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

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Executive Associate Director, Mitigation Directorate.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 95–18; FCC 97–93]

2 GHz for Use by the Mobile Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission allocates 70 megahertz of spectrum at 1990–2025 MHz and 2165–2200 MHz to the Mobile-Satellite Service (MSS), to become available January 1, 2000. In order to make this spectrum available for MSS use, we are modifying the current Broadcast Auxiliary Service (BAS), Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) allocation at 1990–2110 MHz by providing an allocation instead at 2025–2130 MHz and proposing to rechannelize these latter services at 2 GHz, from seven channels of 17- and 18-megahertz bandwidths to seven channels of 15-megahertz bandwidth. This allocation will allow the United States to participate in global MSS systems and realize the benefits to consumers of such systems. The 70 megahertz will also provide sufficient bandwidth for the operation of multiple service providers.

EFFECTIVE DATE: May 22, 1997.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Report and Order*, ET Docket 95–18, FCC 97–93, adopted March 13, 1997, and released March 14, 1997. 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, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of the First Report and Order

1. In the Report and Order, the Commission allocates 70 megahertz of spectrum at 1990–2025 MHz and 2165–2200 MHz to the Mobile-Satellite Service (MSS), effective January 1, 2000. In order to make this spectrum available for MSS use, we are modifying the current Broadcast Auxiliary Service (BAS), Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) allocation at 1990–2110 MHz by providing an allocation instead at 2025–2130 MHz and proposing to rechannelize these latter services at 2 GHz, from seven channels of 17- and 18-megahertz bandwidths to seven channels of 15-megahertz bandwidth. We are proposing reaccommodation of existing BAS and Fixed Service (FS) operations in the 1990–2025 MHz, 2110–2130 MHz, and 2165–2200 MHz bands in accordance with the policies we established in our Emerging Technologies proceeding.[1] We defer action on technical parameters and licensing issues for MSS in the 2 GHz band. Finally, we dispose of a related pioneer's preference request filed by Celsat America, Inc. (Celsat).

A. Spectrum Allocation

2. We find that it is in the public interest to allocate spectrum at 2 GHz to MSS. We note that the Radiocommunication Sector of the ITU estimates that up to 206 megahertz of additional spectrum will be needed for MSS by the year 2005. We believe that MSS would also provide another option for mobile communications, and would provide communications to underserved areas, such as rural and remote areas where PCS, cellular, and other mobile services are less feasible. There is clearly substantial interest in providing MSS communications in the 2 GHz band, as demonstrated by the ten commenters who indicated they plan to provide mobile satellite service in the 2 GHz band.

3. We further find that it is in the public interest to allocate the full 70 megahertz at 1990–2025 MHz (uplink) and 2165–2200 MHz (downlink) to MSS as proposed, rather than a lesser amount. Because of the projected need for more MSS spectrum internationally, WRC–95 reallocated the 2010–2025 MHz portion to MSS in Region 2, effective January 1, 2005. As we stated in the NPRM[2], we believe that any 2 GHz MSS allocation should be as consistent as possible with the WARC–92 and WRC–95 allocations. This will help ensure truly universal service. In making our domestic allocation, therefore, we are supporting international plans for MSS in the 2 GHz band. We believe that this allocation will allow the United States to participate in global MSS systems and realize the benefits to consumers of such systems. A 70 megahertz will also provide sufficient bandwidth for the operation of multiple service providers.

4. Much of the spectrum for the proposed reallocation was identified as appropriate spectrum for reallocation to emerging technologies, such as MSS, in our Emerging Technologies proceeding. Some parties complain of scarcity of replacement spectrum in the 6 and 11 GHz bands for 2 GHz incumbents. In our Emerging Technologies proceeding, however, we reallocated the 1850–1990, 2110–2150, and 2160–2200 MHz bands from FS to emerging technologies, a total of 220 megahertz. We made a total of 2,480 megahertz of spectrum available for relocated FS licensees in the 4, 6, 10, and 11 GHz bands. Even though some of the higher-frequency spectrum is shared with other services, we believe that there is enough spectrum in those bands to accommodate relocation of the incumbents of 220 megahertz of spectrum, including the existing 2110–2130 MHz and 2165–2200 MHz FS licensees.

B. Relocation of Existing 1990–2025 MHz Band Services

5. The 1990–2025 MHz band is part of the 1990–2110 MHz band that is currently allocated to BAS, CARS, and LTTS. For this proceeding, we will collectively term these services BAS, and any changes in our regulatory structure applicable to BAS will be equally applicable to CARS and LTTS. We will treat CARS and LTTS in the same manner as BAS because both CARS and LTTS are authorized users of the 1990–2025 MHz band, and have invested in equipment to use the band, as has BAS. In the NPRM, we observed

[1] *See* In re Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (Emerging Technologies), ET Docket 92–9, 57 FR 5993, February 19, 1992; First Report and Order and Second NPRM of Proposed Rule Making, FCC 92–437, 7 FCC Rcd. 6886 (1992), 57 FR 49020, October 29, 1992; Second Report and Order, FCC 93–350, 8 FCC Rcd 6495 (1993), 58 FR 49220, September 22, 1993; Third Report and Order and Memorandum Opinion and Order, FCC 93–351, 8 FCC Rcd 6589 (1993), 58 FR 46547, September 2, 1993; Memorandum Opinion and Order, FCC 94–60, 9 FCC Rcd 1943 (1994), 59 FR 19642, April 25, 1994; Second Memorandum Opinion and Order, FCC 94–303, 9 FCC Rcd. 7797 (1994), 59 FR 65501, December 20, 1994.

[2] In re Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, ET Docket No. 95–18, Notice of Proposed Rule Making, 10 FCC Rcd 3230, 3233 (1995), 60 FR 11644, March 2, 1995.

that sharing between MSS and BAS is not feasible. We therefore proposed to add 35 megahertz of spectrum to the upper end of the BAS band at 2110–2145 MHz and to relocate BAS incumbents currently occupying 1990–2025 MHz to 2110–2145 MHz. This proposal would provide BAS with the same amount of spectrum it currently has. As possible alternatives, we inquired into the feasibility of requiring BAS incumbents to adopt more spectrally efficient technology to operate in the remaining 85 megahertz at 2025–2110 MHz, or into the feasibility of moving all BAS operations to a higher frequency band. We further proposed requiring MSS providers to bear the cost of relocating the BAS incumbents.

6. Based on the record, we conclude that it is necessary to relocate BAS in order to accommodate MSS in the 1990–2025 MHz band. As we indicated in the NPRM, and the commenting parties agree, BAS and MSS cannot share the spectrum without unacceptable mutual interference. Therefore, to reallocate the 1990–2025 MHz band to MSS, it will be necessary to clear this band of BAS.

7. We reject Motorola's suggestion that we remove BAS from the 2 GHz band entirely. We agree with commenters who point out that the 2 GHz band has ideal propagation characteristics for mobile services including BAS, which must transmit along unengineered paths from unpredictable locations.

8. BAS currently operates with 17-and 18-megahertz wide channels. Comments from both MSS interests and broadcasting interests lead us to believe that BAS may not need channels this wide, especially in light of the fact that advances in radio technology since the current channelization of BAS was established could make it possible for BAS to transmit contribution-quality signals in somewhat narrower channels. On the other hand, we do not agree with the position of the MSS community that we should reduce BAS to 12-and 13-megahertz channels and mandate a switch to digital transmission. We believe that a reduction of five megahertz per channel is too severe to permit FM analog contribution-quality BAS signals, and we do not believe that this is the appropriate proceeding to determine whether or when BAS should convert to digital format in conjunction with the development of digital television. Some representatives of both industries, however, agree that BAS may be able to operate with 15-megahertz channels. We conclude that the best solution for BAS relocation is to reduce the BAS band at 2 GHz from 120 to 105 megahertz, and relocate the band from 1990–2110 MHz to 2025–2130 MHz. This would allow the resultant BAS band to be divided into seven channels of 15 megahertz each, thus retaining the current capacity of the BAS band. This solution is more spectrum-efficient than our primary proposal in the NPRM of simply relocating the 120-megahertz BAS band upward by 35 megahertz, and also more feasible than our alternate proposal of reducing the BAS band to 85 megahertz. Further, this solution will require the relocation of FS users from only 20 megahertz at 2110–2130 MHz, rather than 35 megahertz at 2110–2145 MHz, as in our primary proposal. However, we merely note here that a BAS band of 105 megahertz will allow seven BAS channels. Rather than mandating channels in the new band, we explore possible alternate channelizations in the Further Notice of Proposed Rule Making (Further NPRM), released March 14, 1997.

