

sulfur dioxide (SO₂) State Implementation Plan (SIP) for the Xcel Energy (formerly known as Northern States Power Company) Inver Hills Generating Plant located in the city of Inver Grove Heights, Dakota County, Minnesota. By its submittal dated August 9, 2002, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve Xcel's federally enforceable Title V operating permit into the Minnesota SO₂ SIP and remove the Xcel Administrative Order from the state SO₂ SIP. The state is also requesting in this submittal, that EPA rescind the Administrative Order for Ashbach Construction Company (Ashbach) from the Ramsey County particulate matter (PM) SIP. The requests are approvable because they meet the requirements of the Clean Air Act. In the final rules section of this **Federal Register**, we are approving the SIP revision as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If we receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before October 2, 2003.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in Part(I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section of the related direct final rule which is published in the Rules section of this **Federal Register**.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, nash.carlton@epa.gov.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328, panos.christos@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct

Final notice which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353-8328 before visiting the Region 5 Office.)

Dated: May 23, 2003.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 03-22154 Filed 8-29-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7550-2]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: South Carolina has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to South Carolina. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by October 2, 2003.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW Atlanta, GA, 30303-3104; (404) 562-8448. You can examine

copies of the materials submitted by South Carolina during normal business hours at the following locations: EPA Region 4 Library, Atlanta Federal Center, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303; (404) 562-8190; or South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 896-4174.

FOR FURTHER INFORMATION CONTACT:

Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, at the above address and phone number.

SUPPLEMENTARY INFORMATION:

For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: August 18, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 03-22311 Filed 8-29-03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 15, 27, 87, and 97

[ET Docket No. 00-258 and WT Docket No. 02-8; FCC 03-134]

Federal Government 3G Relocation

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to make spectrum available for Federal Government operations that will be displaced from the band 1710-1850 MHz as a result of making the 1710-1755 MHz segment available to support the introduction of new non-Federal Government advanced wireless services (AWS), including third generation wireless (3G) systems. The implementation of these proposals would substantially clear the band 1710-1755 MHz of Federal Government operations that would have otherwise impeded the development of new nationwide AWS services.

DATES: Written comments are due November 3, 2003, and reply comments are due December 1, 2003.

ADDRESSES: Office of the 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, TTY (202) 418-2989, e-mail: Tom.Mooring@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Fourth Notice of Proposed Rule Making*, ET Docket 00–258 and WT Docket No. 02–8, FCC 03–134, adopted June 13, 2003, and released July 7, 2003. The full text of this document is available for inspection and copying during regular 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, Qualex International, 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before November 3, 2003, and reply comments on or before December 1, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998). 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 include 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. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. 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 Commission'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., Washington, DC 20554.

Summary Fourth Notice of Proposed Rulemaking

The Band 2025–2110 MHz

1. The Commission proposes to revise footnote US346 to permit the U.S. Department of Defense (DOD) to operate tracking, telemetry, and commanding (TT&C) transmit earth stations at the 11 existing sites requested by the National Telecommunications and Information Administration (NTIA) on a co-equal, primary basis with Television Broadcast Auxiliary Service (BAS), the Local Television Transmission Service (LTTS), and the Cable Television Relay Service (CARS) (together these three services will be referred to as BAS in this document) operations in the band 2025–2110 MHz. The band 2025–2110 MHz is the principal band for TT&C Earth-to-space transmissions (uplinks) outside of the United States and the proposed action would allow the military services to have access to it, thereby better harmonizing U.S. space operations with the rest of the world. The Commission makes this proposal so that the band 1710–1755 MHz can be substantively cleared of Federal operations, thereby assisting in the introduction of new AWS, including 3G. Specifically, the proposal would give DOD the option of moving any or all of its TT&C uplinks at 11 specific sites up in frequency from 1761–1842 MHz to 2025–2110 MHz in order to clear spectrum in a geographic area for military fixed and mobile systems, including those that must be relocated out of the band 1710–1755 MHz. If specific frequencies within the band 2025–2110 MHz are successfully coordinated, then that earth station would operate on a co-equal, primary

basis with BAS. The Commission states that this action would provide a reasonable opportunity for clearing the band 1710–1755 MHz for new nationwide AWS uses and that permitting DOD earth stations access to the band 2025–2110 MHz would also provide greater use of the band 2025–2110 MHz without a significant impact on incumbent operations.

