

Boards of Medicine and Nursing, requesting exemption from physician supervision for CRNAs. The letter from the Governor must attest that he or she has consulted with State Boards of Medicine and Nursing about issues related to access to and the quality of anesthesia services in the State and has concluded that it is in the best interests of the State's citizens to opt-out of the current physician supervision requirement, and that the opt-out is consistent with State law.

(2) The request for exemption and recognition of State laws and the withdrawal of the request may be submitted at any time, and are effective upon submission.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 6, 2001.

**Thomas A. Scully,**

*Administrator, Health Care Financing Administration.*

Approved: July 2, 2001.

**Tommy G. Thompson,**

*Secretary.*

[FR Doc. 01-16964 Filed 7-3-01; 8:45 am]

BILLING CODE 4210-01-P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 25, 101

[IB Docket No. 97-95; FCC 01-182]

#### Allocation and Designation of Spectrum in the 36.0-43.5 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Further notice of proposed rulemaking.

**SUMMARY:** This document proposes rule changes to the domestic frequency spectrum plan to provide satellite and terrestrial operators greater certainty about the scope of operations in the 36.0-43.5 GHz band. This document also proposes to adopt specific power flux-density limits on satellite operations in portions of this band. The proposed rules reflect decisions reached at the 2000 World Radiocommunication Conference (WRC-2000) in Istanbul, Turkey.

**DATES:** Submit comments on or before September 4, 2001. Submit reply comments on or before October 3, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Trey Hanbury, Planning and Negotiations Division, International Bureau (202) 418-0766 or via electronic mail: [ghanbury@fcc.gov](mailto:ghanbury@fcc.gov), or Charles Breig, Planning and Negotiations Division, International Bureau (202) 418-2156 or via electronic mail: [cbreig@fcc.gov](mailto:cbreig@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This document is a summary of the Commission's Further Notice of Proposed Rulemaking in IB Docket No. 97-95, RM-8811, adopted May 24, 2001 and released May 31, 2001. The Report and Order in IB Docket 97-95, RM-8811, was adopted December 17, 1998 and released December 23, 1998. 64 FR 2585, January 15, 1999. The full text of this Commission further notice of proposed rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257) 445 12th Street, S.W., Washington, DC and may also be purchased from the Commission copy contractor, International Transcription Services (ITS), Inc., (202) 857-3800, 1231 20th Street, N.W., Washington, D.C. 20036. The full text of this Commission further notice of proposed rulemaking is also available online at <http://www.fcc.gov/ib/docs/finalcir.doc>.

#### Summary of the Further Notice of Proposed Rulemaking

This document seeks comment on proposed modifications to the 36.0-43.5 GHz portion of the band plan that would harmonize the domestic band plan with the international sharing arrangement established at WRC-2000 and promote spectrum efficiency. In general, the Commission proposes to designate the 37.0-40.0 GHz band and the 42.0-42.5 GHz band for wireless services and to designate the 40.0-42.0 GHz band for satellite services.

Specifically, the Commission proposes: (1) To re-designate the 41.0-42.0 GHz band for satellite services and the 37.6-38.6 GHz band for wireless services; and (2) to add a designation to the 40.5-41.0 GHz band for MSS. The Commission also proposes to adopt or to consider several changes to the table of frequency allocations, including the following: (1) Adding a Fixed-Satellite Service (FSS) allocation in the 37.5-37.6 GHz band; (2) shifting the Mobile-Satellite Service (MSS) allocation from the 39.5-40.0 GHz band to the 40.5-41.0 GHz band; (3) adding a primary Government FSS allocation to the 40.5-41.0 GHz band; (4) adding a primary FSS allocation in

the 41.0-42.0 GHz band; (5) considering the addition of fixed and mobile for non-Government use to the 42.5-43.5 GHz band; and (6) providing additional protection to Radio Astronomy in the 42.5-43.5 GHz band. Finally, the Commission proposes to better define the spectrum designations that the Commission chose for the 36.0-51.4 GHz band. The Commission seeks comment on the general approach to the proposed domestic implementation of the U.S. achievements at WRC-2000 and on each of the proposals individually. While the proposed band plan alters the layout of satellite and terrestrial service designations in the band to recognize the U.S. achievements at WRC-2000, the proposed band plan would not change the total spectrum currently designated for use by satellite and terrestrial wireless services.

