlicensed 76–77 GHz band radars to fixed infrastructure systems. These modifications to the rules will provide more efficient use of spectrum, and enable the automotive radar application industries and fixed radar applications, operating at airports only, to develop enhanced safety measures for drivers and the general public. In addition, these modifications would make the rules governing the vehicle radars in United States more comparable to those outside the United States and benefit the automotive and aviation industries in terms of enabling new product development and cost reduction.

#### *Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

23. There were no public comments filed that specifically addressed the rules and policies in the IRFA.

#### *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

24. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration, and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

<sup>1</sup> 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, Title II, 110 Stat. 857 (1996), and the Small Business Jobs Act of 2010, Public Law 111–240, 124 Stat. 2504 (2010).

<sup>2</sup> NPRM, 26 FCC Rcd 8107.

<sup>3</sup> Thus, we could certify that an analysis is not required. See 5 U.S.C. 605(b).

<sup>4</sup> See 5 U.S.C. 604.

### *Small Businesses, Small Organizations and Small Governmental Jurisdictions*

25. Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards.<sup>5</sup> First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.<sup>6</sup> In addition, a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>7</sup> Nationwide, as of 2007, there were approximately 1.6 million small organizations.<sup>8</sup> Finally, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>9</sup> Census Bureau data for 2007 indicate that there were 89,476 local governmental jurisdictions in the United States.<sup>10</sup> We estimate that, of this total, as many as 88,506 entities may qualify as “small governmental jurisdictions.”<sup>11</sup>

### *Radio Broadcasting*

26. This Economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.”<sup>12</sup> The SBA has established a small business size standard for this category, which is: Such firms having \$7

<sup>5</sup> See 5 U.S.C. 601(3)–(6).

<sup>6</sup> See SBA, Office of Advocacy, “Frequently Asked Questions,” [web.sba.gov/faqs](http://web.sba.gov/faqs) (last visited May 6, 2011; figures are from 2009).

<sup>7</sup> 5 U.S.C. 601(4).

<sup>8</sup> Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2010).

<sup>9</sup> See 5 U.S.C. 601(5).

<sup>10</sup> U.S. Census Bureau, *Statistical Abstract of the United States: 2012*, Section 8, at 267, Table 428.

<sup>11</sup> The 2007 U.S. Census data for small governmental organizations indicate that there were 89,476 “Local Governments” in 2007. (*U.S. Census Bureau, Statistical Abstract of the United States 2012*, Table 428.) The criterion by which the size of such local governments is determined to be small is a population of 50,000. However, since the Census Bureau does not specifically apply that criterion, it cannot be determined with precision how many of such local governmental organizations is small. Measured by a criterion of a population of 50,000, many specific sub-entities in this category seem more likely than larger county-level governmental organizations to have small populations. Accordingly, of the 89,746 small governmental organizations identified in the 2007 Census, the Commission estimates that a substantial majority is small.

<sup>12</sup> U.S. Census Bureau, 2007 NAICS Definitions, “515112 Radio Stations”; <http://www.census.gov/naics/2007/def/ND515112.HTM#N515112>.

million or less in annual receipts.<sup>13</sup> According to Commission staff review of BIA Publications, Inc.’s *Master Access Radio Analyzer Database* on March 31, 2005, about 10,840 (95%) of 11,410 commercial radio stations had revenues of \$6 million or less. Therefore, the majority of such entities are small entities.

27. We note, however, that in assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.<sup>14</sup> In addition, to be determined to be a “small business,” the entity may not be dominant in its field of operation.<sup>15</sup> We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

28. Radars operating in the 76–77 GHz band are required to be authorized under the Commission’s certification procedure as a prerequisite to marketing and importation, and the Report and Order proposes no change to that requirement. See 47 CFR 15.101, 15.201, 15.305, and 15.405. The changes adopted in this proceeding would not change any of the current reporting or recordkeeping requirements. However, it will eliminate the requirement that a radar must reduce power when a vehicle is not in motion and to establish a single emission limit that applies in all directions from a vehicle. It also expands the use of unlicensed 76–77 GHz band radars to fixed infrastructure systems at airport locations only.

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

29. 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 (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 or reporting requirements

<sup>13</sup> 13 CFR 121.201, NAICS code 515112 (updated for inflation in 2008).

<sup>14</sup> “Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists.” 13 CFR 121.103(a)(1) (an SBA regulation).

<sup>15</sup> 13 CFR 121.102(b) (an SBA regulation).

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.<sup>16</sup>

30. At this time the Commission believes that the new rules adopted in this Report and Order are deregulatory in nature, which we expect will simplify compliance requirements for all parties, particularly small entities, and permit the development of improved radar systems. Elimination of requirement for radars to reduce power when a vehicle is not in motion will simplify equipment design, and establishment of a single emission limit that applies in all directions from a vehicle would allow the development of omni-directional monitoring systems. The allowance of unlicensed fixed radar systems in the 76–77 GHz band at airport locations only along with the unlicensed vehicular radars will improve spectrum efficiency and promote collaboration for shared unlicensed spectrum. We believe that the adopted rules will apply equally to large and small entities. Therefore, there is no inequitable impact on small entities.