2. DOD transmit earth stations are used to control satellites in both geostationary and non-geostationary orbits (NGSOs). Further, DOD TT&C earth stations use extremely large antennas and high transmitter output powers to produce highly focused and very powerful mainbeams and could have large coordination areas. Thus, these transmit earth stations could potentially cause interference to BAS operations. Accordingly, the Commission finds that coordination will be necessary between DOD earth stations operating in the band 2025–2110 MHz and 2 GHz BAS operations. In this regard, the Commission will maintain its longstanding policy that first-licensed facilities have the right of protection from later-licensed facilities operating in the same frequency band. The Commission states that—with coordination—DOD earth stations at an additional 11 sites may also successfully share frequencies in this band with the incumbent BAS operations based on a variety of factors that can facilitate sharing of this spectrum. These include terrain shielding and the facts that some of the antennas may be pointed out to sea, that each TT&C channel is generally used only for relatively short periods of time, that a TT&C channel is expected to impact only one BAS channel, that earth stations controlling GSO satellites may point at such high elevation angles as to have a minimal impact on BAS operations, etc. The Commission solicits comment on the specific factors that would permit proposed spectrum sharing.

3. Ordinarily in a Federal/non-Federal Government shared band, DOD would follow NTIA's procedures in securing coordination; that is, NTIA would approve the change in frequency for the earth stations and submit the frequency change to the Commission through the Frequency Assignment Subcommittee (FAS) of the Interdepartment Radio Advisory Committee (IRAC). Commission engineers would then provide input to ensure that incumbent non-Federal Government operations would be protected. However, in this case, the Commission does not believe that the ordinary processes in Federal/non-Federal Government shared bands can be used without some

modifications. For example, frequency coordination of the 2 GHz BAS band has long been entrusted to private coordinators, such as SBE. The Commission also notes that the band 1990–2110 MHz supports a mix of mobile TV pickup (TVPU) stations and fixed links and that BAS stations are currently transitioning to narrower channels in the band 2025–2110 MHz, to accommodate new services in the 1990–2025 MHz segment. In addition, because each local TV market may transition to a new BAS channel plan at different times, local frequency coordinators may be in the best position to assess requests that affect local operating conditions. Thus, the Commission proposes to require that, prior to submitting applications for the authorization of the 11 earth stations to the Commission through the FAS, DOD frequency coordinators and technical representatives work with the local frequency coordinator (in most cases, this would be SBE) and the affected BAS licensees to ensure that the DOD operations not cause interference to incumbent non-Federal Government operations. Further, the Commission proposes that operation of these earth stations in the band 2025–2110 MHz not be authorized in the absence of successful coordination between the affected parties. The Commission expects that it may be necessary to jointly establish with NTIA other non-standard coordination procedures during the course of this proceeding. The Commission seeks comment on coordination procedures that can be implemented which will ensure that both fixed and mobile BAS stations are adequately protected and accommodate the introduction of Federal earth stations in this band. The Commission acknowledges that the short separation distances identified above present coordination challenges. The Commission seeks comment on how these challenges can be addressed. The Commission recognizes that its Rules do not currently include coordination rules that protect the normal operating areas of TVPU stations, but it is hopeful that coordination between the parties is achievable for the 11 DOD transmit earth stations without adversely affecting TVPU operations, particularly reception at fixed sites, including receive-only sites and at venues where sports or news events routinely occur. While the Commission does not believe that non-Federal Government operations are likely to cause interference to Federal Government operations, it will require that once a DOD earth station has been coordinated, new BAS stations

within these 11 areas coordinate their systems with the local DOD facility.

4. The Commission does not make this proposal without concerns. Notably, it is concerned about the impact on future BAS growth in areas near the 11 TT&C uplink earth stations, especially in light of the ongoing digital television (DTV) transition. The Commission solicits comment on its proposal and on methods that could be employed to ensure future BAS growth. After coordination, local BAS users should be able to work around Federal operations in the coordinated area. Specifically, the Commission notes that new BAS stations can be added in areas near the 11 earth stations, if they are located near incumbent BAS stations, which will be protected as a result of the coordination process. Nonetheless, the Commission solicits comment on whether other frequency bands are more appropriate for the 11 TT&C uplink earth stations.

5. The Commission also observes that the adjacent frequency bands (1990–2025 MHz and 2110–2155 MHz) have been reallocated to the fixed and mobile services and addresses a concern that interference could be caused to these future services due to the placement of the 11 TT&C earth stations in the band 2025–2110 MHz. In particular, interference could be caused by out-of-band emissions and by receiver overload. In addressing out-of-band emission interference, the Commission notes that the unwanted emission standards for Federal Government earth stations operating above 960 MHz are specified as follows:

For all systems operating in this frequency range the emissions radiated outside of the necessary bandwidth shall roll-off at a rate equal to or greater than 40 dB/decade (12 dB/octave) from the attenuation level at the limit of necessary bandwidth. The emissions power shall roll-off to a level of at least 60 dB below the transmissions Maximum Peak SPD [Spectral Power Density] or less. The requirements in this standard specify the upper bounds on unwanted emissions from space and earth stations associated with the space services.

TT&C uplink channels in the band 1761–1842 MHz have a necessary bandwidth of 4 MHz and the Commission anticipates that new TT&C channels in the band 2025–2110 MHz will be approximately the same bandwidth. NTIA indicates that currently the signal level two-megahertz away from a TT&C center frequency is normally attenuated 20–25 dB below the maximum peak SPD. TT&C uplink transmitter output power is expected to range from 100 watts to 10 kW. The Commission solicits comment on how

such high power levels coupled with the noted attenuation characteristics would impact BAS operations in the band 2025–2110 MHz.

