

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified

Maps available for inspection at the Department of Community Planning and Development, 75 North Bonson Street, Platteville, Wisconsin.  
Send comments to Ms. Rosemarie E. Kulow, Platteville City Manager, 75 North Bonson Street, P.O. Box 780, Platteville, Wisconsin 53818-0780.

Wisconsin .....	Verona (City) Dane County.	Badger Mill Creek .....	Approximately 1,300 feet downstream of Bruce Street.	*937	*939
			Approximately 740 feet upstream of the upstream corporate limits.	*950	*951
			Approximately 1,200 feet downstream of the Chicago and Northwestern Railroad.	None	*938
			Approximately 1,200 feet upstream of Edward Street.	None	*973

Maps available for inspection at the Building Inspection Department, 116 Paoli Street, Verona, Wisconsin.  
Send comments to The Honorable Arthur Cresson, Mayor of the City of Verona, P.O. Box 930188, Verona, Wisconsin 53593-0188.

Wisconsin .....	Watertown (City) Dodge and Jefferson Counties.	Rock River .....	At downstream corporate limits .....	*793	*792
			Approximately 0.9 mile upstream of Oconomowoc Avenue .....	None	*826
			At Spaulding Street .....	*812	*813
			At upstream corporate limits .....	None	*824

Maps available for inspection at the Engineering Department, 106 Jones Street, Watertown, Wisconsin.  
Send comments to The Honorable Frederick Smith, Mayor of the City of Watertown, 106 Jones Street, Watertown, Wisconsin 53094.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: March 1, 1995.

**Richard T. Moore,**

*Associate Director for Mitigation.*

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BILLING CODE 6718-03-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Chapter I**

[ET Docket No. 94-32; FCC No. 95-47]

**Allocation of Spectrum Below 5 GHz Transferred From Federal Government Use**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This Second Notice of Proposed Rule Making, proposes rules to govern assignment and use of the 50 megahertz of spectrum transferred from Federal Government use to private use and allocated in the companion First Report and Order, published elsewhere in this issue. This action is necessary to comply with provisions of the Omnibus Budget Reconciliation Act of 1993 (Reconciliation Act), that require the Commission to allocate, and propose regulations to assign, this spectrum within 18 months of adoption of the Reconciliation Act. Our goal in taking this action is to provide for use of spectrum transferred from Federal

Government to private sector use in a way that will benefit the public by providing for the introduction of new services and devices and enhance existing services and devices.

**DATES:** Comments must be filed on or before March 20, 1995, and reply comments must be filed on or before April 4, 1995.

**ADDRESSES:** Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Karen Rackley, Wireless Telecommunication Bureau, (202) 418-0620.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Notice of Proposed Rule Making, ET Docket No. 94-32, FCC No. 95-47, adopted February 7, 1995, and released February 17, 1995 (Notice). The full text of this Notice is available for inspection during normal business hours in the Records Room of the Federal Communications Commission, Room 239, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., NW., Suite 140, Washington, DC 20037, telephone (202) 857-3800.

**Summary of Second Notice of Proposed Rule Making**

1. By this action, the Commission proposes rules governing the use of 50 megahertz of spectrum, at 2390-2400 MHz, 2402-2417 MHz, and 4660-4685

MHz, that has been transferred from Federal Government to private sector use. In the First Report and Order, the Commission allocated the 2390-2400 MHz band for use by unlicensed Personal Communications Services (PCS) devices, provided for continued use of the 2402-2417 MHz band by devices operating in accordance with Part 15 of the Commission's Rules allocated both of these bands for use by the Amateur service on a primary basis, and allocated the 4660-4685 MHz band for use by Fixed and Mobile services.