#### Paperwork Reduction Act Analysis

Because there are no new or modified paperwork requirements in the proposed rules, there is no increase in paperwork burden associated with this rulemaking.

#### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice of Proposed Rulemaking. The Commission will send a copy of the Further Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

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

In this Further Notice of Proposed Rulemaking, the Commission proposes to modify the band segmentation plan governing operations in the 36.0-43.5 GHz band to reflect decisions reached at the 2000 World Radiocommunication Conference (WRC-2000). To provide satellite and terrestrial operators with greater certainty about the scope of operations in this band, the Commission also proposes specific power flux density (PFD) limits on satellite operations in portions of this band. In the Further Notice of Proposed Rulemaking, the Commission proposes to re-designate the 41.0-42.0 GHz band

for satellite services and the 37.6–38.6 GHz band for wireless services and to add a designation to the 40.5–41.0 GHz band for MSS. The Commission also proposes to adopt or consider adopting several changes to the table of frequency allocations, including: Adding an FSS allocation in the 37.5–37.6 GHz band that would give FSS gateways more flexibility by allowing access to an additional 100 megahertz of spectrum; shifting the MSS allocation from the 39.5–40.0 GHz band to the 40.5–41.0 GHz band to meet specific U.S. government requirements, including NATO treaty obligations; adding a primary government FSS allocation to the 40.5–41.0 GHz band to offset the proposal to designate the 37.0–40.0 GHz band for wireless services that would eliminate a portion of the one gigahertz of spectrum that the U.S. government has sought for its use; adding a primary FSS allocation in the 41.0–42.0 GHz band to shift FSS to above 40 GHz, while maintaining the 2 gigahertz of spectrum the Commission has designated for its use; adding non-government fixed and mobile services to the 42.5–43.5 GHz band that is currently available only for U.S. government use; and providing additional protection to Radio Astronomy in the 42.5–43.5 GHz band.

#### B. Legal Basis

The proposed action is taken pursuant to sections 1, 4(i), 301, 302, 303(e), 303(f), 303(g), 303(r), 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 301, 302, 303(e), 303(f), 303(g), 303(r), 304, and 307.

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

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not

dominant in its field.” Nationwide, as of 1992, there were approximately 275,801 small organizations. “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.” As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 81,600 (96 percent) are small entities.

Regarding future satellite use of the bands that are the subject of this rulemaking, the Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit fixed-satellite service applicants or licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is one with \$11.0 million or less in annual receipts. According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified, which could potentially fall into the geostationary or non-geostationary orbit fixed-satellite service category. Of those, approximately 775 reported annual receipts of \$11 million or less and qualify as small entities. Generally, these NGSO and GSO FSS systems cost several millions of dollars to construct and operate. Therefore the NGSO and GSO FSS companies, or their parent companies, rarely qualify under this definition as a small entity. In addition, the proposed rules may affect allocations for the space research (passive) and radio astronomy services. There are no small entities affected by this action because only Federal agencies currently make use of these services.

The Commission notes that the rules proposed in this order provide spectrum for future wireless and satellite licensees and the proposal would not affect any current non-Federal Government users. Regarding future terrestrial fixed and mobile use of the subject bands, the definition of small entity under the SBA rules for the radiotelephone industry provides that a small entity is a radiotelephone company employing no more than 1,500 persons. The 1992 Census of

Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. While the Commission cannot at this time know precisely which entities will ultimately be utilizing all the subject spectrum, the following services are possibilities:

1. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, the Commission will use the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons. The Commission estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

2. *39 GHz Service.* The Commission defined “small entity” for 39 GHz licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. An additional classification for “very small business” was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These regulations defining “small entity” in the context of 39 GHz auctions have been approved by the SBA. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

3. *Local Multipoint Distribution Service.* The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission defined “small entity” for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar year. An additional classification for “very small business” was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These regulations defining “small entity” in the context of LMDS auctions

have been approved by the SBA. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, the Commission concludes that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

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

None. No incumbents are effected by this proposed action. The only service rule changes proposed concern power flux density limits and frequency tolerance and emission limitations, which do not have associated compliance burdens.

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

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.

In this Further Notice of Proposed Rulemaking, the Commission proposes to modify the band segmentation plan governing operations in the 36.0–43.5

GHz band to reflect decisions reached at WRC–2000. The Commission also proposes specific power flux density (PFD) limits on satellite operations in portions of this band.

