FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 97 and 101

[WT Docket No. 02–146; FCC 02–180]

Allocations and Service Rules for the 71–76 GHz, 81–86 GHz and 92–95 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission examines methods to promote the commercial development and growth of the ''millimeter wave'' spectrum in the 71–76 GHz, 81–86 GHz and 92–95 GHz bands under parts 15 and 101 of our rules. This action follows was taken pursuant to our mandate under section 7(a) and 303(g) of the Communications Act and a in response to a Petition for Rulemaking filed by Loea Communications requesting service rules for these bands. We anticipate that the proposals set forth herein will encourage the use of technologies, developed in military and scientific applications in commercial products and services.

DATES: Comments are due on or before December 18, 2002, and reply comments are due on or before February 3, 2003.

ADDRESSES: Federal Communications Commission 445 12th Street, SW., TW–A325, Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: Michael Marcus, Office of Engineering and Technology, (202) 418–2418, TTY (202) 418–2989, e-mail *mmarcus@fcc.gov*, or Brian O'Donnell, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–2135, email *bodonnel@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rulemaking, FCC 02–180, adopted on June 13, 2002 and released on June 28, 2002. 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 may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov* via the Internet. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

1. With this *Notice of Proposed Rulemaking (NPRM)*, we examine methods to promote the commercial development and growth of the ''millimeter wave'' spectrum in the 71–76 GHz, 81–86 GHz and 92–95 GHz bands under parts 15 and 101 of our rules. This action follows an initiative by our Office of Engineering and Technology concerning possible development of these bands. We also take this action pursuant to our mandate under sections 7(a) and 303(g) of the Communications Act of 1934, as amended, ''to encourage the provision of new technologies and services to the public'' and ''encourage the larger and more effective use of radio in the public interest.'' We also seek comment on a proposal by Loea Communications Corporation (''Loea'') to establish service rules for the licensed use of the 71–76 GHz and 81–86 GHz bands. We seek to develop a flexible and streamlined regulatory framework that will encourage innovative uses of the spectrum; accommodate future developments in technology and equipment; promote competition in the communications services, equipment and related markets; and advance the potential sharing between non-Federal Government and Federal Government systems. Additionally, we anticipate that our proposals will encourage the use of technologies developed in military and scientific applications in a broad range of new products and services, such as high-speed wireless local area networks and broadband access systems for the Internet.

2. In July 2000, the Commission held a public forum on possible new uses of the 92–95 GHz band. Several speakers at the forum indicated that due to recent technological developments, new uses of this band are approaching practicality. In addition, in July 2001, Loea experimented with technology it developed for use of the 71–76 GHz and 81–86 GHz bands. As a result, Loea filed a petition requesting the establishment of service rules for the licensed use of the 71–76 GHz and 81–86 GHz bands on September 10, 2001. Accordingly, we seek comment on our proposed rules to allow use of the 71–76 GHz, 81–86 GHz, 92–94 GHz and 94.1–95 GHz bands for a broad range of new fixed and mobile services. These proposals include allocation changes to the bands as well as provisions to ensure that new non-Federal Government operations can share the available frequencies with Federal Government operations in the same bands and protect operations in adjacent bands. Specifically, we seek comment on the following issues regarding use of the 71–76 GHz, 81–86 GHz and 92–95 GHz bands:

- Reallocating the 71–76 GHz, 81–86 GHz and 92–95 GHz bands to update the current allocations, which were established at the World Administration Radio Conference (Geneva, 1979) (WARC–79);
- Developing an appropriate band plan for the 71–76 GHz, 81–86 GHz and 92–95 GHz bands;
- Providing for unlicensed use of the 92–95 GHz band;
- Authorizing the new licensed services under part 101 of our rules and the new unlicensed devices under part 15 of our rules;
- The appropriate means of licensing spectrum for these bands (*e.g.*, geographic service areas or site-based licenses);
- Whether to permit licensees to select licensing as a band manager or as a regular non-band manager licensee; and
- Developing an appropriate eligibility standard for potential licensees.

Procedural Matters

1. Initial Regulatory Flexibility Analysis

3. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in paragraph 15. Written public comments are requested on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions regarding the prevalence of small businesses in the affected industries.

4. Comments must be filed in accordance with the same filing deadlines as comments filed in this *NPRM*, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

2. Ex Parte Rules—Permit-But-Disclose Proceedings

5. This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted,

except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, 1.2306(a).

