

of free time, unless arrangements have been made for storage.

(23) *Wharfage* means a charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto, or under wharves or between vessels (to or from barge, lighter, or water), when berthed at wharf or when moored in slip adjacent to wharf. Wharfage is solely the charge for use of wharf and does not include charges for any other service.

#### § 525.2 Terminal schedules.

(a) *Marine terminal operator schedules.* A marine terminal operator, at its discretion, may make available to the public, subject to section 10(d) of the Act, a schedule of its rates, regulations, and practices.

(1) *Limitations of liability.* Any limitations of liability for cargo loss or damage pertaining to receiving, delivering, handling, or storing property at the marine terminal contained in a terminal schedule must be consistent with domestic law and international conventions and agreements adopted by the United States; such terminal schedules cannot contain provisions that exculpate or relieve marine terminal operators from liability for their own negligence, or that impose upon others the obligation to indemnify or hold-harmless the terminals from liability for their own negligence.

(2) *Enforcement of terminal schedules.* Any schedule that is made available to the public by the marine terminal operator shall be enforceable by an appropriate court as an implied contract between the marine terminal operator and the party receiving the services rendered by the marine terminal operator, without proof that such party has actual knowledge of the provisions of the applicable terminal schedule.

(3) *Contracts for terminal services.* If the marine terminal operator has an actual contract with a party covering the services rendered by the marine terminal operator to that party, an existing terminal schedule covering those same services shall not be enforceable as an implied contract.

(b) *Cargo types not subject to this part.* (1) Except as set forth in paragraph (b)(2) of this section, this part does not apply to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper and paper waste in terminal schedules.

(2) Marine terminal operators which voluntarily make available terminal schedules covering any of the commodities identified in paragraph (b)(1) of this section thereby subject their services with respect to those

commodities to the requirements of this part.

(c) *Marine terminal operator agreements.* The regulations relating to agreements to which a marine terminal operator is a party are located at part 535 of this chapter.

#### § 525.3 Availability of marine terminal operator schedules.

(a) *Availability of terminal schedules.*

(1) *Availability to the Commission.* A complete and current set of terminal schedules used by a marine terminal operator, or to which it is a party, shall be maintained in its office(s) for a period of five (5) years, whether or not made available to the public, and shall promptly be made available to the Commission upon request.

(2) *Availability to the public.* Any terminal schedule that is made available to the public shall be available during normal business hours and in electronic form. The public may be assessed a reasonable nondiscriminatory charge for access to the terminal schedules; no charge will be assessed against the Commission.

(b) *Access to electronically published schedules.* Marine terminal operators shall provide access to their terminal schedules via a personal computer (PC) by:

(1) Dial-up connection via public switched telephone networks (PSTN); or

(2) The Internet (Web) by:

(i) Web browser; or

(ii) Telnet session.

(c) *Dial-up connection via PSTN.* (1) This connection option requires that terminal schedules provide:

(i) A minimum of a 14.4Kbps modem capable of receiving incoming calls,

(ii) Smart terminal capability for VT-100 terminal or terminal emulation access, and

(iii) telephone line(s) quality for data transmission.

(2) The modem may be included in a collection (bank) of modems as long as all modems in the bank meet the minimum speed. Smart terminal emulation provides for features such as bold, blinking, underlining and positioning to specific locations on the display screen.

(d) *Internet connection.* (1) This connection option requires that systems provide:

(i) A universal resource locator (URL) Internet address (e.g., <http://www.tariffsrus.com> or <http://1.2.3.4>), and/or

(ii) A universal resource locator (URL) Internet address (e.g., <telnet://tariffsrus> or <telnet://1.2.3.4>), for Telnet session access over the Internet.

(2) Marine terminal operators shall ensure that their Internet service

providers shall provide static Internet addresses.

(e) *Commission access.* Commission telecommunications access to systems must include connectivity via a dial-up connection over public switched telephone networks (PSTN) or a connection over the Internet.

Connectivity will be provided at the expense of the publishers. Any recurring connection fees, hardware rental fees, usage fees or any other charges associated with the availability of the system are the responsibility of the publisher. The Commission shall only be responsible for the long-haul charges for PSTN calls to a terminal schedule initiated by the Commission.