6. The Commission requests comment on whether the limits specified above will be sufficient to protect the mobile and fixed receivers that will operate on spectrum above and below the band 2025–2110 MHz, or whether additional requirements, *e.g.*, specific limits on emissions generated outside the band 2025–2110 MHz, will be necessary. The Commission notes that emissions produced by the TT&C transmitters are expected to be greater than those that will be produced by future digital BAS transmitters that will operate in the band 2025–2110 MHz. The Commission therefore seeks comment on whether the Federal Government's unwanted emission standard is sufficient to protect out-of-band operations, or whether TT&C earth station emission limitations outside the band 2025–2110 MHz should be further limited. The Commission observes that limiting emissions outside the band 2025–2110 MHz could be accomplished by reducing power, by increasing the attenuation roll-off rate and the maximum roll-off, and by not using spectrum immediately adjacent to the band edges, *i.e.*, by providing for guard bands. The Commission requests comment on whether such measures should be taken, and specifically whether TT&C transmitter emissions outside the band 2025–2110 MHz should be limited to those of a digital BAS transmitter with a bandwidth of 12 MHz and an output power of 13 dBW, centered 6.5 MHz from the band edge and meeting the emission mask in § 74.637(a)(2).

7. With regard to the potential for receiver overload interference, the Commission notes that TT&C transmitters are expected to operate with transmitter output power levels ranging from 100 watts to 10 kW. This raises concerns about the potential for overload of fixed and/or mobile receivers operating near TT&C stations receiving on spectrum above and below the band 2025–2110 MHz. The Commission thus seeks comment on whether, based on the geographic location of TT&C transmitters, interference of this type could occur. If such interference is likely, the Commission seeks comment on what limits on TT&C transmitters (*e.g.*, reduced power levels, avoidance of the upper and lower edges of the band 2025–2110 MHz) might reduce the likelihood of overload interference to adjacent band mobile and fixed receivers. Similarly, the Commission

seeks comment on measures that need to be taken by fixed and mobile receivers to protect against this type of interference.

8. The Commission also proposes to permit DOD to operate stations in the fixed and mobile except aeronautical mobile services on a secondary basis in the band 2025–2110 MHz at the six sites identified by NTIA in the southwestern United States. NTIA states that because these operations (such as tactical radio relay systems) are usually in remote areas, it would appear to be feasible for DOD to operate on a coordinated basis in this band. The Commission agrees with NTIA that it appears feasible for DOD to operate stations in the fixed and land mobile services on a secondary basis at six sites in the southwestern United States and to also operate stations in the maritime service in the Pacific Missile Test Range/Pt. Mugu on a secondary basis without hindering BAS fixed and mobile operations. The Commission requests comment on this tentative finding and proposes to adopt a United States footnote.

9. The Commission requests comment on all of the above proposals for the band 2025–2110 MHz. The Commission is particularly interested in commenters' suggestions regarding how best to share the band 2025–2110 MHz between incumbent uses and the proposed extremely high powered transmitting earth stations. In addition, if commenters believe any of the 11 proposed earth station locations to be particularly problematic with regard to protecting BAS receive sites, it requests specific suggestions and detailed engineering analysis showing how such situations can be resolved.

The Band 2360–2400 MHz

10. Consistent with the 2002 *Viability Assessment*, the Commission proposes to allocate the band 2360–2395 MHz for aeronautical mobile purposes on a primary basis for Federal Government use so that aeronautical mobile systems that currently operate in the band 1710–1755 MHz at the 16 protected sites can be relocated by December 2008. This relocation would substantively clear the band 1710–1755 MHz of Federal Government systems so that this spectrum can be used to accommodate AWS, including 3G systems.

11. The Commission also proposes to allocate the band 2390–2395 MHz to the mobile service on a primary basis for non-Federal Government use and to generally limit the use of this allocation and of the existing non-Federal Government mobile service allocation in the band 2385–2390 MHz to aeronautical telemetry use. This action

would provide 10 megahertz of needed spectrum for commercial aeronautical telemetry operations. The Commission observes that aeronautical telemetry bandwidth requirements have significantly increased in recent years as aircraft manufacturers collect increasing amounts of data and video concerning the performance of prototype aircraft. Given the increasing amounts of data being collected in flight tests, and the higher and higher data rates being utilized for such purposes, the Commission tentatively finds that additional spectrum for aeronautical telemetry use is necessary.

12. In addition, the Commission observes that the aircraft manufacturers that make military aircraft are the same as those that make commercial aircraft. Further, Federal and non-Federal Government users have traditionally shared the aeronautical telemetry bands on a co-primary basis, including the band 2385–2390 MHz. Therefore, the Commission considers it beneficial to expand the primary non-Federal Government aeronautical telemetry allocation to include the band 2385–2395 MHz. This action would make the band available to non-Federal Government aeronautical telemetry operations, as well as to Federal Government aeronautical mobile operations. As a consequence of these proposals, the Commission proposes to make a number of specific changes to rules affecting various portions of the band 2360–2400 MHz.

13. As indicated previously, the band 2360–2385 MHz is currently allocated to the mobile service on a primary basis for Federal and non-Federal Government use. The use of these mobile allocations is limited by footnote US276 to aeronautical telemetering and associated telecommand operations for flight testing of manned and unmanned aircraft, missiles, or major components thereof. In order to implement the proposal, the Commission would allocate the band 2385–2395 MHz to the mobile service on a primary basis for Federal Government use and would modify footnote US276 to permit Federal agencies to conduct all types of aeronautical mobile operations, not just aeronautical telemetering and telecommand operations. The Commission also proposes to expand the permissible uses under the Federal Government mobile service allocation in the band 2360–2395 MHz to include land mobile and maritime mobile applications on a secondary basis to aeronautical mobile applications.

14. Except as described, this approach would return the band 2385–2390 MHz to its allocation status prior to its recent

transfer and reallocation. Therefore, the Commission also proposes to allocate the band 2385–2390 MHz to the radiolocation service on a primary basis and to the fixed service on a secondary basis for Federal Government use. NTIA indicates that Federal Government use of the radiolocation allocation in the band 2385–2390 MHz would be limited to the military services and thus, footnote G2 would be revised to reflect this limitation. Consistent with the above proposal to allocate the band 2390–2395 MHz to the aeronautical mobile service on a primary basis for Federal Government use, the Commission proposes to revise footnote G122 so that Federal Government operations in the band 2390–2395 MHz would no longer be shown as being on a non-interference basis to non-Federal Government operations.

15. By footnote G120, NTIA prohibits the development of airborne primary radars in the band 2310–2385 MHz with a peak transmitter power in excess of 250 watts for use in the United States. NTIA has previously applied footnote G120 to the band 2385–2390 MHz. During its work on this proposed rule, Commission staff noticed that the bands 2310–2320 MHz and 2345–2360 MHz are no longer allocated to the Federal radiolocation service on a primary basis. In addition, the Commission has recently proposed to downgrade the Federal radiolocation service allocation from primary to secondary status in the band 2320–2345 MHz because Satellite DARS licensees have commenced operations. Therefore, the Commission proposes, with NTIA's concurrence, to amend footnote G120 by removing the band 2310–2360 MHz and by adding the band 2385–2390 MHz.

16. In order to promote spectrum sharing between Federal and non-Federal Government operations, the Commission proposes to remove the recently added, but still unused, fixed allocation from the band 2385–2390 MHz in the non-Federal Government Table. The Commission also proposes to re-apply the prior footnote US276 limitations on non-Federal Government mobile use of the band 2385–2390 MHz and to also apply the footnote US276 limitations on non-Federal Government mobile use of the band 2390–2395 MHz. These actions would return the band 2385–2390 MHz to use for non-Federal Government flight test stations and would also make available replacement spectrum for non-Federal Government flight test stations that are displaced from the band 2310–2360 MHz, thereby providing 35 megahertz (2360–2395 MHz) of primary spectrum for non-Federal Government aeronautical

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

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

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

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

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

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

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

Initial Regulatory Flexibility Analysis

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

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

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

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

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

² 5 U.S.C. 603(a).

³ *Id.*

replacement spectrum for use by DOD and commercial flight test stations, which may shortly lose access to the 35 megahertz of spectrum at 1525–1535 MHz and 2320–2345 MHz.

B. Legal Basis

25. This action is authorized under Sections 1, 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 4(i), 154(i), 302, 303(f) and (r), 332, 337.

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

26. 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 rules adopted herein.⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁵ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁶ 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 Small Business Administration (SBA).⁷

27. A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”⁸ Nationwide, as of 1992, there were approximately 275,801 small organizations.⁹ “Small governmental jurisdiction” generally means “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.”¹⁰ As of 1997, there were approximately 87,453 governmental entities in the United

States.¹¹ This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000 and 1,498 have populations of 500,000 or more. Thus, the Commission estimates the number of small governmental jurisdictions overall to be approximately 84,098 or fewer.

28. In the band 2025–2110 MHz, the proposals in this 4th NPRM would affect licensees in the Television Broadcast Auxiliary Service (BAS), the Local Television Transmission Service (LTTS), and the Cable Television Relay Service (CARS).

Broadcast Auxiliary Service (BAS) involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the stations). There are approximately 568 TV BAS licensees in the band 1990–2025 MHz. It is unclear how many of these would be affected by our proposals.