3. Comment Dates

6. Pursuant to §§ 1.415 and 1.419 of our rules, interested parties may file comments on or before December 18, 2002, and reply comments on or before February 3, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), *http://www.fcc.gov/e-file/ecfs.html*, or by filing paper copies.

7. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should including the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

8. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commissioner's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., TW–A325, Washington, DC 20554. All filings must be addressed to the Commissioner's Secretary, Office of the Secretary, Federal Communications Commission.

9. Parties who choose to file by paper should also submit their comments on diskette. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contract, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

10. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365 or via e-mail to *bmillin@fcc.gov/oet*. This Notice can also be downloaded at *http://www.fcc.gov/oet*.

11. The World Wide Web addresses/URLs that we give here were correct at the time this document was prepared but may change over time. They are included herein in addition to the conventional citations as a convenience to readers. We are unable to update these URLs after adoption of this *NPRM*, and readers may find some URLs to be out of date as time progresses. We also advise readers that the only definitive text of FCC documents is the one that is published in the FCC Record. In case of discrepancy between the electronic documents cited here and the FCC Record, the version in the FCC Record is definitive.

Initial Regulatory Flexibility Analysis

12. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Notice of Proposed Rule Making (NPRM)*. Written public comments are 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* provided in paragraph 124 of the item. The Commission will send a copy of this *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

13. In this *NPRM*, we examine methods to promote the development and growth of the 71–76 GHz, 81–86 GHz and 92–95 GHz bands to encourage the provisions of new technologies and services to the public and encourage the larger and more effective use of wireless in the public interest. We believe that this *NPRM* will set the framework for the establishment of new wireless services in the 71–76 GHz, 81–86 GHz and 92–95 GHz bands.

14. We seek comment on the following issues under consideration in this *NPRM*:

- Reallocating the 71–76 GHz, 81–86 GHz and 92–95 GHz bands in order to more fully comply with the allocations established at the World Administrative Radio Conference;
- Providing licensees in the 71–76 GHz and 81–86 GHz access to the entire spectrum to provide sufficient capacity for licensees to utilize and provide new innovative services to the public;
- Dividing the 92–95 GHz band into licensed use and unlicensed use in order to stimulate growth in the band while providing adequate protection to the Government operations in the band and to operations in the adjacent spectrum;
- Authorizing the 71–76 GHz, 81–86 GHz and portions of the 92–95 GHz under part 101 of our rules in order to facilitate investment capital for business;
- Whether to license the new services by geographic service areas or by site-by-site licensing;
- Licensing the spectrum to individual licensees and band managers to optimize the use of the spectrum and to provide maximum flexibility for potential licensees and new services;
- Proposing open eligibility, rather than imposing eligibility restrictions, to allow market forces to guide license assignment absent a compelling showing that regulatory intervention to

exclude potential participants is necessary;

• Adopting a 10-year license term and providing licensees with a renewal expectancy upon establishing substantial service in order to provide a stable regulatory environment that will be attractive to investors and will thus encourage development of the spectrum; and

• Allowing licensees to partition and disaggregate their spectrum to provide an opportunity for a wide range of applicants, including small business, rural telephone, minority-owned and women-owned applicants.

B. Legal Basis

15. The proposed action is authorized under sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304, 307.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

16. 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. The RFA generally defines the term ''small entity'' as having the same meaning as the terms, ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under 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. 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.

17. The Commission has not developed a definition of small entities applicable to Radio Frequency Equipment Manufacturers (RF Manufacturers). Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to manufacturers of ''Radio and Television Broadcasting and Communications Equipment.'' According to the SBA's regulation, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business. Census Bureau data indicates that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. Therefore, we believe that many of the companies that manufacture RF equipment may qualify as small entities.