9. Relocating BAS will require retuning of BAS equipment, and in many if not most cases replacing equipment or retrofitting equipment to allow improved intermediate frequency bandpass and adjacent-channel rejection, as pointed out by SBE. Because the new BAS band is in the same region of the spectrum as the current BAS band, we anticipate that no new facilities will need to be constructed. We do not foresee that there will be any need physically to relocate or rebuild any facilities. We are confident that the reaccommodation of BAS operations can be accomplished by simply replacing or retrofitting current equipment. The cost of all steps necessary for clearing the 1990–2025 MHz band for MSS operations will be borne by MSS operators. The Further NPRM proposes rules and policies for clearing the 1990–2025 MHz band for MSS.

C. Relocation of Existing 2165–2200 MHz Band Services

10. The 2165–2200 MHz band is currently allocated to private and commercial FS, but has been reserved for emerging technologies, such as MSS. In the NPRM, we stated that five higher bands have already been allocated during our Emerging Technologies proceeding for reaccommodation of the FS incumbents. We inquired whether sharing between MSS and FS would be feasible, and whether FS incumbents should be relocated. Finally, we proposed to require that MSS pay the costs of relocating FS incumbents, where necessary. The majority of commenters advocate applying the Emerging Technologies rules adopted in ET Docket 92–9.

11. We will provide for MSS sharing with, and any necessary relocation of, FS incumbents in accordance with the policies set forth in our Emerging Technologies proceeding. It is our policy to encourage spectrum sharing between emerging technologies services and incumbent 2 GHz FS operations whenever technically feasible. Our rules do not require relocation of incumbents unless and until the incumbents will receive harmful interference from, or cause harmful interference to, a new technology service. COMSAT and LQP have provided studies indicating that sharing is possible on at least a short-term basis. At the same time, Motorola and some FS service representatives have criticized these studies, claiming that they fail to account for important factors. MSS and FS industry groups are currently working under the auspices of TIA to resolve differences over sharing models and adopt a set of mutually agreed sharing criteria. We encourage these efforts, and will consider the product of these efforts for inclusion in our rules as the standard for evaluating the likelihood of unacceptable MSS/FS interference. MSS cannot begin operations until its spectrum is cleared of all FS licensees who would receive harmful interference from MSS, but MSS will not be required to relocate any FS incumbent with whom it can successfully share spectrum. If a specific FS operation does not receive unacceptable levels of interference until several years after the beginning of MSS operations, MSS will not be required to relocate the FS licensee until that interference occurs. Where sharing proves infeasible, however, we will allow the MSS operator to relocate the incumbent FS operation to bands above 5 GHz. We will address the precise mechanism for relocation in the Further NPRM.

D. Technical Parameters for MSS Systems

12. We are deferring consideration of these technical issues until after we have accepted applications for system licenses in these bands. We are not persuaded by arguments for or against restricting use of the spectrum exclusively to either GSO or LEO systems. Either system can provide global coverage, and while a GSO system offers many advantages for domestic-only systems, we do not wish to rule out innovative designs before they are submitted. Further, as Motorola pointed out, in our proceeding to license Big LEO systems, we concluded that there was no support for a finding

that CDMA is inherently superior to TDMA as an access method. We believe that the market will be the best judge of the relative desirability of different access methods. We also believe that we will be in a better position to determine whether and what power limits we should adopt and to evaluate Celsat's proposal for a hybrid PCS/MSS system after we have received license applications and supporting documentation. Finally, we will address feeder link spectrum in proceedings addressing those bands.

E. Licensing by Competitive Bidding

13. We will defer the decision on whether to license MSS in these bands by competitive bidding until after we have accepted applications for licensing. As many commenters point out, we will not know if there is mutual exclusivity until we receive license applications. At that point, we will decide whether engineering solutions or other methods may solve mutual exclusivity, and if not, precisely how we will structure auctions.

F. Disposition of Celsat's Pioneer's Preference Request

14. Our pioneer's preference rules were established to provide a means of extending preferential treatment in our licensing processes to parties that demonstrate their responsibility for developing new communications services and technologies. A party awarded a pioneer's preference receives the right to obtain a license to operate in the service that it has innovated, using the design and technologies upon which its award is based. The pioneer's preference rules ensure that innovators have an opportunity to participate either in new services which they take a lead in developing or in existing services which they substantially enhance. A pioneer's preference applicant must persuade us that its proposal is innovative, has merit, and that it is the original developer of the innovation at issue.

15. Under the pioneer's preference rules, a necessary condition for the award of a preference is that the applicant demonstrate that it has developed the capabilities or possibilities of a new technology or service, or demonstrate that it has brought the technology or service to a more advanced or effective state. A preference is granted only if the service rules adopted are a reasonable outgrowth of the applicant's proposal and lend themselves to the grant of a preference. The applicant must also demonstrate that the new technology or service is technically feasible by submitting either the summarized results of an experiment or a technical showing. Finally, preferences are not granted casually. Rather, each applicant has a significant burden to persuade us that its proposal is innovative.

16. We deferred action on Celsat's pioneer's preference request until final action had been taken in the pioneer's preference review proceeding, ET Docket No. 93–266. Action has now been completed in that proceeding; accordingly, we herein take action on Celsat's pioneer's preference request. We find that Celsat's pioneer's preference request fails to meet the pioneer's preference criteria. We find Celsat's proposal insufficiently innovative to warrant a pioneer's preference, and we find that Celsat has not demonstrated the technical feasibility of its proposal.

Final Regulatory Flexibility Analysis

17. As required by Section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice of Proposed Rule Making (NPRM) in ET Docket No. 95–18.[3] The Commission sought written public comment on the proposals in the NPRM, including the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended by the Contract with America Advancement Act of 1996.[4]

A. Need for and Objectives of the Proposed Rule

18. In this Report and Order the Commission allocates 70 megahertz of spectrum for use by the Mobile-Satellite Service (MSS). The proposals adopted herein comport with international actions at the 1995 World Radiocommunications Conference and provide needed spectrum for mobile satellite communications.

B. Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

19. No comments were submitted in direct response to the IRFA. The Association for Maximum Service Television, *et al* (MSTV) and Creative Broadcast Techniques, Inc. and the New Vision Group, Inc. (CBT) assert that licensees in the Broadcast Auxiliary Service (BAS) and the Local Transmission Television Service (LTTS), many of whom may be small entities, must be compensated for the costs of relocation, if they are required to relocate from spectrum being reallocated to MSS.[5] Similarly, The American Petroleum Institute (API), the Association of American Railroads (AAR), BellSouth Corporation (BellSouth), and UTC insist that Fixed Service (FS) licensees, many of whom may be small entities, must be compensated for the costs of relocation, if they are required to relocate from spectrum being reallocated to MSS.[6]

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

20. For the purposes of this Report and Order, the RFA defines a small business as identical to a small business concern under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[7] Under the Small Business Act, a small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[8] The rules adopted in this Report and Order will apply to BAS, LTTS, Cable Television Relay Service (CARS), and FS licensees, and satellite communications companies.

(a) BAS, LTTS, and Cable Television Relay Service (CARS) Licensees

This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). It also includes Instructional Television Fixed Service stations, which are used to relay programming to the home or office, similar to that provided by the cable television systems. The Commission has not developed a definition of small entities applicable to Broadcast Auxiliary Service, Local Television Transmission Service or Cable Television Relay Service. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. SBA has

[3] In re Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, ET Docket No. 95–18, NPRM of Proposed Rule Making, 10 FCC Rcd 3230, 3233 (1995), 60 FR 11644, March 2, 1995.