The Commission is initiating this proceeding to solicit comment on how best to domestically accommodate the changes to the international Radio Regulations adopted at WRC–000. The proposed changes to the domestic allocations seek to maximize efficient use of the radio spectrum by both satellite and terrestrial uses, with minimal changes to the existing Table of Allocations. These changes will provide satellite and terrestrial operators, including small entity operators, with greater certainty about the scope of operations in this band.

Currently, with a proposal primarily attempting to settle spectrum allocation and segmentation issues, there are few alternatives being considered other than frequency parameters. Nevertheless, the Commission notes that, with respect to power flux density limits, the Commission considered the alternative of delaying the implementation of such limits until after the outcome of WRC–2003 to take into account further studies regarding the issue taking place at the International Telecommunication Union. However, the Commission rejected this proposal, concluding that U.S. terrestrial licensees, including small entities, would benefit greatly in the designing and deployment of their systems by knowing with certainty the limits that would apply in the United States. Similarly, the Commission considered and rejected alternative band sharing and hard segmentation plans because those alternatives might be overly burdensome to licensees, including small entity operators, or might overly restrict flexible future uses of the bands.

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

None.

**List of Subjects**

*47 CFR Part 2*

Radio, Telecommunications.

*47 CFR Part 25*

Communications common carriers, Radio, Satellites, Telecommunications.

*47 CFR Part 101*

Radio.

Federal Communications Commission.

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

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2, 25, and 101 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 76, 77, and 78.

b. Add, under International Footnotes, I. New “S” Numbering Scheme, footnotes S5.551AA and S5.551G in numerical order and remove footnotes S5.551.B, S551.C, S551.D, and S551.E.

c. Add United States footnotes USXXX and USYYY in numerical order.

d. Revise Federal Government footnote G117.

The revisions and additions read as follows:

**§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

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36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) S5.149	36-37 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263 US342		
37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth) S5.547	37-37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)		
37.5-38 FIXED FIXED-SATELLITE (space-to-Earth) S5.551AA MOBILE SPACE RESEARCH (space-to-Earth) Earth exploration-satellite (space-to-Earth) S5.547	37.5-38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE		Satellite Communications (25)
38-39.5 FIXED FIXED-SATELLITE (space-to-Earth) S5.551AA MOBILE Earth exploration-satellite (space-to-Earth)	38-38.6 FIXED MOBILE 38.6-39.5		Auxiliary Broadcasting (74) Fixed Microwave (101) Satellite Communications (25)
S5.547	US291		
39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) S5.551AA MOBILE MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite (space-to-Earth) S5.547	39.5-40 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US291 USYYY G117		

40-50.2 GHz (EHF)			Page 77	
International Table		United States Table		
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government
40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth)			40-40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space) Earth exploration-satellite (space-to-Earth) G117	40-40.5 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth)
40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING-BROADCASTING-SATELLITE Mobile Mobile-satellite (space-to-Earth)	40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING-BROADCASTING-SATELLITE Mobile Mobile-satellite (space-to-Earth)	40.5-41 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING-BROADCASTING-SATELLITE Mobile	40.5-41 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth)	40.5-41 FIXED-SATELLITE (space-to-Earth) BROADCASTING-BROADCASTING-SATELLITE Mobile Mobile-satellite (space-to-Earth) Fixed
S5.547	S5.547	S5.547	US211 G117	US211
41-42.5 FIXED FIXED-SATELLITE (space-to-Earth) S5.551AA BROADCASTING-BROADCASTING-SATELLITE Mobile			41-42.5 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING-BROADCASTING-SATELLITE MOBILE	41-42 FIXED FIXED-SATELLITE (space-to-Earth) BROADCASTING-BROADCASTING-SATELLITE MOBILE
S5.547 S5.551F S5.551G			US211 USXXX	US211 USXXX US211 USXXX

Satellite Communications (25)