29. The Commission has not developed a definition of small entities specific to broadcast auxiliary licensees. The U.S. Small Business Administration (SBA) has developed small business size standards, as follows: For TV BAS, The Commission will use the size standard for Television Broadcasting, which consists of all such companies having annual receipts of no more than \$12.0 million.¹² According to Census Bureau data for 1997, there were 906 Television Broadcasting firms, total, that operated for the entire year.¹³ Of this total, 734 firms had annual receipts of \$9,999,999.00 or less and an additional 71 had receipts of \$10 million to \$24,999,999.00.¹⁴ Thus, under this standard, the majority of firms can be considered small.

Cable Antenna Relay Service (CARS) There are nine CARS mobile licensees in the band 1990–2025 MHz. It is unclear how many of these would be affected by our proposals. The SBA has developed a small business size standard for Cable and other Program Distribution, which consists of all such companies having annual receipts of no more than \$12.5 million.¹⁵ According to

Census Bureau data for 1997, there were 1,311 firms within the industry category Cable and Other Program Distribution, total, that operated for the entire year.¹⁶ Of this total, 1,180 firms had annual receipts of \$9,999,999.00 or less, and an additional 52 firms had receipts of \$10 million to \$24,999,999.00.¹⁷ Thus, under this standard, the majority of firms can be considered small.

Local Television Transmission Service (LTTS) There are 33 LTTS licensees in the band 1990–2025 MHz. It is unclear how many of these would be affected by our proposals. The Commission has not yet defined a small business with respect to local television transmission services. For purposes of this IRFA, The Commission will use the SBA's definition applicable to wireless and other telecommunications companies—*i.e.*, an entity with no more than 1,500 persons.¹⁸ According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year.¹⁹ Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.²⁰ Thus, under this size standard, the great majority of firms can be considered small.

30. In the band 2360–2390 MHz, the proposals are not expected to impact licensees of flight test stations, except to provide continued access to the band 2385–2390 MHz segment. That is, Federal and non-Federal Government licensees of flight test stations have long shared the band 2360–2390 MHz and our proposals would essentially return the band 2385–2390 MHz to its state prior to reallocation. The additional flexibility given to Federal Government users is not expected to impact licensees of flight test stations because this use would be on a secondary basis.

31. In the band 2390–2400 MHz, the proposals are not expected to greatly impact licensees in the amateur service or manufacturers of unlicensed PCS. Federal and non-Federal Government use of the band 2390–2395 MHz is expected to occur at only a limited number of aeronautical telemetry ranges in remote areas. The Commission reviewed its files and found that no

⁴ 5 U.S.C. 604(a)(3).

⁵ 5 U.S.C. 601(6).

⁶ 5 U.S.C. 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

⁷ 15 U.S.C. 632.

⁸ 5 U.S.C. 601(4).

⁹ Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

¹⁰ 5 U.S.C. 601(5).

¹¹ U.S. Census Bureau, Statistical Abstract of the United States: 2000, Section 9, pages 299–300, Tables 490 and 492.

¹² 13 CFR 121.201, NAICS code 515120.

¹³ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Receipts Size of Firms Subject to Federal Income Tax: 1997,” Table 4, NAICS code 515120 (issued Oct. 2000).

¹⁴ *Id.* The census data do not provide a more precise estimate.

¹⁵ *Id.* at NAICS code 515120.

¹⁶ *Id.* at NAICS code 515120.

¹⁷ *Id.* The census data do not provide a more precise estimate.

¹⁸ 13 CFR 121.201, NAICS code 517212.

¹⁹ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Employment Size of Firms Subject to Federal Income Tax: 1997,” Table 5, NAICS code 517212 (issued Oct. 2000).

²⁰ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is “Firms with 1,000 employees or more.”

unlicensed PCS device has been authorized in the band 2390–2400 MHz.

32. The Commission seeks comment on this analysis. In providing such comment, commenters are requested to provide information regarding how many total and small business entities would be affected.

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

33. The proposed rules would require that DOD coordinate a request for use of frequencies in the band 2025–2110 MHz prior to submitting an application to the Commission. Commission licensees may choose to conduct studies or incur other expenses during the coordination process. The Commission is unable to estimate the costs involved with the coordination process.

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

34. 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 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.²¹

35. The Commission has proposed to require that the 11 Federal Government earth stations prior coordinate their frequency use. Such a requirement will ensure that these earth stations operate in a manner that minimizes the potential of causing harmful interference. This action is expected to protect incumbent BAS, LTTS, and CARS systems from service disruptions caused by receiving harmful interference. The Commission seeks comment on significant alternatives commenters believe should be adopted.

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

36. None.

Ordering Clauses

37. Pursuant to Sections 1, 4(i), 7(a), 301, 302(a), 303(f), 303(g), 303(r), 307, 308, 309(j), 316, 332, 334, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154(i), 157(a), 301, 302(a), 303(f), 303(g), 303(r), 307, 308, 309(j), 316, 332, 334, and 336, the *Fourth Notice of Proposed Rulemaking* is hereby adopted.

38. The Commission's Consumer Information and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Fourth Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedures, Radio.