[4] Public Law 104–121, 110 Stat. 847 (1996) (Subtitle II of the Small Business Regulatory Enforcement Fairness Act of 1996; 5 U.S.C. § 601 *et seq).*

[5] See MSTV Comments at 17; CBT Comments at 7.

[6] *See* API Comments at 12–14; AAR Comments at 2–5; APCO Comments at 2–3; BellSouth Comments at 3–4; UTC Comments at 1–2.

[7] *See* 5 U.S.C. § 601(3).

[8] 15 U.S.C. § 632.

defined a small business for Standard Industrial Classification (SIC) category 4812 (Radiotelephone Communications) to be small entities when they have fewer than 1500 employees.[9]

(b) Fixed Service Licensees

This Report and Order pertains to fixed service microwave licensees. The Commission has not developed a definition of small entities applicable to Fixed Service microwave licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons. Census Bureau data indicates that there are 1,164 radiotelephone companies with fewer than 1500 employees, that might qualify as small entities if they are independently owned and operated. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small businesses that would be affected by this action.

(c) Satellite Communications Services

The Commission has not developed a definition of small entities applicable to satellite communications 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.[10] According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities.[11]

21. Describing and estimating the number of small entities these rules will impact is made difficult by a number of factors. First of all, information from the Satellite Industry Association and financial analysts who specialize in this market indicate that there are few firms that could be traditionally thought of as small businesses. They point to to the fact that this is a capital intensive industry that requires ''significant partner funding and/or contract commitments prior to approaching commercial financing sources.'' [12]

22. There are however, a number of firms who identify themselves as small entities including: Columbia Corp., CTA, Mobile Communications Holdings, Inc. (MCHI), Orion, TelQuest Ventures, L.L.C., and possibly others. Several of these companies have submitted comments to the Commission's Section 257 proceeding to identify and eliminate market entry barriers for small businesses.[13]

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

23. The rules adopted in this Report and Order do not specify details of the process by which BAS, LTTS, CARS, and FS licensees will be relocated. Therefore, the rules impose no additional reporting, recordkeeping or other compliance requirements.

E. Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

24. MSS licensees in the 2 GHz band will be required to bear the cost of relocating and rechannelizing BAS, LTTS, and CARS licensees in the 2 GHz band. Any MSS licensee in the 2 GHz band will be required to bear the cost of relocating any FS licensee with which it cannot share spectrum or which must be relocated to clear spectrum for BAS. The Commission considered the alternative of requiring BAS, LTTS, CARS, and FS licensees to bear the cost of relocating themselves, but rejected this alternative as unfairly burdensome on BAS, LTTS, CARS, and FS licensees.

F. Report to Congress

25. The Commission will send a copy of this FRFA, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA is published in this document.

List of Subjects in 47 CFR Part 2

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

Part 2 of Title 47 of the Code of Federal Regulations is amended 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: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303 and 307, unless otherwise noted.

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

a. Remove the existing entries for 1980–2200 MHz.

b. Add entries in numerical order for 1980–2200 MHz.

c. In the International Footnotes under heading I, add in numerical order footnotes S5.388, S5.389A, S5.389B, S5.389C, S5.389D, S5.389E, S5.389F, S5.391, S5.392, and S5.392A.

d. In the International Footnotes under heading II, remove footnotes 747A and 750A.

e. Revise non-Government footnotes NG118 and NG153.

The revisions and additions read as follows:

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[9] 13 CFR 121.201 Standard Industrial Classification (SIC) Code 4812.

[10] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[11] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995).

[12] *See* ''Financing the Final Frontier: Funding Commercial Space Activities'' Bear Stearns, Global Space & Satellite Finance Report.

[13] *See* GN Docket 96–113.