18. The Commission has proposed to assign licenses in the 71–76 GHz, 81–86 GHz and 92–95 GHz bands by competitive bidding. The Commission has not yet determined how many licenses will be awarded. Moreover, the Commission does not know how many licensees will partition their license areas or disaggregate their spectrums, if partitioning and disaggregation are allowed. Therefore, the exact number of smaller licensees in these bands to which the proposed rules will apply cannot be known precisely at this time.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

19. Equipment designed for unlicensed use will be subject to the existing requirements of subpart J of part 2 of our rules, which governs equipment authorization procedures. In addition, winning bidders for licensed use must submit long-form license applications through the Universal Licensing System using FCC Form 601, and other appropriate forms. Licensees will also be required to apply for an individual station license by filing FCC Form 601 for those individual stations that (1) require submission of an Environmental Assessment of the facilities under § 1.1307 of our rules; (2) require international coordination of the application; or (3) require coordination with the Frequency Assignment Subcommittee (FAS) of the Interdepartment Radio Advisory Committee (IRAC). While these requirements are new with respect to potential licensees in the 71–76 GHz, 81–86 GHz and 92–95 GHz bands, the Commission has applied these requirements to licensees in other bands.

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

20. 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 such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

21. We believe that the rules proposed in this *NPRM* provide a flexible and efficient approach to spectrum management. To minimize any negative impact on smaller entities, however, we propose certain incentives for small entities that will be to their benefit. For example, we seek comment on licensing the spectrum to band managers that will be authorized to lease portions of their spectrum to all entities, including smaller entities, and to allow partitioning and spectrum disaggregation. These provisions will enable smaller entities, which sometimes may lack sufficient resources to bid in the auction on an equally competitive basis, to acquire smaller portions of the spectrum. The use of smaller licensing areas could also benefit small entities by reducing costs and build out expenses.

22. We also propose bidding credits for smaller entities that participate in auctions of licenses that are conducted pursuant to the rules proposed in this *NPRM.* Specifically, we propose to define an ''entrepreneur'' as an entity with average annual gross revenues not exceeding $40 million for three preceding years and we propose to define a ''small business'' as an entity with an average annual gross revenues not exceeding $15 million for three preceding years. We believe that these small business definitions and bidding credits will help small entities compete in our auctions and acquire licenses.

23. In addition, we propose to adopt a 10-year license term and provide licensees with a renewal expectancy upon establishing substantial service. We believe these provisions will provide a stable regulatory environment that will be attractive to investors and thus enable smaller entities to acquire the necessary capital to operate in the spectrum.

24. The regulatory burdens we have retained, such as filing applications on appropriate forms, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner and apply equally to large and small entities, thus without differential impact. We will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing any significant impact on small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

25. None.

G. Ordering Clause

26. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Notice for Proposed Rule Making,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clause

27. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Notice of Proposed Rule Making,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

28. Pursuant to the authority contained in sections 4, 4(i), 157, 303,303(g), 303(r), 307 and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 154(i), 157, 303, 303(g), 303(r), 307, this *Notice of Proposed Rule Making is adopted.*

List of Subjects in 47 CFR Parts 2, 15, 97 and 101

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

1. For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Parts 2, 15, 97, and 101 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

2. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

3. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Revise pages 81 through 83.

b. In the list of United States (US) Footnotes, revise footnotes US211, US297, and US342; remove footnote US270; and add footnotes USwww, USxxx, USyyy, and USzzz.

The additions and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
65-66 EARTH EXPLORATION-SATELLITE FIXED INTER-SATELLITE MOBILE except aeronautical mobile SPACE RESEARCH 5.547			65-66 EARTH EXPLORATION-SATELLITE FIXED MOBILE except aeronautical mobile SPACE RESEARCH	65-66 EARTH EXPLORATION-SATELLITE FIXED INTER-SATELLITE MOBILE except aeronautical mobile SPACE RESEARCH	
66-71 INTER-SATELLITE MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554			66-71 MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554	66-71 INTER-SATELLITE MOBILE 5.553 5.558 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE 5.554	
71-74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)			71-74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)		Fixed Microwave (101)
74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) 5.559A 5.561			74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Space research (space-to-Earth) US211 USwww USyyy	74-76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) US211 USwww USyyy	
76-81 RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth)			76-81 RADIOLOCATION	76-77 RADIOLOCATION Amateur	RF Devices (15)
				77-77.5 RADIOLOCATION Amateur Amateur-satellite	Amateur (97)
				77.5-78 RADIOLOCATION AMATEUR AMATEUR-SATELLITE	