47 CFR Part 2

Radio, Telecommunications.

47 CFR Part 15

Communications equipment.

47 CFR Part 27

Radio.

47 CFR Part 87

Radio.

47 CFR Part 97

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 2, 15, 27, 87, and 97 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e).

2. Section 1.1307 is amended by revising the entry for “Wireless Communications Service (part 27)” in paragraph (b)(1) to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assignments (EAs) must be prepared.

* * * * *

(b) * * *

(1) * * *

TABLE 1.—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation requirement if:
* * * * *	
Wireless Communications Service (Part 27)	(1) For the 1390–1392 MHz, 1392–1395 MHz, 1432–1435 MHz, and 1670–1675 MHz bands: <i>Non-building-mounted antennas:</i> height above ground level to lowest point of antenna < 10 m and total power of all channels > 2000 W ERP (3280 W EIRP) <i>Building-mounted antennas:</i> total power of all channels > 2000 W ERP (3280 W EIRP) (2) for the 746–764 MHz, 776–794 MHz, 2305–2320 MHz, and 2345–2360 MHz bands Total power of all channels > 1000 W ERP (1640 W EIRP)
* * * * *	

²¹ 5 U.S.C. 603(c).

* * * * *

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

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

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

4. Amend § 2.106 as follows:

a. Revise pages 48, 50, and 51 of the Table.

b. In the list of United States footnotes, revise footnotes US276 and US346, remove US363, and add footnote USxxx.

c. In the list of non-Federal Government footnotes, remove footnote NG174.

d. In the list of Federal Government footnotes, revise footnotes G2, G120, and G122.

The revisions and additions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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5.149 5.341 5.385 5.386 5.387 5.388	1755-1850 FIXED MOBILE	1755-1850	
1930-1970 FIXED MOBILE 5.388A	1930-1970 FIXED MOBILE 5.388A Mobile-satellite (Earth-to-space)	1850-2025	Personal Communications (24) Fixed Microwave (101)
5.388	5.388		
1970-1980 FIXED MOBILE 5.388A			
5.388			
1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A		NG177 2000-2020 MOBILE-SATELLITE (Earth-to-space) US380	Satellite Communications (25)
5.388 5.389A 5.389B 5.389F			
2010-2025 FIXED MOBILE 5.388A	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space)	NG156 2020-2025 FIXED MOBILE	
5.388	5.388 5.389C 5.389D 5.389E 5.390		
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space)	2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION- SATELLITE (Earth-to- space) (space-to-space) SPACE RESEARCH (Earth- to-space) (space-to-space)	NG177 2025-2110 FIXED NG23 NG118 MOBILE 5.391	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)
5.392	5.391 5.392 US90 US222 US346 US347 USxxx	5.392 US90 US222 US346 US347 USxxx	

5.392	MOBILE (line-of-sight only including aeronautical telemetry, but excluding flight testing of manned aircraft) SPACE RESEARCH (space-to-Earth) (space-to-space)	US303	US303	
2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)	2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)	2290-2300 SPACE RESEARCH (deep space) (space-to-Earth)		
2300-2450 FIXED MOBILE Amateur Radiolocation	2300-2450 FIXED MOBILE RADIOLOCATION Amateur	2300-2305 Amateur	2300-2305 Amateur	Amateur (97) Note: 2300-2305 MHz became non-Federal Government exclusive spectrum in August 1995
5.150 5.282 5.395	5.150 5.282 5.393 5.394 5.396	2305-2310 FIXED MOBILE except aeronautical mobile RADIOLOCATION Amateur	2305-2310 FIXED MOBILE except aeronautical mobile RADIOLOCATION Amateur	Wireless Communications (27) Amateur (97)
		US338 G123	US338	Wireless Communications (27)
		2310-2360 Fixed Mobile US339 Radiolocation G2	2310-2320 FIXED MOBILE US339 RADIOLOCATION BROADCASTING- SATELLITE US327	
			5.396 US338	
			2320-2345 BROADCASTING- SATELLITE US327 Mobile US276 US328	Satellite Communications (25)
			5.396	
		5.396 US327 US328	See next page for 2345-2450 MHz	See next page for 2345-2450 MHz
		See next page		

2345-2655 MHz (UHF)				Page 51	
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 2300-2450 MHz			See previous page for 2310-2360 MHz	2345-2360 FIXED MOBILE US339 RADIOLOCATION BROADCASTING- SATELLITE US327 5.396	Wireless Communications (27)
			2360-2390 MOBILE US276 RADIOLOCATION G2 G120 Fixed	2360-2390 MOBILE US276	Aviation (87)
			2390-2395 MOBILE US276	2390-2395 AMATEUR MOBILE US276	Aviation (87) Amateur (97)
			2395-2400 G122	2395-2400 AMATEUR	Amateur (97)
			2400-2402	2400-2417 AMATEUR	ISM Equipment (18) Amateur (97)
			5.150 G123		
			2402-2417		
			5.150 G122	5.150 5.282	
			2417-2450 Radiolocation G2	2417-2450 Amateur	
			5.150 G124	5.150 5.282	
			2450-2483.5	2450-2483.5 FIXED MOBILE Radiolocation	ISM Equipment (18) Private Land Mobile (90) TV Auxiliary Broadcasting (74F) Fixed Microwave (101)
2450-2483.5 FIXED MOBILE Radiolocation	2450-2483.5 FIXED MOBILE RADIOLOCATION				
5.150 5.397	5.150 5.394		5.150 US41	5.150 US41	