**2390-2400 MHz**

2. Because the Commission already has rules in place governing unlicensed PCS, the Notice does not seek additional comment on services rules. The Notice, however, seeks comment on whether some allowance should be made to accommodate operations that combine use of the 2390-2400 MHz with the adjacent 2400-2483.5 MHz band for use as a single, large Part 15 band. The Notice proposes to specifically prohibit aeronautical use of unlicensed PCS devices operating at 2390-2400 MHz as requested by some commenters, but does not propose to restrict use of unlicensed PCS devices in the vicinity of the National Astronomy and Ionospheric Center. Finally, the Notice requests comment on whether it is unnecessary to propose any formal standards for sharing between unlicensed PCS and Amateur service, whether there is a need to restrict certain uses by either the Amateur

service or unlicensed PCS devices that might be particularly disruptive, or whether the Commission should seek to implement rules for coordination of Amateur/PCS use.

#### **2402–2417 MHz**

3. Both the Amateur service and Part 15 devices operating at 2402–2417 MHz continue to be governed in accordance with current applicable technical and operational rules. However, the Commission seeks comment on whether any changes should be made to the Commission's rules to facilitate use of this band by the Amateur service and Part 15 devices.

#### **4660–4685 MHz**

##### *A. Service Rules*

4. The Notice proposes to create the General Wireless Communications Service (GWCS), a new service for licensing of the 4660–4685 MHz band, which would allow a licensee to provide any Fixed or Mobile service, consistent with the allocation of this band and the Commission's proposed rules described below. The Notice also seeks comment on the possibility of better accommodating the needs of users by prescribing rules that provide for utilization of the 4660–4685 MHz frequency band only by specific services.

##### *B. Use of Spectrum*

5. The Notice tentatively concludes that the principal use of this spectrum under the proposed General Wireless Communications Service will involve or is reasonably likely to involve the receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals, thus enabling the Commission to propose competitive bidding as the assignment method for this spectrum. To help the Commission make an accurate determination regarding the extent to which this spectrum will be used for subscriber-based services, the Notice requests that commenters describe their spectrum needs and provide an indication of the degree of competition expected within a particular geographic service area, because the likelihood of subscriber use may vary among geographic areas.

##### *C. Assignment Methods*

6. Sections 309(j)(1) and 309(j)(2) of the Communications Act permit auctions where mutually exclusive applications for initial licenses or construction permits are accepted for filing by the Commission and where the principal use of the spectrum will involve or is reasonably likely to

involve the receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals. As described in the preceding section, the Commission believes that the principal use of this spectrum will meet these requirements. In order to comply with Section 309(j)(2)(b) of the Communications Act, the Notice also tentatively concludes that the use of competitive bidding to assign licenses in the 4660–4685 MHz band will promote the objectives described in Sections 1 and 309(j)(3) of the Communications Act. Thus, the Commission tentatively concludes that competitive bidding should be used to award licenses in the 4660–4685 MHz band in the new General Wireless Communications Service if mutually exclusive applications are filed.

7. Although the Notice proposes the use of a system of competitive bidding to assign licenses for the General Wireless Communications Service in the 4660–4685 MHz band, the Commission also seeks comment regarding whether the Commission should utilize a different assignment method.

8. One important aspect of any assignment method is determining whether applications are mutually exclusive. The Notice proposes to use a 30-day filing window or other application cut-off method to allow for competing initial applications. The Notice seeks comment on this proposal, particularly whether some other type of filing group would be more appropriate for determining whether initial applications are mutually exclusive.

##### *D. Channelization; Aggregation*

9. The Notice proposes that the 4660–4685 MHz band be licensed in five blocks, each of which would be 5 megahertz wide. Based on available information about the likely services to be provided in this band, the Commission tentatively concludes that no licensee would need more than 15 megahertz in a single market area. Therefore, the Notice proposes to limit a single entity from obtaining more than three of these blocks in a single geographic licensing area. The Commission also proposes that, regardless of the specific service to be provided, this spectrum will not count against the 45 MHz spectrum cap that applies to certain commercial mobile radio service (CMRS) licensees.

##### *E. License Area*

10. The Notice proposes that all licenses issued in the GWCS be based on Major Trading Areas (MTA). The Commission does not propose to restrict

the number of MTAs in which a party may obtain a license. Because an MTA may be too large for some licensees, the Notice proposes to permit licensees to lease the rights to operate a general wireless communication system within portions of their authorized geographic service area or transfer a portion of their license to geographically partition their service area, allowing another party to be licensed in the partitioned area.

11. If the Commission determines that a mix of subscriber, non-subscriber, and private-based services is likely in the 4660–4685 MHz band, the Commission may issue licenses based on different geographic regions for different portions of the bands or for different areas of the Nation. Commenters that seek spectrum for non-subscriber based services should address the issue of whether the Commission should allow licensees to sell or lease their excess capacity and specify under what circumstances such transfer or lease would be allowed.

##### *F. Eligibility*

12. If the Commission determines that it is reasonably likely that the services to be provided will be commercial services, the Notice proposes no restrictions on eligibility to apply for licenses in this band other than those foreign ownership restrictions that apply to CMRS and common carrier fixed system licensees, and the restriction on foreign governments or their representatives related to the holding of private service licenses.

##### *G. Competitive Bidding Issues*

13. The Notice proposed that, to the extent that the Commission determines that it is reasonably likely that some or all of the 4660–4685 MHz band will be used for services that meet the criteria for issuing licenses pursuant to auctions, the Commission will use auctions to issue licenses. The Commission believes that simultaneous multiple round bidding should be the preferred method for licensing of the proposed 5 MHz-wide MTA spectrum blocks. The Notice tentatively concludes that simultaneous multiple round bidding is most likely to award MTA licenses to bidders who value them the most highly and who are most likely to deploy new technologies and services rapidly. The Notice asks commenters to address this tentative conclusion and whether any other competitive bidding designs might be more appropriate for the licensing of this spectrum.

14. In addition, the Notice also seeks comments on which blocks should be auctioned together, the intervals between rounds in each auction, and the sequencing of each auction. The

Commission's tentative view is that all 255 licenses (51 MTA licenses on each of 5 spectrum blocks) should be auctioned simultaneously because of the relatively high value and significant interdependence of the licenses.

15. The Commission also seeks comment on bidding procedures to be used in the 4660–4685 MHz auctions, including bid increments, duration of bidding rounds, stopping rules, and activity rules. The Notice generally proposes to follow the procedural, payment, and penalty rules established in Subpart Q of Part I of the Commission's Rules, but seeks comment on whether any service-specific modifications of these rules are needed based on the particular characteristics of the 4660–4685 MHz band licenses.

16. In keeping with the general parameters set forth in the Competitive Bidding docket, PP Docket No. 93–253, the Notice proposes specific measures and eligibility criteria for small businesses, rural telephone companies, and minority- and women-owned businesses (collectively, "designated entities") in the 4660–4685 MHz band designed to ensure that such entities are given the opportunity to participate both in the competitive bidding process and in the provision of service in the 4660–4685 MHz band.

#### H. Technical Rules

17. The fact that the Commission is proposing a new radio service for this band that can be used to provide any mobile or fixed communications service, regardless of whether that service is subscriber based or not, argues for general minimal technical restrictions. Specifically, the Notice proposes to limit the field strength at licensees' service area boundaries to 55 dBu unless licensees operating in adjacent areas agree to higher field strengths along their mutual border. The Notice does not propose to establish adjacent-channel interference limits at the frequency boundaries between licensees in this band, but the Commission would encourage licensees to resolve adjacent channel interference problems. The Commission, however, proposes to require licensees to attenuate the power below the transmitter power (P) by at least 43 plus  $10 \log_{10}(P)$  or 80 decibels, whichever is less, for any emission at the edges of the 4660–4685 MHz band. The Notice also requests comment on whether a maximum transmitter power or maximum effective radiated power is necessary or whether licensees should be permitted to use any power that they believe is appropriate, provided that they do not exceed the maximum

permissible field strength at the border of their licensed area. Commenters should also specifically address the need for out of band emission at the edges of the entire 4660–4685 MHz.