### *Report to Congress*

31. The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>17</sup> In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief, Counsel for Advocacy of the SBA.

### **Ordering Clauses**

32. Pursuant to sections 1, 2, 4(i), 301, 302, and 303(f) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 301, 302a, and 303(f), that this Report and Order is hereby *adopted*.

33. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

34. *It is further ordered* that these proceedings, ET Docket No. 11–90 and ET Docket No. 10–28, *are hereby terminated*.

### **List of Subjects in 47 CFR Part 15**

Communications equipment, Radio.

<sup>16</sup> See 5 U.S.C. 603(c).

<sup>17</sup> See 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Marlene H. Dortch,  
Secretary.

**Final rules**

For the reasons set forth in the preamble, the Federal Communications Commission amends part 15 of Title 47 of the Code of Federal Regulations to read 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, 302a, 303, 304, 307, 336, 544a and 549.

■ 2. Section 15.35 is amended by revising paragraph (b) to read as follows:

**§ 15.35 Measurement detector functions and bandwidths.**

\* \* \* \* \*

(b) Unless otherwise specified, on any frequency or frequencies above 1000 MHz, the radiated emission limits are based on the use of measurement instrumentation employing an average detector function. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. When average radiated emission measurements are specified in this part, including average emission measurements below 1000 MHz, there also is a limit on the peak level of the radio frequency emissions. Unless otherwise specified, e.g., see §§ 15.250, 15.252, 15.253(d), 15.255, and 15.509–15.519, the limit on peak radio frequency emissions is 20 dB above the maximum permitted average emission limit applicable to the equipment under test. This peak limit applies to the total peak emission level radiated by the device, e.g., the total peak power level. Note that the use of a pulse desensitization correction factor may be needed to determine the total peak emission level. The instruction manual or application note for the measurement instrument should be consulted for determining pulse desensitization factors, as necessary.

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■ 3. Section 15.253 is revised to read as follows:

**§ 15.253 Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz.**

(a) Operation within the band 46.7–46.9 GHz is restricted to vehicle-mounted field disturbance sensors used as vehicle radar systems. The transmission of additional information, such as data, is permitted provided the primary mode of operation is as a

vehicle-mounted field disturbance sensor. Operation under the provisions of this section is not permitted on aircraft or satellites.

(b) The radiated emission limits within the bands 46.7–46.9 GHz are as follows:

(1) If the vehicle is not in motion, the power density of any emission within the bands specified in this section shall not exceed 200 nW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(2) For forward-looking vehicle mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands specified in this section shall not exceed 60 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For side-looking or rear-looking vehicle-mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands specified in this section shall not exceed 30 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(4) The provisions in § 15.35 limiting peak emissions apply.

(c) Operation within the band 76.0–77.0 GHz is restricted to vehicle-mounted field disturbance sensors used as vehicle radar systems and to fixed radar systems used at airport locations for foreign object debris detection on runways and for monitoring aircraft as well as service vehicles on taxiways and other airport vehicle service areas that have no public vehicle access. The transmission of additional information, such as data, is permitted provided the primary mode of operation is as a field disturbance sensor. Operation under the provisions of this section is not permitted on aircraft or satellites.

(d) The radiated emission limits within the band 76.0–77.0 GHz are as follows:

(1) The average power density of any emission within the bands specified in this section shall not exceed 88 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure (average EIRP of 50 dBm).

(2) The peak power density of any emission within the band 76–77 GHz shall not exceed 279 µW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure (peak EIRP of 55 dBm).

(e) The power density of any emissions outside the operating band shall consist solely of spurious emissions and shall not exceed the following:

(1) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(2) Radiated emissions outside the operating band and between 40 GHz and 200 GHz shall not exceed the following:

(i) For field disturbance sensors operating in the band 46.7–46.9 GHz: 2 pW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) For field disturbance sensors operating in the band 76–77 GHz: 600 pW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For radiated emissions above 200 GHz from field disturbance sensors operating in the 76–77 GHz band: the power density of any emission shall not exceed 1000 pW/cm<sup>2</sup> at a distance of 3 meters from the exterior surface of the radiating structure.

(4) For field disturbance sensors operating in the 76–77 GHz band, the spectrum shall be investigated up to 231 GHz.

(f) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range – 20 to +50 degrees Celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(g) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

[FR Doc. 2012–19732 Filed 8–10–12; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 79**

[CG Docket No. 11–175; FCC 12–83]

**Closed Captioning and Video Description of Video Programming**

AGENCY: Federal Communications Commission.