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
1980–1990 FIXED MOBILE MOBILE–SATELLITE (Earth-to-space) S5.388 S5.389A S5.389F	1980–1990 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) S5.388 S5.389A S5.389B	1980–1990 FIXED MOBILE MOBILE–SATELLITE (Earth-to-space) S5.388 S5.389A	1980–1990	1980–1990 FIXED MOBILE	FIXED MICROWAVE (101) MOBILE PERSONAL COMMUNICATIONS (24)	
1990–2010 FIXED MOBILE MOBILE–SATELLITE (Earth-to-space) S5.388 S5.389A S5.389F	1990–2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) S5.388 S5.389A	1990–2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) S5.388 S5.389A	1990–2010 US111	1990–2010 MOBILE-SATELLITE (Earth-to-space) US111	AUXILIARY BROADCASTING (74) CABLE TELEVISION (78) SATELLITE COMMUNICATIONS (25)	
2010–2025 FIXED MOBILE S5.388	2010–2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) S5.388 S5.389C S5.389D S5.389E	2010–2025 FIXED MOBILE S5.388	2010–2025 US111	2010–2025 MOBILE-SATELITTE (Earth-to-space) SATELLITE COMMUNICATIONS (25) US111	AUXILLIARY BROADCASTING (74) CABLE TELEVISION (78) SATELLITE COMMUNICATIONS (25)	
2025–2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE S5.391 SPACE RESEARCH (Earth-to-space) (space-to-space) S5.392	2025–2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE S5.391 SPACE RESEARCH (Earth-to-space) (space to space) S5.392	2025–2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPORATION-SATELLITE (Earth-to-space) (space-to space) FIXED MOBILE S5.391 SPACE RESEARCH (Earth-to-space) (space-to-space) S5.392	2025–2110 US90 US111 US219 US222	2025–2110 FIXED MOBILE US90 US111 US219 US222 NG23 NG118	AUXILIARY BROADCASTING (74) CABLE TELEVISION (78)	
2110–2120 FIXED	2110–2120 FIXED	2110–2120 FIXED	2110–2120	2110–2120 FIXED	AUXILIARY BROADCASTING (74)	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
MOBILE SPACE RESEARCH (deep space) (Earth-to-space) S5.388	MOBILE SPACE RESEARCH (deep space) (Earth-to-space) S5.388	MOBILE SPACE RESEARCH (deep space) (Earth-to-space) S5.388	 US111 US252	MOBILE US111 US252 NG23 NG118	CABLE TELEVISION (78) FIXED MICROWAVE (101) PUBLIC MOBILE (22)	
2120–2130 FIXED MOBILE S5.388	2120–2130 FIXED MOBILE Moible-Satellite (space-to-Earth) S5.388	2120–2130 FIXED MOBILE S5.388	2120–2130	2120–2130 FIXED MOBILE NG23 NG118	 AUXILIARY BROADCASTING (74) CABLE TELEVISION (78) FIXED MIRCOWAVE (101) PUBLIC MOBILE (22)	
2130–2150 FIXED MOBILE S5.388	2130–2150 FIXED MOBILE Mobile-Satellite (space-to-Earth) S5.38	2130–2150 FIXED MOBILE S5.388	2130–2150	2130–2150 FIXED MOBILE NG23 NG153	 FIXED MICROWAVE (101) PUBLIC MOBILE (22)	EMERGING TECHNOLOGIES
2150–2160 FIXED MOBILE S5.388	2150–2160 FIXED MOBILE Mobile-Satellite (space-to-Earth) S5.388	2150–2160 FIXED MOBILE S5.388	2150–2160	2150–2160 FIXED MOBILE NG23	 DOMESTIC PUBLIC FIXED (21) FIXED MICROWAVE (101)	
2160–2165 FIXED MOBILE S5.388 S5.392A	2160–2165 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) S5.388 S5.389C S5.389D S5.389E	2160–2165 FIXED MOBILE S5.388	2160–2165	2160–2165 FIXED MOBILE NG23 NG153	 DOMESTIC PUBLIC FIXED (21) FIXED MICROWAVE (101) PUBLIC MOBILE (22)	EMERGING TECHNOLOGIES
2165–2170 FIXED MOBILE S5.388 S5.392A	2165–2170 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) S5.388 S5.389C S5.389D S5.389E	2165–2170 FIXED MOBILE S5.388	2165–2170	2165–2170 MOBILE-SATELLITE (space-to-Earth) MOBILE NG23	 FIXED MICROWAVE (101) PUBLIC MOBILE (22) SATELLITE COMMUNICATIONS (25)	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2170–2200 FIXED MOBILE MOBILE-SAT-ELLITE (space-to Earth) S5.388 S5.389A S5.389F S5.392A	2170–2200 FIXED MOBILE MOBILE-SAT-ELLITE (space-to Earth) S5.388 S5.389A	2170–2200 FIXED MOBILE MOBILE-SAT-ELLITE (space-to Earth) S5.388 S5.389A	2170–2200	2170–2200 MOBILE-SAT-ELLITE (space-to-Earth) NG23	FIXED MIRCO-WAVE (101) PUBLIC MOBILE (22) SATELLITE COM-MUNICATIONS (25)	
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International Footnotes