#### I. License Term

18. For services in the 4660–4685 MHz band, the Notice proposes to establish a term of 10 years for licenses in this band, with a renewal expectancy based on that of PCS and cellular telephone licensees. The Commission notes, however, the commenters have proposed using this band for auxiliary broadcast service and the statute requires that the term of any license for the operation of any auxiliary broadcast station or equipment must be concurrent with the term of the license for such primary television station. Therefore, commenters should address whether the Commission should allow differing license terms in this band.

#### J. Construction Requirements

19. The Notice proposes to require build-out rules modeled on those adopted for broadband PCS. Specifically, the Commission proposes that within five years, licensees in this band offer service to one-third of the population in the area in which they are licensed. Further, licensee would have to serve two-thirds of the population in the area in which they are licensed within ten years of being licensed. Failure by any licensee to meet these construction requirements will result in forfeiture of the license and the licensee will be ineligible to regain it.

#### K. Regulatory Status

20. The Communications Act and Commission regulation often apply differing requirements based on the type of service and the regulatory status of licensees. In addition recent changes to the Communications Act have created different standards for Fixed and Mobile services for determining the regulatory status of a licensee.

21. The Commission has decided to propose a new GWCS for the 4660–4685 MHz band that would allow licensees to provide a variety or combination of Fixed and Mobile services. Under this service, both Fixed and Mobile applications would be permitted and an individual licensee could provide a number of Fixed and Mobile services. The commission notes that, under the proposed approach, it may be difficult to determine the regulatory status of each licensee. The Notice proposes to rely on applicants to specifically identify the type of service or services they intend to provide, and that they include sufficient detail to enable the

Commission to determine if the service will be Fixed or Mobile, and whether it will be offered as a commercial mobile radio service, a private mobile radio service, a common carrier Fixed service, or a private Fixed service. The Notice requests comment on the most efficient manner in which to administer the requirements of the Communications Act and the Commission's rules, and grant licensees as much operational flexibility as possible.

22. The Notice requests comment on whether the Commission should develop a new application long form for this GWCS or require an applicant to be responsible for filing the appropriate license application based upon the nature of the service designated by the applicant. Based on the showing made in the application form and actual service provided, the licensee would be subject to those rules and statutory requirements that apply to such service.

#### L. Licensing Issues

23. The Notice requests comment on whether the Commission is required or should find it is in the public interest to adopt additional licensing rules in order to comply with the statutory requirement that the Commission adopt assignment rules before August 10, 1995. For example, because some licensees may provide common carrier service, the Notice seeks comment on whether the Commission should adopt public notice and petition to deny procedures for some or all applicants in the 4660–4685 MHz band. The Notice requests comment on whether any existing application or regulatory fees would apply if the Commission develops a new service. In addition, the Notice requests comment on specific rules the Commission should adopt in order to implement Section 310(d) of the Communications Act for purposes of licensing services in the 4660–4685 MHz frequency

#### Initial Regulatory Flexibility Analysis

1. *Reason for Action:* The proposals for technical rules, service rules, and licensing mechanisms proposed in the Notice are for use of spectrum that has been transferred from Federal Government to private sector use. The Commission adopted allocations for this spectrum on February 7, 1995. Accordingly, these proposals are necessary to provide a structure for non-Government entities to use the spectrum.

2. *Objectives:* The Commission seeks to provide service rules, technical rules, and to issue licenses, for use of this spectrum in a manner that provides the greatest potential benefit to the public

by providing for the introduction of new services and the enhancement of existing services. These new and enhanced services will create new jobs, foster economic growth, and improve access to communications by industry and the American public.

3. *Legal Basis:* The legal basis for these rule changes is found in Section 4(i), 303(g), 303(r), 309(j), 322(a), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), 309(j) (332)(a), and 403 and Section 115(a) of the National Telecommunications and Information Administration Organization Act, 47 U.S.C. 925(a).

