

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 1, 2, 87 and 101**

[WT Docket No. 99–327, FCC 00–272]

**24 GHz Service; Licensing and Operation****AGENCY:** Federal Communications Commission.**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document is to show rules amended by the Commission in order to implement licensing and operation of the 24 GHz band, shall become effective February 22, 2001. These sections, which contained new information collection requirements, were published in the **Federal Register** December 28, 2000, (OMB No. 3060–0963). This is to let the public know the effective date of the rules that contain new information collection requirements.

**EFFECTIVE DATE:** The amendments to 47 CFR 101.527 and 101.529 published at 65 FR 59350 (October 5, 2000) are effective February 22, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jim Shaffer, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680.

**SUPPLEMENTARY INFORMATION:** On July 25, 2000, the Commission adopted a *Report and Order* (“Order”) (FCC 00–272) to implement licensing and operation of the 24.25–24.45 GHz and 25.05–25.25 GHz bands, a summary of which was published in the **Federal Register**. See 65 FR 59350 (October 5, 2000). We stated that the Part 101 of the Commission’s rules, 47 CFR Part 101, is amended effective December 4, 2000, except for §§ 101.527 and 101.529 which contains information collections that are not effective until approved by the Office of Management and Budget. We also stated that the Commission will publish a document in the **Federal Register** announcing the effective date for those sections. This statement requires further action by the Commission to establish the effective date, notwithstanding the preceding statement in the summary that the rule change would become effective upon OMB approval. In order to resolve this matter in a manner that most appropriately provides interested parties with proper notice, the rule changes adopted in the Order shall become effective February 22, 2001. The information collection was approved by

OMB on December 1, 2000. See OMB No. 3060–0963.

**List of Subjects in 47 CFR Part 90**

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Magalie Roman Salas,***Secretary.*

[FR Doc. 01–4320 Filed 2–21–01; 8:45 am]

**BILLING CODE 6712–01–M****FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 2**

[FCC 01–30]

**33–36 GHz for Federal Government Use****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** The document amends the Table of Frequency Allocations, by adding a new footnote, US360, to permit use of the band 33–36 GHz by the Federal Government fixed-satellite service (FSS), space-to-Earth. An existing footnote, G117, also was revised to denote that the Federal Government’s use of this band is limited to military systems. This action was taken in response to a request filed by the Administrator, National Telecommunications and Information Administration (“NTIA”) for the purpose of advancing, supporting, and accommodating the national defense.

**DATES:** Effective February 22, 2001.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Hosford, Office of Engineering and Technology, (202) 418–0652.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Memorandum Opinion and Order*, FCC 01–30, adopted January 19, 2001, and released January 26, 2001. The full text of this Commission decision is available on the Commission’s Internet site at <http://www.fcc.gov>. It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission’s duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

**Summary of the Memorandum Opinion and Order**

1. On January 12, 2001, the Administrator, NTIA, requested that the Commission add a United States footnote to the United States Table of Frequency Allocations, 47 CFR 2.106, that would allocate the band 33–36 GHz on a primary basis to the Federal Government fixed-satellite service (space-to-Earth). NTIA stated that this matter involves military functions, as well as specific national security interests of the United States, that the reallocation is essential to fulfill requirements for Federal Government space systems to perform satisfactorily, and that these Department of Defense (“DoD”) requirements cannot be accommodated in frequency bands currently allocated for Federal Government fixed-satellite service (space-to-Earth). NTIA indicated that the Federal Government footnote G117 will be modified to limit Federal Government fixed-satellite use of this band to military systems. NTIA also requested expedited consideration, and that the rules be amended without public notice or comment due to the near-term national security interests.

2. Nationally, the band 33–33.4 GHz is shared Federal Government and non-Federal Government spectrum that is allocated to the radionavigation service on a primary basis. In the sub-band 31.8–33.4 GHz, ground based radionavigation aids are permitted only where they are used in cooperation with airborne or shipborne radionavigation devices. Non-Federal Government airborne radionavigation devices are licensed under Part 87 of the Commission’s Rules. This allocation, however, is currently unused by non-Federal Government licensees.

3. The band 33.4–36 GHz is allocated to the radiolocation service on a primary basis for the Federal Government and on a secondary basis for non-Federal Government use. However, all non-military radiolocation devices operating in this band are secondary to the military services, except for the sub-band 34.4–34.5 GHz, where weather radars on board meteorological satellites for cloud detection are authorized to operate on an equal basis with military radiolocation devices. In the sub-band 34.2–34.7 GHz, an additional allocation is made for space research service (deep space, Earth-to-space) at Goldstone, California. In the band 33.4–36 GHz, non-Federal Government radiolocation is permitted under part 90 of the Commission’s Rules. There is currently only limited non-Federal Government use of the band 33.4–36 GHz. The

majority of these uses are limited to speed control and testing and development purposes.

4. Based on the representations of NTIA that the reallocation is essential to fulfill requirements for Federal Government space systems to perform satisfactorily and that these DoD requirements cannot be accommodated in frequency bands currently allocated for Federal Government fixed-satellite service (space-to-Earth) use, the Commission found that the public interest would best served by accommodating NTIA's request and adding United States footnote US360 to, and amending Federal Government footnote G117 of, the Table of Frequency Allocations. Upon review of the Commission's records, there appeared to be little, if any, impact on non-Federal Government services.

5. Further, the Commission took this action without notice and comment procedures. Section 553 of the Administrative Procedure Act (APA) states that rulemaking proceedings are required "except to the extent that there is involved" (1) a military or foreign affairs function of the United States." 5 U.S.C. 553(a)(1). The Commission's Rules, moreover, state that rule changes including any military, naval, or foreign affairs functions of the United States "will ordinarily be adopted without

prior notice." 47 CFR 1.412(b)(1). The APA also includes a good cause exception to rulemaking requirements when such procedures are "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(3)(B). The Commission noted that, as a general matter, public notice requirements are an essential component of its legal authority. In this instance, however, the Commission found it appropriate to take this action without public notice because this matter involved the exercise of military functions of the United States based on specific national security needs and that good cause exists that notice and public procedures are unnecessary and contrary to the public interest. *See* 5 U.S.C. 553 (a)(1), (b)(3)(B); 47 CFR 1.412(b)(1), (c); *Bendix Aviation Corp. v. F.C.C.*, 272 F.2d 533 (D.C. Cir. 1959), *cert. denied sub nom. Aeronautical Radio, Inc. v. U.S.*, 361 U.S. 965 (1960). Additionally, due to the near term national security requirements noted by NTIA, the Commission found good cause to expedite this request and make the amendments effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(d)(3).

#### List of Subjects in 47 CFR Part 2

Radio, Telecommunications.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

#### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 2 as follows:

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

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

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

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

- a. Revise pages 75 and 76.
- b. Revise United States footnote US252 and add footnote US360.
- c. Revise Federal Government footnote G117.

The addition and revisions read as follows:

#### **§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

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International Table		United States Table		FCC Rule Part(s)
Region 1	Region 2	Federal Government	Non-Federal Government	
32-40 GHz (EHF)				
32-32.3 FIXED S5.547A INTER-SATELLITE RADIATIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth)	Region 3	32-32.3 INTER-SATELLITE US278 RADIATIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 S5.548	32-32.3 INTER-SATELLITE US278 SPACE RESEARCH (deep space) (space-to-Earth) US262 S5.548	
S5.547 S5.547C S5.548			S5.548	
32-3-33 FIXED S5.547A INTER-SATELLITE RADIATIONAVIGATION		32-3-33 INTER-SATELLITE US278 RADIATIONAVIGATION US69 S5.548		Aviation (87)
33-33.4 FIXED S5.547A RADIATIONAVIGATION S5.547 S5.547E		33-33.4 RADIATIONAVIGATION US69 US360 G117		
33.4-34.2 RADIOLOCATION S5.549		33.4-36 RADIOLOCATION US110 G34	33.4-36 Radiolocation US110	Private Land Mobile (90)
34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space) S5.549				
34.7-35.2 RADIOLOCATION Space research S5.550 S5.549				
35.2-35.5 METEOROLOGICAL AIDS RADIOLOCATION S5.549				
35.5-36 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) S5.549 S5.551A		S5.551 US252 US360 G117	S5.551 US252 US360	

<p>36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)</p>	<p>36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)</p>	
<p>S5.149</p>	<p>US263 US342</p>	
<p>37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)</p>	<p>37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)</p>	
<p>37.5-38 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth exploration-satellite (space-to-Earth)</p>	<p>37.5-38 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth exploration-satellite (space-to-Earth)</p>	<p>Satellite Communications (25)</p>
<p>38-39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth exploration-satellite (space-to-Earth)</p>	<p>38-39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE</p>	<p>Auxiliary Broadcasting (74) Fixed Microwave (101)</p>
<p>39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite (space-to-Earth)</p>	<p>39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)</p>	<p>US291 G117</p>

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**United States (US) Footnotes**

\* \* \* \* \*

US252 The bands 2110–2120 MHz, 7145–7190 MHz, and 34.2–34.7 GHz are also allocated for Earth-to-space transmissions in the space research service, limited to deep space communications at Goldstone, California.

\* \* \* \* \*

US360 In the band 33–36 GHz, the Government fixed-satellite service (space-to-Earth) is also allocated on a primary basis. Coordination between Government fixed-satellite service systems and non-Government systems operating in accordance with the United States Table of Frequency Allocations is required.

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**Federal Government (G) Footnotes**

\* \* \* \* \*

G117 In the bands 7.25–7.75 GHz, 7.9–8.4 GHz, 17.8–21.2 GHz, 30–31 GHz, 33–36 GHz, 39.5–40.5 GHz, 43.5–45.5 GHz, and 50.4–51.4 GHz, the Government fixed-satellite and mobile-satellite services are limited to military systems.

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[FR Doc. 01–4215 Filed 4–21–01; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[DA 01–379, MM Docket No. 00–177, RM–9954]

**Digital Television Broadcast Service; Rapid City, SD**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Duhamel Broadcasting Enterprise, licensee of station KOTA-TV, substitutes DTV channel 2 for DTV channel 22 at Rapid City. See 65 FR 59388, October 5, 2000. DTV channel 2 can be allotted to Rapid City in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 44–04–08 N. and 103–15–03 W. with a power of 8.0, HAAT of 174 meters and with a DTV service population of 124 thousand.

With this action, this proceeding is terminated.

**DATES:** Effective April 2, 2001.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report

and Order, MM Docket No. 00–177, adopted February 14, 2001, and released February 15, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., 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.

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

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**47 CFR PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**Section 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under South Dakota is amended by removing DTV channel 22 and adding DTV channel 2 at Rapid City.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–4328 Filed 2–21–01; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[DA–378, MM Docket No. 00–200, RM–9967]

**Digital Television Broadcast Service; Sioux Falls, SD**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Midwest Broadcasting Company, licensee of station KAUN(TV), NTSC channel 36, substitutes DTV channel 51 for DTV channel 40 at Sioux Falls, South Dakota. See 65 FR 63044, October 20, 2000. DTV channel 51 can be allotted to Sioux Falls in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (43–30–19 N. and 96–34–19 W.) with a power of 93.0, HAAT of 230 meters and with a DTV service population of 209 thousand.

With this action, this proceeding is terminated.

**DATES:** Effective April 2, 2001.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 00–200, adopted February 14, 2001, and released February 15, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., 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.

**List of Subjects in 47 CFR PART 73**

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**47 CFR PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under South Dakota, is amended by removing DTV channel 40 and adding DTV channel 51 at Sioux Falls.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–4327 Filed 2–21–01; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[DA 01–381, MM Docket No. 99–268, RM–9691]

**Digital Television Broadcast Service; Chattanooga, TN**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Sarkes Tarzian, Inc., licensee of station WRCB-TV, NTSC channel 3, substitutes DTV channel 13 for DTV channel 55 at Chattanooga, Tennessee.