<p>42.5-43.5 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE except aeronautical mobile RADIO ASTRONOMY</p>	<p>42.5-43.5 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile RADIO ASTRONOMY</p>	<p>42.5-43.5 RADIO ASTRONOMY</p>	
<p>S5.149 S5.547</p>	<p>US342</p>	<p>US342</p>	
<p>43.5-47 MOBILE S5.553 MOBILE-SATELLITE RADIO NAVIGATION RADIO NAVIGATION-SATELLITE</p>	<p>43.5-45.5 MOBILE-SATELLITE (Earth-to-space) FIXED-SATELLITE (Earth-to-space) G117</p>	<p>43.5-45.5</p>	
<p>S5.554</p>	<p>45.5-46.9 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO NAVIGATION-SATELLITE S5.554</p>	<p>MOBILE-SATELLITE (Earth-to-space) RADIO NAVIGATION-SATELLITE</p>	<p>RF Devices (15)</p>
<p>47-47.2 AMATEUR AMATEUR-SATELLITE</p>	<p>46.9-47 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO NAVIGATION-SATELLITE</p>	<p>46.9-47 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO NAVIGATION-SATELLITE FIXED S5.554</p>	
<p>47.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE</p>	<p>47-48.2</p>	<p>47-47.2 AMATEUR AMATEUR-SATELLITE 47.2-48.2 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE US264</p>	<p>Amateur (97)</p>
<p>S5.149 S5.340 S5.552A S5.555</p>	<p>48.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) US297 MOBILE US264 S5.555 US342</p>	<p>FIXED-SATELLITE (Earth-to-space) US297</p>	<p>Satellite Communications (25)</p>

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**International Footnotes**

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**I. New "S" Numbering Scheme**

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S5.551AA In the bands 37.5–40 GHz and 42–42.5 GHz, non-geostationary-satellite systems in the fixed-satellite service should employ power control or other methods of downlink fade compensation of the order of 10 dB, such that the satellite transmissions are at power levels required to meet the desired link performance while reducing the level of interference to the fixed service. The use of downlink fade compensation methods are under study by ITU-R (see Resolution 84 (WRC-2000)).

\* \* \* \* \*

S5.551G In order to protect the radio astronomy service in the band 42.5–43.5 GHz, the aggregate power flux-density in the 42.5–43.5 GHz band produced by all the space stations in any non-geostationary-satellite system in the fixed-satellite service (space-to-Earth) or in the broadcasting-satellite service (space-to-Earth) system operating in the 41.5–42.5 GHz band shall not exceed –167 dB(W/m<sup>2</sup>) in any 1 MHz band at the site of a radio astronomy station for more than 2% of the time. The power flux-density in the band 42.5–43.5 GHz produced by any geostationary station in the fixed-satellite service (space-to-Earth) or in the broadcasting-satellite service (space-to-Earth) operating in the band 42–42.5 GHz shall not exceed –167 dB(W/m<sup>2</sup>) in any 1 MHz band at the site of a radio astronomy station. These limits are provisional and will be reviewed in accordance with Resolution 128 (Rev.WRC-2000).

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**United States (US) Footnotes**

\* \* \* \* \*

USXXX To protect the radio astronomy service in the band 42.5–43.5 GHz, the aggregate power flux-density in the 42.5–43.5 GHz band produced by all the space stations in any non-geostationary-satellite system in the fixed-satellite service (space-to-Earth) operating in the 41.5–42.0 GHz band or in the broadcasting-satellite service (space-to-Earth) system operating in the 41.5–42.5 GHz band shall not exceed –167 dB(W/m<sup>2</sup>) in any 1 MHz band at the site of a radio astronomy station for more than 2% of the time. The power flux-density in the band 42.5–43.5 GHz produced by any geostationary station in the broadcasting-satellite service (space-to-Earth) operating in the band 42–42.5 GHz shall not exceed –167 dB(W/m<sup>2</sup>) in any 1 MHz band at the site of a radio astronomy station.

USYYY In the band 39.5–40 GHz, Government earth stations in the mobile-satellite service (space-to-Earth) shall not claim protection from non-Government stations in the fixed and mobile services. S5.43A does not apply.

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**Federal Government (G) Footnotes**

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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, 39.5–41 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.

\* \* \* \* \*

**PART 25—SATELLITE COMMUNICATIONS**

3. The authority citation for part 25 continues to read as follows:

**Authority:** 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

4. Section 25.202(a)(1) is revised as follows:

**§ 25.202 Frequencies, frequency tolerance and emission limitations.**

(a)(1) *Frequency band.* The following frequencies are available for use by the fixed-satellite service. Precise frequencies and bandwidths of emission shall be assigned on a case-by-case basis. The table follows:

Space-to-earth (GHz)
3.7–4.2 <sup>1</sup>
10.7–10.95 <sup>1 12</sup>
10.95–11.2 <sup>1 2 12</sup>
11.2–11.45 <sup>1 12</sup>
11.45–11.7 <sup>1 2 12</sup>
11.7–12.2 <sup>3</sup>
12.2–12.7 <sup>13</sup>
18.3–18.58 <sup>1 10</sup>
18.58–18.8 <sup>6 10 11</sup>
18.8–19.3 <sup>7 10</sup>
19.3–19.7 <sup>8 10</sup>
19.7–20.2 <sup>10</sup>
37.5–40 <sup>14</sup>
40–42

Earth-to-space (GHz)
5.925–6.425 <sup>1</sup>
12.75–13.15 <sup>1 12</sup>
13.2125–13.25 <sup>1 12</sup>
13.75–14 <sup>4 12</sup>
14–14.2 <sup>5</sup>
14.2–14.5
17.3–17.8 <sup>9</sup>
27.5–29.5 <sup>1</sup>
29.5–30
48.2–50.2

<sup>1</sup> This band is shared coequally with terrestrial radiocommunication services.

<sup>2</sup> Use of this band by geostationary satellite orbit satellite systems in the fixed-satellite service is limited to international systems; *i.e.*, other than domestic systems.

<sup>3</sup> Fixed-satellite transponders may be used additionally for transmissions in the broadcasting-satellite service.

<sup>4</sup> This band is shared on an equal basis with the Government radiolocation service and grandfathered space stations in the Tracking and Data Relay Satellite System.

<sup>5</sup> In this band, stations in the radionavigation service shall operate on a secondary basis to the fixed-satellite service.

<sup>6</sup> The band 18.58–18.8 GHz is shared coequally with existing terrestrial radiocommunication systems until June 8, 2010.

<sup>7</sup> The band 18.8–19.3 GHz is shared coequally with terrestrial radiocommunication services, until June 8, 2010. After this date, the sub-band 19.26–19.3 GHz is shared coequally with existing terrestrial radiocommunication systems.

<sup>8</sup> The use of the band 19.3–19.7 GHz by the fixed-satellite service (space-to-Earth) is limited to feeder links for the mobile-satellite service.

<sup>9</sup> The use of the band 17.3–17.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for broadcasting-satellite service, and the sub-band 17.7–17.8 GHz is shared co-equally with terrestrial fixed services.

<sup>10</sup> This band is shared co-equally with the Federal Government fixed-satellite service.

<sup>11</sup> The band 18.6–18.8 GHz is shared coequally with the non-Federal Government and Federal Government Earth exploration-satellite (passive) and space research (passive) services.

<sup>12</sup> Use of this band by non-geostationary satellite orbit systems in the fixed-satellite service is limited to gateway earth station operations.

<sup>13</sup> Use of this band by the fixed-satellite service is limited to non-geostationary satellite orbit systems.

<sup>14</sup> Use of this band by the fixed-satellite service is limited to "gateway" earth station operations, provided the licensee under this part obtains a license under part 101 of this chapter or an agreement from a part 101 licensee for the area in which an earth station is to be located. Satellite earth station facilities in this band may not be ubiquitously deployed and may not be used to serve individual consumers.

\* \* \* \* \*

5. Section 25.208 is amended by adding new paragraphs (n), (o), (p), (q) and (r) to read as follows:

**§ 25.208 Power flux density limits.**

\* \* \* \* \*

(n)(1) In the band 37.5–40.0 GHz, the power flux-density at the Earth's surface produced by emissions from a non-geostationary space station for all conditions and for all methods of modulation shall not exceed the following values:

(i) –132 dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;

(ii) –132 + 0.75 (δ – 5) dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival δ (in degrees) between 5 and 25 degrees above the horizontal plane; and

(iii) –117 dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 25 and 90 degrees above the horizontal plane.

(2) These limits relate to the power flux-density that would be obtained under assumed free-space propagation conditions. These PFD limits may be exceeded by up to 12 dB under fade conditions.