(f) *Notification.* Each marine terminal operator shall notify the Commission's Bureau of Tariffs, Certification and Licensing ("BTCL"), prior to the commencement of marine terminal operations, of its organization name, organization number, home office address, name and telephone number of firm's representative, the location of its terminal schedule(s), and the publisher, if any, used to maintain its terminal schedule, by submitting Form FMC-1. Any changes to the above information shall be immediately transmitted to BTCL. The Commission will publish a list on its website, [www.fmc.gov](http://www.fmc.gov), of the location of any terminal schedule made available to the public.

(g) *Form and manner.* Each terminal schedule made available by a marine terminal operator shall contain an individual identification number, effective date, expiration date, if any, and the complete terminal schedule in full text and/or data format showing all its rates, charges, and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at their terminal facilities.

By the Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 98-33366 Filed 12-16-98; 8:45 am]

BILLING CODE 6730-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 74, 78, 101

[ET Docket No. 95-18; FCC 98-309]

### Allocation of Spectrum at 2 GHz for Use by the Mobile-Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** By this *Third Notice of Proposed Rule Making*, the Commission proposes to change the prior allocation to Broadcast Auxiliary Service (BAS) from the 2025–2130 MHz band to the 2025–2110 MHz band, and to allocate the 2110–2150 MHz band to the Fixed and Mobile Services, for later assignment of licenses by auction. This *Third Notice of Proposed Rule Making* solicits comment on the proposed allocation, including the necessity and means of moving incumbent BAS and FS microwave licensees to another band.

**DATES:** Comments are due January 19, 1991. Reply comments are due February 19, 1999.

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

**FOR FURTHER INFORMATION CONTACT:** Sean White, Office of Engineering and Technology, (202) 418-2453.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Notice of Proposed Rule Making*, adopted November 19, 1998, and released November 25, 1998. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-C404), 445 Twelfth Street, SW, Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, N.W., Washington, D.C. 20036.

### Summary of Third Notice of Proposed Rule Making

1. In this *Third Notice of Proposed Rule Making*, the Commission proposes to allocate the 2110–2150 MHz band to the Fixed and Mobile Services, for assignment to licensees by auction. This proposal is consistent with the requirements of Congress in Section 3002 (a) of the Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 (1997). The Commission further proposes to allocate the 2025–2110 MHz band to the Fixed and Mobile services for the use of BAS licensees.

2. The Commission solicits public comment on the proposed allocation, the details of timing, requirements, and negotiations in the relocation of BAS and FS microwave incumbents, and any other sharing or technical matters pertinent to the proposed allocation.

### List of Subjects in 47 CFR Parts 2, 74, 78, and 101

Radio.

Federal Communications Commission

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98-33396 Filed 12-16-98; 8:45 am]

BILLING CODE 6712-01-p

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[MM Docket No. 98-224, RM-9416]

#### Radio Broadcasting Services; Belfield, ND

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by High Plains Broadcasting, Inc., to allot Channel 230C1 to Belfield, ND, as the community's first local aural service. Channel 230C1 can be allotted to Belfield in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 46-53-06 North Latitude and 103-11-48 West Longitude. Canadian concurrence in the allotment is required since Belfield is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

**DATES:** Comments must be filed on or before February 1, 1999, and reply comments on or before February 16, 1999.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004-1109 (Counsel to petitioner).

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-224, adopted December 2, 1998, and released December 11, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also

be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98-33402 Filed 12-16-98; 8:45 am]

BILLING CODE 6712-01-P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[MM Docket No. 98-225, RM-9417]

#### Radio Broadcasting Services; Medina, ND

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by High Plains Broadcasting, Inc., seeking the allotment of Channel 222C to Medina, ND, as the community's first local aural service. Channel 222C can be allotted to Medina in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 46-53-36 North Latitude and 99-17-54 West Longitude. Canadian concurrence is required since Medina is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

**DATES:** Comments must be filed on or before February 1, 1999, and reply comments on or before February 16, 1999.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments