

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 2 and 25**

[IB Docket No. 97-95; FCC 97-85]

Spectrum Allocation Proposals for Fixed-Satellite, Fixed, Mobile, and Government Operations**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: By this Notice of Proposed Rulemaking, the Commission proposes to designate 4 gigahertz of spectrum predominantly for Fixed-Satellite Services ("FSS"). These proposals are for the 37.5-38.5 GHz, 40.5-41.5 GHz, and 48.2-50.2 GHz bands. The Commission also proposes allocations for the 37.0-38.0 GHz, 40.0-40.5 GHz, 40.5-42.5 GHz and 46.9-47.0 GHz bands. The Commission solicits comment on sharing with Government users in the bands proposed primarily for satellite services. In addition, to place today's proposals in context and because some parties have submitted proposals that cross some of these bands, this Notice sets forth and seeks

comment on a broad plan for the 36-51.4 GHz bands.

DATES: Comments must be submitted on or before May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Virginia Marshall, Attorney, Satellite Policy Branch, International Bureau, (202) 418-0778; Kathleen Campbell, International Bureau, (202) 418-0753.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in IB Docket No. 97-95; FCC 97-85, adopted March 13, 1997 and released March 24, 1997. The complete text of the Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

This Notice of Proposed Rulemaking contains no information collections or third party disclosure requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13 (PRA).

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial

Regulatory Flexibility Analysis ("IRFA") of the expected significant economic impact on small entities by the policies proposed in this Notice of Proposed Rulemaking.

Summary of the Notice of Proposed Rulemaking

1. This Notice presents and seeks comment on a band plan for the 36-51.4 GHz frequency band. The Commission developed this band plan to accommodate satellite services in a manner that does not disrupt existing terrestrial services in these bands. Prior Commission proceedings regarding these bands focused primarily on terrestrial operations. More recently, the Commission has received requests for alternative uses of the spectrum, including a proposal for a non-geostationary orbit fixed satellite system.

2. Due to the difficulty of sharing between ubiquitous terrestrial and satellite licensees in the same frequency band the Commission developed a band plan that designates spectrum for different types of high-density services. The band plan is depicted in the following table:

Frequencies	Proposed commercial designations	Other permissible operations
36.0-37.0 GHz	No Change	Current and Proposed Government Earth Exploration-Satellite/Space Research, Fixed, and Mobile.
37.0-37.5 GHz	Wireless Services	Proposed addition of Government co-primary Space Research allocation to the 37.0-38.0 GHz band. ¹
37.5-38.5 GHz	FSS (NGSO) and possible Wireless Underlay	Proposed addition of Government co-primary Space Research allocation to the 37.0-38.0 GHz band.
38.5-38.6 GHz	Wireless Services.	
38.6-40.0 GHz ²	Wireless Services.	
40.0-40.5 GHz	Wireless Services	Proposed addition of Government co-primary Space Research and Earth Exploration-Satellite allocation to 40.0-40.5 GHz.
40.5-41.5 GHz	FSS (GSO) and possible Wireless Underlay.	
41.5-42.5 GHz ³	Wireless Services	
42.5-43.5 GHz	No Change	Current Government Radioastronomy.
43.5-45.5 GHz	No Non-Government Allocation	Current Government FSS (Military).
45.5-46.7 GHz	No Change	Future Government Mobile, MSS, and Radionavigation-Satellite.
46.7-46.9 GHz	No Change	Current Unlicensed Commercial Vehicular Radar and Government Radionavigation-Satellite.
46.9-47.0 GHz	Wireless Services.	
47.0-47.2 GHz	No Change	Amateur.
47.2-48.2 GHz ⁴	Wireless Services.	
48.2-49.2 GHz	FSS (NGSO) and possible Wireless Underlay.	
49.2-50.2 GHz	FSS (GSO) and possible Wireless Underlay.	
50.2-50.4 GHz	No Change	Government Passive Earth-Exploration Service.
50.4-51.4 GHz	Wireless Services.	

¹ Specific proposals for Government allocations at 37.0-38.0 GHz and 40.0-40.5 GHz will be addressed later in this document.

² We have already received comment on our proposal on this band segment and will take action in our 39 GHz proceeding. See In the Matter of Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands—Implementation of Section 309(j) of the Communications Act, *Notice of Proposed Rulemaking and Order*, 11 FCC Rcd 5930 (1995).

³ As discussed above, we proposed this band, for licensed commercial use, in our Millimeter Wave NPRM and will address this proposal in a separate proceeding. See In the Matter of Amendment of Parts 2 and 15 of the Commission's Rules to Permit Use of Radio Frequencies Above 40 GHz for New Radio Applications, *Notice of Proposed Rule Making*, 9 FCC Rcd 7078 (1994).

⁴ We have already received comment on our proposal on this band segment and will take action in our Millimeter Wave proceeding. See In the Matter of Amendment of Parts 2 and 15 of the Commission's Rules to Permit Use of Radio Frequencies Above 40 GHz for New Radio Applications, *Notice of Proposed Rulemaking*, 9 FCC Rcd 7078 (1994) and *First Report and Order and Second Notice of Proposed Rulemaking*, 11 FCC Rcd 4481 (1995).

3. The Commission proposes to designate 4 gigahertz of spectrum for fixed-satellite services and 4.6 gigahertz of spectrum for domestic wireless services. The Notice of Proposed Rulemaking seeks comment on the overall band plan. Government allocations also are present throughout most of the 36–51.4 GHz spectrum. The Commission has worked with the National Telecommunications and Information Administration to develop a mechanism for commercial and Government sharing in these bands.

4. The Commission proposes a series of allocations consistent with its proposed band plan. The Notice seeks only to add, not delete, allocations to the U.S. Table of Frequency Allocations. First, the Commission proposes to allocate the 37.5–38.5 GHz (space-to-Earth) band and designate 48.2–49.2 GHz (Earth-to-space) for predominantly non-geostationary orbit fixed-satellite operations. The Commission proposes to allocate the 40.5–41.5 GHz (space-to-Earth) and designate the 49.2–50.2 GHz bands for geostationary orbit fixed-satellite operations. Second, the Commission seeks comment on whether, and to what extent, other terrestrial operations may be accommodated in these fixed-satellite bands. The Commission uses the term “underlay” service to describe this concept.

5. Third, the Commission proposes to upgrade the fixed and mobile allocations in the 40.5–42.5 GHz band. Fourth, the Commission proposes to add a fixed allocation to the 46.9–47.0 GHz band. Finally, the Commission proposes to add allocations to the Government column of the U.S. Table of Frequency Allocations. NTIA has requested that a primary Earth-Exploration Satellite allocation (space-to-Earth) be added to the Government column of the 37.0–38.0 GHz band. The NTIA requests the addition of a primary Space Research and Earth-Exploration Satellite (Earth-to-space) allocation to the Government allocation at 40.0–40.5 GHz. NTIA also requests the addition of a secondary Earth-Exploration Satellite (space-to-Earth) at 40.0–40.5 GHz. The Commission proposes these allocations for the Government column of the U.S. Table of Frequency Allocations.

Initial Regulatory Flexibility Analysis

6. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial

Regulatory Flexibility Analysis (“IRFA”) of the expected significant economic impact on small entities by the policies proposed in this Notice of Proposed Rulemaking. Written and public comments are requested by the IRFA and must be filed by the deadlines for comments on this Notice.

I. Reason for Action

7. This rulemaking proceeding is being initiated to obtain comment and develop a record on certain proposals in the 36–51.4 GHz frequency band. Specifically, this Notice proposes to designate spectrum for fixed-satellite services, both geostationary and non-geostationary satellite orbit, systems at 37.5–38.5 GHz, 40.5–41.5 GHz, and 48.2–50.2 GHz. In addition, this Notice seeks comment on a proposal to achieve sharing between Government and non-Government operations in these bands. Finally, this Notice outlines and seeks comment on the domestic allocations necessary to accommodate both terrestrial and satellite services as discussed in the item.

II. Objectives

8. The Commission seeks to allocate spectrum for predominantly fixed satellite uses, in a manner that minimizes disruption to existing services. The proposed band plan will promote the technological developments in the millimeter wave bands (30–300 GHz), encourage effective competition, and provide customers with additional satellite service providers.

III. Legal Basis

9. The proposed action is authorized under the Administrative Procedure Act, 5 U.S.C. 553; and sections 1, 4(i), 4(j), 301 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, and 303.

IV. Description and Estimate of Small Entities Subject to the Rules

10. The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit fixed-satellite service 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 in annual receipts.⁵ 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.⁶ However, since this is a new service, we are unable, at this time, to provide a reasonable estimate of how many of these entities will be providing these services.

V. Reporting, Recordkeeping, and Other Compliance Requirements

11. The proposal under consideration in this Notice, involve no reporting requirements at this time. Final service and licensing rules will be proposed at a later date.

VI. Any Significant Alternatives Considered

12. This Notice solicits comment on other alternatives such as other mechanisms of Government/non-Government sharing in these bands proposed primarily for FSS uses. The Notice also requests comment on whether a sufficient amount of spectrum has been designed for terrestrial and satellite services or whether a different split would be better.

13. The proposed fixed-satellite designations would apply to those bands proposed primarily for FSS uses. Furthermore, the proposed Government sharing mechanisms would apply to satellite licensees throughout the 36–51.4 GHz frequency band. This item should positively impact both large and small businesses by providing additional spectrum in which to provide services. Our proposals would not displace incumbent operators. We will be able to address small business concerns regarding specific sub-bands as we proceed to establishing licensing and service rules for those bands.

VII. Federal Rules That Overlap, Duplicate or Conflict With These Proposed Requirements

14. None.

⁵ 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

⁶ 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).

Ordering Clauses

15. Accordingly, it is ordered that pursuant to the authority contained in sections 1, 4(i), 4(j), 301, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, and 303, notice is hereby given of our intent to adopt the policies set forth in this Notice and that comment is sought on all proposals in this Notice.

16. It is ordered that, the Petition for Rule Making, filed by Motorola Satellite Communications, Inc. is granted to the extent it is consistent with our proposals.

17. It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 97-8562 Filed 4-3-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 192 and 195**

[Docket No. PS-94; Notice 7]

RIN 2137-AB38

Qualification of Pipeline Personnel

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public meeting; correction.

SUMMARY: On February 21, 1997, RSPA's Office of Pipeline Safety (OPS) published a notice of public meeting (62 FR 7985) that announced the first meeting of an advisory committee to conduct a negotiated rulemaking to develop a proposed rule on qualifications of pipeline employees performing certain safety-related functions on pipelines subject to the pipeline safety regulations. The notice also listed and described the organizations represented on the committee. This document makes two minor revisions to the information in that notice.

DATES: The advisory committee's first meeting will be held from 8:30 am to 5:00 pm on April 23-24, 1997.

ADDRESS: The advisory committee meeting will be held in Room 10234-36 at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366-0918, regarding the subject matter of this Notice; or the Dockets Unit, (202) 366-4453, for copies of this document or other material in the docket.

Correction of Publication**Room Number**

On page 7985, in the second column, the correct room number for the advisory committee is 10234-36.

Description of Committee Members

On page 7986, at the bottom of the second column, the text describing the International Union of Operating Engineers should read as follows: "This labor organization represents the interests of a substantial number of pipeline workers." In addition, the text describing the International Brotherhood of Electrical Workers should read as follows: "This labor organization represents approximately 21,000 pipeline construction and maintenance workers."

Issued in Washington, DC, on March 31, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97-8571 Filed 4-3-97; 8:45 am]

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National Highway Traffic Safety Administration**49 CFR Part 571****Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards**

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies Hawkhill Technologies' (Hawkhill) petition to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 108, Lamps, reflective devices, and associated equipment, to require programmable turn signaling on all vehicles. The turn signal system Hawkhill proposed would allow the driver to preset the amount of time a turn signal remains activated before automatically turning off.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Flanigan, Office of Safety

Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Flanigan's telephone number is: (202) 366-4918. His facsimile number is (202) 366-4329.

SUPPLEMENTARY INFORMATION: By letter dated November 20, 1996, Hawkhill petitioned the agency to amend FMVSS No. 108 to require all vehicles to have programmable turn signaling capability. More specifically, the turn signal systems would allow drivers to preset the amount of time their turn signals will remain activated before they turn off automatically. This would be accomplished by the driver tapping the turn signal lever. For each time the lever is tapped, the turn signal would stay activated for 4.5 seconds. Hawkhill's contention is that this would be a virtually cost-free upgrade for vehicles with turn signals that are already computer-controlled. The computer-controlled turn signal system would simply be redesigned to account for the new system.

Hawkhill believes that drivers are often lax in the way they operate turn signals. According to Hawkhill, drivers are most lax in situations where they have to deactivate turn signals, such as merge, exit, and lane change maneuvers. Hawkhill believes that its system, which allows drivers to program their turn signals to automatically shut off after some chosen time interval, would reduce the number of instances when drivers inadvertently leave their turn signal on after completing the driving maneuver.

In addition, Hawkhill believes its automatic turn signal shut-off would reduce the instances when vehicle operators choose not to use their turn signals to signal maneuvers. It believes that this occurs in maneuvers where the turn signals are commonly activated using the "lane change" feature (where the turn signal lever is pushed just far enough to activate the turn signal, but is deactivated when the driver removes his or her hand). In these situations, Hawkhill asserts that some drivers do not use their signals because they are not able to concentrate on the other tasks necessary to complete the maneuver while holding down the lever.

Agency Analysis

NHTSA believes there are two distinct issues involved in these claims. Hawkhill's latter claim relates to drivers who fail to use their turn signals because of some perceived difficulty. NHTSA is very interested in actions that would increase the use of turn signals to alert other drivers of an impending maneuver. However, Hawkhill provided