5.560	5.560	78-81 RADIOLOCATION Amateur Amateur-satellite 5.560	
81-84 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY Space research (space-to-Earth) 5.149 5.560A	81-84 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO ASTRONOMY USzzz Space research (space-to-Earth) US342		Fixed Microwave (101)
84-86 FIXED FIXED-SATELLITE (Earth-to-space) 5.561A MOBILE RADIO ASTRONOMY 5.149	84-86 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE RADIO ASTRONOMY USzzz US342		
86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	86-92 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
92-94 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149	92-94 FIXED MOBILE RADIO ASTRONOMY USzzz RADIOLOCATION US342 USxxx		Fixed Microwave (101)
94-94.1 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) Radio astronomy 5.562 5.562A	94-94.1 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) Radio Astronomy 5.562 5.562A	94-94.1 RADIOLOCATION Radio astronomy 5.562A	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
94.1-95 FIXED MOBILE RADIO ASTRONOMY RADIOLOCATION 5.149			94.1-95 FIXED MOBILE RADIO ASTRONOMY USzzz RADIOLOCATION US342 USxxx		Fixed Microwave (101)
95-100 MOBILE 5.553 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE Radiolocation 5.149 5.554 5.555			95-100 MOBILE 5.553 MOBILE-SATELLITE RADIONAVIGATION RADIONAVIGATION-SATELLITE Radiolocation 5.149 5.554		
100-102 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) 5.341			100-102 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.341 US246		
102-105 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE 5.341			102-105 FIXED FIXED-SATELLITE (space-to-Earth) 5.341 US211		
105-116 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341			105-116 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		
116-119.98 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE MOBILE 5.558 SPACE RESEARCH (passive) 5.341			116-119.98 EARTH EXPLORATION-SATELLITE (passive) FIXED INTER-SATELLITE MOBILE 5.558 SPACE RESEARCH (passive) 5.341 US211 US263		

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United States (US) Footnotes

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US211 In the bands 1670–1690, 5000–5250 MHz and 10.7–11.7, 15.1365–15.35, 15.4–15.7, 22.5–22.55, 24–24.05, 31.0–31.3, 31.8–32.0, 40.5–42.5, 102–105, 116–126, 151–164, 176.5–182, 185–190, 231–235, 252–265 GHz, applicants for airborne or space station assignments are urged to take all practicable steps to protect radio astronomy observations in the adjacent bands from harmful interference; however, US74 applies.

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US297 The bands 47.2–49.2 GHz and 81–82.5 GHz are also available for feeder links for the broadcasting-satellite service.

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US342 In making assignments to stations of other services to which the bands:

13360–13410 kHz,
37.5–38.25 MHz,
322–328.6 MHz*,
1330–1400 MHz*,
1610.6–1613.8 MHz*,
1660–1670 MHz,
3260–3267 MHz*,
3332–3339 MHz*,
3345.8–3352.5 MHz*,
4825–4835 MHz*,
14.47–14.5 GHz*,
22.01–22.21 GHz*,
22.21–22.5 GHz,
22.81–22.86 GHz*,
23.07–23.12 GHz*,
31.2–31.3 GHz,
36.43–36.5 GHz*,
42.5–43.5 GHz,
48.94–49.04 GHz*,
81–86 GHz,
92–94 GHz,
93.07–93.27 GHz*,
94.1–95 GHz,
97.88–98.08 GHz*,
140.69–140.98 GHz*,
144.68–144.98 GHz*,
145.45–145.75 GHz*,
146.82–147.12 GHz*,
150–151 GHz*,
174.42–175.02 GHz*,
177–177.4 GHz*,
178.2–178.6 GHz*,
181–181.46 GHz*,
186.2–186.6 GHz*,
250–251 GHz*,
257.5–258 GHz*,
261–265 GHz,
262.24–262.76 GHz*,
265–275 GHz,
265.64–266.16 GHz*,
267.34–267.86 GHz*,
271.74–272.26 GHz*

are allocated (* indicates radio astronomy use for spectral line observations), all practicable steps shall be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 4.5 and 4.6 and Article 29 of the ITU Radio Regulations).

* * * * *

USwww In the band 74–76 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to stations of the Federal Government fixed-satellite service.

USxxx In the band 92–95 GHz, Federal and non-Federal users may operate low power, unlicensed devices. In the band 92–92.3 GHz and 93.2–94.1 GHz, Federal assignments shall operate on a primary basis. In the bands 92.3–93.2 GHz and 94.1–95 GHz, non-Federal licensed systems shall operate on a primary basis and Federal assignments may operate on a secondary basis, except that Federal assignments at the following military installations shall operate on a primary basis: [NTIA will supply the list of large military installations prior to the adoption of the Report and Order].