4. *Reporting, Recordkeeping, and Other Compliance Requirements:* The proposals under consideration in this Notice of Proposed Rulemaking may impose certain reporting and recordkeeping requirements on licensees and others utilizing this spectrum.

5. *Federal Rules Which Overlap, Duplicate or Conflict With these Rules:* None.

6. *Description, Potential Impact, and Number of Small Entities Involved:* Many small entities could be positively affected by this proposal because the proposal will provide for the introduction of new, competitive communications and will foster new technologies resulting in new jobs, economic growth, and improved access to communications by industry, including small entities. The full extent of the impact on small entities cannot be predicted until various issues raised in the proceeding have been resolved. After evaluating the comments filed in response to the Notice, the Commission will examine further the impact of all final rules in this proceeding on small entities and set forth its findings in the final Regulatory Flexibility Analysis.

7. *Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives:* This *Second Notice of Proposed Rule Making* solicits comments on a variety of alternatives, including as to how our licensing mechanism, service rules, and technical rules can be structured to serve a variety of needs.

8. *IRFA Comments:* The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines specified in the summary above.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 95-5371 Filed 3-9-95; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AC22

#### Endangered and Threatened Wildlife and Plants; Notice of Six-Month Extension and Reopening of Public Comment Period on the Proposed Rule to List the Barton Springs Salamander as an Endangered Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of extension and reopening of comment period on proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) gives notice that the deadline to determine whether the Barton Springs salamander (*Eurycea sosorum*) is an endangered species is being extended for up to 6 months. The comment period on the proposal is reopened.

**DATES:** The new deadline for final action on the proposed listing of the Barton Springs salamander as an endangered species is August 17, 1995. The reopened comment period closes May 17, 1995.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Texas State Administrator, U.S. Fish and Wildlife Service, Ecological Services, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (telephone [512] 490-0057, fax [512] 490-0974).

#### SUPPLEMENTARY INFORMATION:

##### Background

The proposed rule to list the Barton Springs salamander as an endangered species was published on February 17, 1994 (59 FR 7968). The primary threat to this species is contamination of the waters that supply Barton Springs by potential catastrophic events and chronic degradation resulting from

urban activities. Also of concern are disturbances to the salamander's surface habitat (the waters in Barton Springs, Eliza Pool, and Sunken Garden Springs) and reduced groundwater supplies resulting from increased groundwater withdrawal.

The comment period on the proposed rule originally closed April 18, 1994. It was reopened May 26, 1994, and closed July 1, 1994. During the comment periods and subsequent to the close of comment on this proposal, the Service has received recommendations and information relevant to a final decision on the listing of the salamander. In order to adequately incorporate all available pertinent information in the deliberation leading to a decision and to ensure an opportunity for public comment on as complete an administrative record as possible, the deadline for final action on this proposal is being extended and the comment period reopened.

The Service has received several comments regarding the adequacy of search efforts to determine if the currently known distribution is restricted solely to the Barton Springs complex. Comments received from scientific experts refer to extensive search efforts in springs throughout a several-county area. However, a few caves were identified that may support the salamander, but that had not been adequately surveyed.

On September 19, 1994, the Barton Springs/Edwards Aquifer Conservation District submitted a report titled, Barton Springs/Edwards Aquifer Hydrogeology and Water Quality, to the Service. The report appears to contain significant new information regarding water quality throughout the Barton Springs/Edwards Aquifer system. Water quality data contained in this report may provide important information on the effects of existing and historical land use on water quality, and potential threats to the Barton Springs salamander. The Service considers it important that this report be entered into the record and made available for public comment before a final decision is made on the listing.

In October 1994 the Texas Parks and Wildlife Department appointed an Aquatic Biological Advisory Team specifically to consider the conservation and research needs of three species of *Eurycea*, including the Barton Springs salamander. The team will not report its findings and recommendations for several more months; the Service believes that this team's results should be considered in reaching a final listing decision.

In February 1995 the Governor of Texas requested that the Secretary of the