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* * * * *

United States (US) Footnotes

* * * * *

US276 Except as otherwise provided for herein, use of the bands and 2320–2345 MHz and 2360–2395 MHz by the mobile service is limited to Federal Government aeronautical mobile applications and to non-Federal Government aeronautical telemetering and associated telecommand operations for flight testing of aircraft, missiles or major components thereof. The following four frequencies are shared on a co-equal basis by Federal and non-Federal Government

stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles whether or not such operations involve flight testing: 2332.5 MHz, 2364.5 MHz, 2370.5 MHz, and 2382.5 MHz. Other Federal Government mobile uses and other non-Federal Government mobile telemetering uses shall be secondary to the above uses.

* * * * *

US346 Except as provided for below and by footnote US222, Federal Government use of the band 2025–2110 MHz by the space operation service (Earth-to-space), Earth exploration-satellite service (Earth-to-space), and space research service (Earth-to-space) shall not constrain the deployment of the

Television Broadcast Auxiliary Service, the Cable Television Relay Service, or the Local Television Transmission Service. To facilitate compatible operations between non-Federal Government terrestrial receiving stations and Federal Government earth station transmitters, coordination is required. To facilitate compatible operations between non-Federal Government terrestrial transmitting stations and Federal Government spacecraft receivers, the terrestrial transmitters shall not be high-density systems (see Recommendations ITU-R SA.1154 and ITU-R F.1247). Military satellite control stations at the following sites shall operate on a co-equal, primary basis with non-Federal Government operations:

Facility	Coordinates
Naval Satellite Control Network, Prospect Harbor, ME	44° 24'55" N 068°00'50" W
New Hampshire Tracking Station, New Boston AFS, NH	42°56'52" N 071°37'37" W
Eastern Vehicle Check-out Facility & GPS Ground Antenna Monitoring Station, Cape Canaveral, FL	28°29'10" N 080°34'34" W
Buckley AFB, CO	39°42'55" N 104°46'29" W
Colorado Tracking Station, Schriever AFB, CO	38°48'21" N 104°03'43" W
Kirtland AFB, NM	35°03'00" N 106°24'00" W
Camp Parks Communications Annex, Pleasanton, CA	37°44'00" N 121°52'00" W
Naval Satellite Control Network, Laguna Peak, CA	34°06'55" N 119°04'50" W
Vandenberg Tracking Station, Vandenberg AFB, CA	34°49'24" N 120°31'54" W
Hawaii Tracking Station, Kaena Pt, Oahu, HI	21°33'48" N 158°14'54" W
Guam Tracking Stations, Anderson AFB, and Naval CTS, Guam	13°36'48" N 144°51'12" E

* * * * *

USxxx In the band 2025–2110 MHz, the military services may operate stations in the fixed and mobile except aeronautical mobile

services on a secondary and coordinated basis at the following sites:

Site	Coordinates	Radius of operation (km)
Nellis AFB, NV	36°14' N 115°02' W	80
China Lake, CA	35°41' N 117°41' W	50
Ft. Irwin, CA	35°16' N 116°41' W	50
Pacific Missile Test Range/Pt. Mugu, CA	34°07' N 119°30' W	80
Yuma, AZ	32°32' N 113°58' W	80
White Sands Missile Range, NM	33°00' N 106°30' W	80

* * * * *

Federal Government (G) Footnotes

* * * * *

G2 In the bands 216–225 MHz, 420–450 MHz (except as provided by US217), 890–902 MHz, 928–942 MHz, 1300–1390 MHz, 2310–2390 MHz, 2417–2450 MHz, 2700–2900 MHz, 5650–5925 MHz, and 9000–9200 MHz, the Government radiolocation service is limited to the military services.

* * * * *

G120 Development of airborne primary radars in the band 2360–2390 MHz with peak transmitter power in excess of 250 watts for use in the United States is not permitted.

G122 In the bands 2395–2400 MHz, 2402–2417 MHz, and 4940–4990 MHz, Federal Government operations may be authorized on a non-interference basis to authorized non-Federal Government operations, but shall not hinder the

implementation of any non-Federal Government operations.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

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

Authority: 47 U.S.C. 154, 302, 303, 304, 307, 336, and 554A.

6. Section 15.301 is revised to read as follows:

§ 15.301 Scope.

This subpart sets out the regulations for unlicensed personal communications services (PCS) devices operating in the 1920–1930 MHz band.

7. Section 15.303 is amended by removing and reserving paragraphs (a) and (i) and by revising paragraph (g) to read as follows:

§ 15.303 Definitions.

* * * * *

(g) *Personal Communications Services (PCS) Devices [Unlicensed]*. Intentional radiators operating in the frequency band 1920–1930 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses.

* * * * *

8. Section 15.319 is amended by revising paragraph (a) to read as follows:

§ 15.319 General technical requirements.

(a) The 1920–1930 MHz band is limited to use by isochronous devices under the requirements of § 15.323.

* * * * *

§ 15.321 [Removed]

9. Section 15.321 is removed.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

10. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337, unless otherwise noted.

§ 27.1 [Amended]

11. In § 27.1 remove paragraph (b)(7).

12. Section 27.4 is amended by revising the definition of “Band Manager” to read as follows:

§ 27.4 Terms and definitions.

* * * * *

Band Manager. The term *Band Manager* refers to a licensee in the paired 1392–1395 MHz and 1432–1435 MHz bands and the unpaired 1390–1392 MHz, and 1670–1675 MHz bands that functions solely as a spectrum broker by subdividing its licensed spectrum and making it available to system operators or directly to end users for fixed or mobile communications consistent with Commission Rules. A *Band Manager* is directly responsible for any interference or misuse of its licensed frequency arising from its use by such non-licensed entities.

* * * * *

§ 27.5 [Amended]

13. In § 27.5 remove paragraph (g).

§ 27.6 [Amended]

14. In § 27.6 remove paragraph (g).

§ 27.11 [Amended]

15. In § 27.11 remove paragraph (h).

16. Section 27.12 is amended by revising paragraph (b) introductory text to read as follows.

§ 27.12 Eligibility.

* * * * *

(b) *Band Manager licenses.* For the 1392–1395 MHz and 1670–1675 MHz bands and the paired 1392–1395 MHz and 1432–1435 MHz bands, applicants applying for an initial license may elect to operate as a Band Manager, subject to the rules governing Guard Band Managers under subpart G, *provided however*, that the following rules do not apply to Band Managers:

* * * * *

§ 27.13 [Amended]

17. In § 27.13 remove paragraph (f).

§ 27.50 [Amended]

18. In § 27.50 remove paragraph (f), and redesignate paragraph (g) as paragraph (f).

§ 27.53 [Amended]

19. Section 27.53 is amended by removing paragraph (j) and by redesignating paragraph (k) as paragraph (j).

Subpart K [Removed]

20. Subpart K is removed.

PART 87—AVIATION SERVICES

21. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

§ 87.173 [Amended]

22. Section 87.173 is amended by revising the entry “2310–2390 MHz” to read “2310–2395 MHz” in paragraph (b).

23. Section 87.303 is amended by revising paragraph (d)(1) to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1525 MHz and 2360–2395 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of aircraft and missiles, or their major components. The bands 1525–1535 MHz and 2310–2360 MHz are also available for these purposes on a secondary basis. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the Earth’s atmosphere, as well as any incidental orbiting prior to reentry, of manned or unmanned objects undergoing flight tests. In the band 1435–1530 MHz, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5, and 1525.5 MHz. In the band 2360–2390 MHz, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles, whether or not such operations involve flight testing: 2364.5, 2370.5 and 2382.5 MHz. In the band 2360–2395 MHz, all other mobile telemetry uses are secondary to the above stated launch vehicle uses.

* * * * *

PART 97—AMATEUR RADIO SERVICE

24. 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.

25. Section 97.303 is amended by revising paragraph (j)(2)(iii) to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(j) * * *

(2) * * *

(iii) The 2390–2417 MHz segment is allocated to the amateur service on a primary basis.

(A) The 2390–2395 MHz segment is shared with Federal and non-Federal Government mobile services on a co-equal basis. See 47 CFR 2.106, footnote US276.

(B) Amateur stations operating in the 2400–2417 MHz segment must accept harmful interference that may be caused by industrial, scientific and medical equipment.

* * * * *

[FR Doc. 03–22200 Filed 8–29–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1152

[STB Ex Parte No. 537 (Sub-No. 1)]

Public Participation in Railroad Abandonment Proceedings

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) is proposing to amend its regulations concerning the service of a notice of intent to abandon or discontinue rail service by removing an obsolete reference to a labor organization and making technical changes.

DATES: Comments are due October 2, 2003.

ADDRESSES: Send an original and 10 copies of comments referring to “STB Ex Parte No. 537 (Sub-No. 1)” to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565–1661. [Federal Information Relay Service for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The regulations at 49 CFR 1152.20(a)(2) provide that applicants seeking to abandon or discontinue rail service must serve their notices of intent on certain interested parties, including, under section 1152.20(a)(2)(xi), “[t]he headquarters of the Railroad Labor