USyyy The band 75.5–76 GHz is also allocated to the amateur and amateur-satellite services on a secondary basis until January 1, 2006.

USzzz In the bands 81–86 GHz, 92–94 GHz, and 94.1–95 GHz, the radio astronomy service shall not receive protection from other allocated services, except within the maximum coordination distances listed for the following radio astronomy observatories.

Telescope and site	150 kilometer (93 mile) radius centered on:	
	North latitude	West longitude
National Radio Astronomy Observatory (NRAO), Robert C. Byrd Telescope, Green Bank, WV	38°25′59″	79°50′24″
NRAO, Very Large Array, Socorro, NM	34°04′44″	107°37′06″
University of Arizona 12-m Telescope, Kitt Peak, AZ	31°57′10″	111°36′50″
BIMA Telescope, Hat Creek, CA	40°49′04″	121°28′24″
Caltech Telescope, Owens Valley, CA	37°13′54″	118°17′36″
Five Colleges Observatory, Amherst, MA	42°23′33″	72°20′40″
Haystack Observatory, Westford, MA	42°37′23″	71°29′19″
James Clerk Maxwell Telescope, Mauna Kea, HI	19°49′33″	155°28′20″

NRAO, Very Long Baseline Array Stations	25 kilometer (15.5 mile) radius centered on:	
	North latitude	West longitude
Brewster, WA	48°07′52″	119°41′00″
Fort Davis, TX	30°38′06″	103°56′41″
Hancock, NH	42°56′01″	71°59′12″
Kitt Peak, AZ	31°57′23″	111°36′45″
Los Alamos, NM	35°46′31″	106°14′44″
Mauna Kea, HI	19°48′05″	155°27′19″
North Liberty, IA	41°46′17″	91°34′27″
Owens Valley, CA	37°13′54″	118°16′37″
Pie Town, NM	34°18′04″	108°07′09″
Saint Croix, VI	17°45′24″	64°35′01″

* * * * *

PART 15—RADIO FREQUENCY DEVICES

4. The authority citation continues to read as follows:

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

5. Section 15.257 is added to subpart C to read as follows:

§ 15.257 Operation within the band 92–95 GHz.

(a) Operation under the provisions of this section is not permitted for equipment used on aircraft or satellites.

(b) Within the 92–95 GHz band, emission levels shall not exceed the following:

(1) The average power density of any emission, measured during the transmit interval, shall not exceed 9 μW/cm², as measured 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 μW cm², as measured 3 meters from the radiating structure.

(2) Peak power density shall be measured with an RF detector that has a detection bandwidth that encompasses the band being used and has a video bandwidth of at least 10 MHz, or using an equivalent measurement method.

(3) The average emission limits shall be calculated, based on the measured peak levels, over the actual time period during which transmission occurs.

(c) Limits on spurious emissions: (1) The power density of any emissions outside the band being used band shall consist solely of spurious emissions.

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

(3) Between 40 GHz and 200 GHz, the level of these emissions shall not exceed 90 pW/cm² at a distance of 3 meters.

(4) The levels of the spurious emissions shall not exceed the level of the fundamental emission.

(i) The total peak transmitter output power shall not exceed 500 mW.

(ii) 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.

(iii) 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 47 CFR 1.1307(b), 2.1091 and 2.1093, 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.

PART 97—AMATEUR RADIO SERVICE

7. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

8. Section 97.303 is revised by adding paragraph (r)(3) to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(r) * * *

(3) No amateur or amateur-satellite station transmitting in the 75.5–76 GHz segment shall cause interference to, nor is protected from interference due to the operation of, stations in the fixed service. After January 1, 2006, the 75.5–76 GHz segment is no longer allocated to the amateur service or to the amateur-satellite.

PART 101—FIXED MICROWAVE SERVICES

9. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154 and 303, unless otherwise noted.

10. Section 101.101 is amended by adding four new entries in numerical order as follows:

§ 101.101 Frequency Availablity.

Frequency band (MHz)	Radio service				
	Common carrier (Part 101)	Private radio (Part 101)	Broadcast auxiliary (Part 74)	Other (Parts 15, 21, 22, 24, 25, 74, 78 & 100)	Notes
* * *	*	*	*	*	*
71,000–76,000	CC	OFS			F/M/TF.
81,000–86,000	CC	OFS			F/M/TF.
92,300–93,200	CC	OFS			F/M/TF.
94,100–95,000	CC	OFS			F/M/TF.