(o)(1) In the band 37.5–40.0 GHz, the power flux-density at the Earth's surface produced by emissions from a geostationary space station for all conditions and for all methods of modulation shall not exceed the following values:

- (i)  $-139$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;
- (ii)  $-139 + 4/3(\delta - 5)$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival  $\delta$  (in degrees) between 5 and 20 degrees above the horizontal plane;
- (iii)  $-119 + 0.4(\delta - 20)$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival  $\delta$  (in degrees) between 20 and 25 degrees above the horizontal plane; and
- (iv)  $-117$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 25 and 90 degrees above the horizontal plane.

(2) These limits relate to the power flux-density that would be obtained under assumed free-space propagation conditions. These PFD limits may be exceeded by up to 12 dB under fade conditions.

(p)(1) In the band 40.0–40.5 GHz, the power flux-density at the Earth's surface produced by emissions from a space station for all conditions and for all methods of modulation shall not exceed the following values:

- (i)  $-115$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;
- (ii)  $-115 + 0.5(\delta - 5)$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival  $\delta$  (in degrees) between 5 and 25 degrees above the horizontal plane; and
- (iii)  $-105$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 25 and 90 degrees above the horizontal plane.

(2) These limits relate to the power flux-density that would be obtained under assumed free-space propagation conditions.

(q)(1) In the band 40.5–42.0 GHz, the power flux density at the Earth's surface produced by emissions from a non-geostationary space station for all conditions and for all methods of modulation shall not exceed the following values:

- (i)  $-115$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;
- (ii)  $-115 + 0.5(\delta - 5)$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival (in degrees) between 5 and 25 degrees above the horizontal plane; and
- (iii)  $-105$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 25 and 90 degrees above the horizontal plane.

(2) These limits relate to the power flux density that would be obtained

under assumed free-space propagation conditions.

(r)(1) In the band 40.5–42.0 GHz, the power flux-density at the Earth's surface produced by emissions from a geostationary space station for all conditions and for all methods of modulation shall not exceed the following values:

- (i)  $-120$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 0 and 5 degrees above the horizontal plane;
- (ii)  $-120 + (\delta - 5)$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival  $\delta$  (in degrees) between 5 and 15 degrees above the horizontal plane;
- (iii)  $-110 + 0.5(\delta - 15)$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival  $\delta$  (in degrees) between 15 and 25 degrees above the horizontal plane; and
- (iv)  $-105$  dB(W/m<sup>2</sup>) in any 1 MHz band for angles of arrival between 25 and 90 degrees above the horizontal plane.

(2) These limits relate to the power flux-density that would be obtained under assumed free-space propagation conditions.

#### PART 101—FIXED MICROWAVE SERVICES

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

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

7. Section 101.147 is amended in paragraph (a) by revising the entry for 38,600–40,000 MHz in the listing of assignments and adding a new note (31) to read as follows:

##### § 101.147 Frequency assignments.

(a) \* \* \*

38,600–40,000 MHz (4)(31)

\* \* \* \* \*

Notes

\* \* \* \* \*

(31) Frequencies in this band are shared with stations in the fixed-satellite service, subject to the conditions specified in footnote 14 in 47 CFR 25.202(a)(1).

\* \* \* \* \*

[FR Doc. 01–15972 Filed 7–3–01; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA 01–1482; MM Docket No. 01–130, RM–10147; MM Docket No. 01–131, RM–10148; MM Docket No. 01–132, RM–10149]

##### Radio Broadcasting Services; Batesville, TX; Benjamin, TX; and Junction, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes new allotments to Batesville, TX; Benjamin, TX; and Junction, TX. The Commission requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 250A at Batesville, Texas, as the community's first local aural transmission service. Channel 250A can be allotted to Batesville in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.9 kilometers (8.0 miles) northeast of Batesville. The coordinates for Channel 250A at Batesville are 29–01–34 North Latitude and 99–30–59 West Longitude. Since Batesville is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested. See **SUPPLEMENTARY INFORMATION**.

**DATES:** Comments must be filed on or before August 13, 2001, and reply comments on or before August 28, 2001.

**ADDRESSES:** Federal Communications Commission, Washington, DC, 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Charles Crawford, 4553 Bordeaux Ave., Dallas, Texas 75205.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–130; MM Docket No. 01–131; and MM Docket No. 01–132, adopted June 13, 2001, and released June 22, 2001. The full text of this Commission decision 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. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.