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I. New ''S'' Numbering Scheme

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S5.388 The bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement the future public land mobile telecommunication systems (FPLMTS). Such use does not preclude the use of these bands by other services to which these bands are allocated. The bands should be made available for FPLMTS in accordance with Resolution 212 (Rev.WRC–95).

S5.389A The use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service is subject to coordination under Resolution 46 (Rev.WRC–95)/No. S9.11A and to the provisions of Resolution 716 (WRC–95). The use of these bands shall not commence before 1 January 2000; however the use of the band 1980–1990 MHz in Region 2 shall not commence before 1 January 2005.

S5.389B The use of the band 1980–1990 MHz by the mobile-satellite service shall not cause harmful interference to or constrain the development of the fixed and mobile services in Argentina, Brazil, Canada, Chile, Ecuador, the United States, Honduras, Jamaica, Mexico, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

S5.389C The use of the bands 2010–2025 MHz and 2160–2170 MHz in Region 2 by the mobile-satellite service shall not commence before 1 January 2005 and is subject to coordination under Resolution 46 (Rev.WRC–95)/No. S9.11A and to the provisions of Resolution 716 (WRC–95).

S5.389D In Canada and the United States the use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service shall not commence before 1 January 2000.

S5.389E The use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service in Region 2 shall not cause harmful interference to or constrain the development of the fixed and mobile services in Regions 1 and 3.

S5.389F In Algeria, Benin, Cape Verde, Egypt, Mali, Syria and Tunisia, the use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service shall neither cause harmful interference to the fixed and mobile services, nor hamper the development of those services prior to 1 January 2005, nor shall the former service request protection from the latter services.

S5.391 In making assignments to the mobile service in the bands 2025–2110 MHz and 2200–2290 MHz, administrations shall take into account Resolution 211 (WARC–92).

S5.392 Administrations are urged to take all practicable measures to ensure that space-to-space transmissions between two or more non-geostationary satellites, in the space research, space operations and Earth exploration-satellite services in the bands 2025–2110 MHz and 2200–2290 MHz, shall not impose any constraints on Earth-to-space, space-to-Earth and other space-to-space transmissions of those services and in those bands between geostationary and non-geostationary satellites.

S5.392A *Additional allocation:* in Russia, the band 2160–2200 MHz is also allocated to the space research service (space-to-Earth) on a primary basis until 1 January 2005. Stations in the space research service shall not cause harmful interference to, or claim protection from, stations in the fixed and mobile services operating in this frequency band.

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Non-Government (NG) Footnotes

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NG118 Television translator relay stations may be authorized to use frequencies in the 2025–2130 MHz band on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

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NG153 The 2145–2150 MHz and 2160–2165 MHz bands are reserved for future emerging technologies on a co-primary basis with the fixed and mobile services. Allocations to specific services will be made in future proceedings.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 7

[Docket No. OST–96–1430]

RIN 2105–AC58

Public Availability of Information

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: Department of Transportation revises its regulations implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. This revision updates organizational changes since the last revision and streamlines the regulations in order to make the regulations more useful.

DATES: This rule is effective June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Dorothy A. Chambers, Chief, FOIA Division, Office of the General Counsel, C–12, Department of Transportation, Washington, DC 20590, telephone (202) 366–4542, FAX (202) 366–7152.

SUPPLEMENTARY INFORMATION: The President instituted a Regulatory Review initiative for the reinvention of regulations by eliminating duplicate, redundant, or unnecessary language and revising regulations to meet the needs of users. In response to this initiative, we reviewed Part 7 and are revising it to update and streamline information on public availability of information. We