* * * * *

11. Section 101.107(a) is amended by adding four new entries in numerical order and revising footnote 9 as follows:

§ 101.107 Frequency tolerance.

(a) * * *

Frequency (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less
* * * * *	*	*	
71,000 to 76,000 [9]	0.03	0.03	0.03
81,000 to 86,000 [9]	0.03	0.03	0.03
92,300 to 93,200 [9]			

Frequency (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less
94,100 to 95,000 [9]			

* * * * * * *

[9] Equipment authorized to be operated in the 38,600–40,000 MHz, 71,000–76,000 MHz, 81,000–86,000 MHz, 92,300–93,200 MHz and 94,100–95,000 MHz bands are exempt from the frequency tolerance requirement noted in the above table.

* * * * *

12. Section 101.113(a) is amended by adding four entries in numerical order as follows:

§ 101.113 Transmitter power limitations

(a) * * *

Frequency band (MHz)	Maximum allowable EIRP	
	Fixed (dBW)	Mobile (dBW)
* * * * * * *		
71,000–76,000	+55	+55
81,000–86,000	+55	+55
92,300–93,200	+55	+55
94,100–95,000	+55	+55

* * * * *

13. Section 101.147(a) is amended by adding four entries in numerical order as follows:

§ 101.147 Frequency assignments.

(a) * * *

71,000–76,000 MHz [4 5 11 17 19].

81,000–86,000 MHz [4 5 11 17 19].

92,300–93,200 MHz [17].

94,100–95,000 MHz [17].

* * * * *

[FR Doc. 02–23426 Filed 9–18–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA–01–9832]

RIN 2137–AD59

Pipeline Safety: Hazardous Liquid Pipeline Operator Annual Report Form

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This notice extends the period for public comment from September 24, 2002, to November 22, 2002, on the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on July 26, 2002, requiring an annual report for hazardous liquid pipeline operators (proposed form RSPA F7000–1.1).

DATES: Comments on the NPRM must be received by November 22, 2002.

ADDRESSES: You may submit written comments by mail or in person by delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Or, you may submit written comments to the docket electronically at the following Web address: *http://dms.dot.gov. See* the **SUPPLEMENTARY INFORMATION** section for additional filing information.

FOR FURTHER INFORMATION CONTACT: Roger Little by phone at (202) 366–4569, by e-mail at *roger.little@rspa.dot.gov,* or by mail at the Office of Pipeline Safety, Room 7128, 400 7th St. SW., Washington, DC, 20590, regarding the subject matter of this notice or to access comments in the docket.

SUPPLEMENTARY INFORMATION:

Filing Information, Electronic Access, and General Program Information

The Dockets facility is open from 10 a.m. to 5 p.m., Monday through Friday, except federal holidays. All comments should identify the docket number of this notice, RSPA–01–9832. You should submit the original and one copy. If you wish to receive confirmation of receipt of your comments, you must include a stamped, self-addressed postcard. To file written comments electronically, after logging onto *http://dms.dot.gov,* click on ''Electronic Submission'' and follow the instructions. You can read comments and other material in the docket at this Web address: *http://dms.dot.gov.* General information about our pipeline safety program is available at *http://ops.dot.gov.*

Background

On July 26, 2002, the Research and Special Programs Administration's Office of Pipeline Safety (RSPA/OPS) issued a NPRM (67 FR 48844) to require hazardous liquid pipeline operators to submit an annual report (proposed form RSPA F7000–1.1). The report form asks for information that RSPA/OPS does not currently collect, such as: breakout tank location and capacity; hazardous liquid pipeline mileage by State, diameter and decade installed. The report will be due March 15 of each year for the previous calendar year, aligning with the annual reporting schedule for natural gas pipeline operators. RSPA/OPS will use information from the report to more effectively compile national statistics on system inventory; analyze accidents; identify safety problems and potential solutions; and target inspections. The proposed form asks for information similar to information RSPA/OPS currently collects for natural gas pipelines. The proposed information collection is part of RSPA's/OPS's overall strategy for improving the quality of pipeline statistics and addresses a longstanding data gap in hazardous liquid pipeline inventory information.

On August 23, 2002, the American Petroleum Institute (API) and the