Chemicals dry well had decreased, such that it was at or approaching drinking water standards.

EPA's 1997 sampling data are consistent with the Town's monthly monitoring results for samples collected prior to the air stripper. Therefore, the primary pathways associated with the Vestal 4–2 Site that threatened public health have been addressed. EPA summarized the actions taken at this Site in a Superfund Site Close Out Report dated September 30, 1998.

EPA and NYSDEC have determined that all appropriate responses under CERCLA at the Site have been completed, and that no further activities are necessary. Consequently, EPA is proposing deletion of this Site from the National Priorities List. Documents supporting this action are available in the docket.

Dated: July 27, 1999.

Herb Barrack,

Acting Regional Administrator, Region 2.

[FR Doc. 99–20464 Filed 8–10–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket 99–261; FCC 99–183]

50.2–71 GHz Realignment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the United States Table of Frequency Allocations with respect to the 50.2–50.4 GHz and 51.4–71.0 GHz bands. The allocations proposed in this instant proceeding would provide additional spectrum to the inter-satellite service (''ISS'') and to the fixed and mobile services while continuing to provide an acceptable environment for passive spaceborne sensor measurements of atmospheric temperature.

DATES: Comments must be filed on or before September 7, 1999, and reply comments must be filed on or before September 22, 1999.

ADDRESSES: Address all comments concerning this proposed rule to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Tom Mooring, Office of Engineering and Technology, (202) 418–2450, TTY (202) 418–2989, e-mail: tmooring@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 99–261, FCC 99–183, adopted July 16, 1999, and released July 23, 1999. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room TW–A306), 445 12th Street S.W., Washington, DC. The complete text of this document also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of Notice of Proposed Rulemaking

1. We propose:

- To provide a net gain of 900 megahertz of spectrum allocated on a primary basis for non-Government ISS by allocating the 65–71 GHz band to that service and by deleting non-Government ISS allocations from the 56.9–57.0 GHz and 59–64 GHz bands;
- To allocate the 64–65 GHz band to the Government ISS on a primary basis;
- To require that the existing Government and non-Government ISS allocations in the 54.25–56.90 GHz and 57.0–58.2 GHz bands and the existing Government ISS allocation in the 59.0–59.3 GHz band be used exclusively for geostationary satellite-to-geostationary satellite communications, subject to a power flux-density (''p.f.d.'') limit designed to protect passive sensor operations;
- To provide a net gain of 2.27 gigahertz of spectrum allocated on a primary basis for Government and non-Government fixed and mobile services by allocating the 51.4–52.6 GHz, 58.2–59.0 GHz, and 64–65 GHz bands to these services, by deleting the unused fixed and mobile service allocations from the 50.2–50.4 GHz and 54.25–55.78 GHz bands, and by upgrading the allocation status of these services in the 65–66 GHz band from secondary to primary;
- To specify that the 57–59 GHz and 64–66 GHz bands will be available for use by Government and non-Government unlicensed devices; and
- To allocate the 59.0–59.3 GHz band to the Government and non-Government earth exploration-satellite (passive) and space research (passive) services and to delete unneeded passive sensor allocations from the 51.4–52.6 GHz and 64–65 GHz bands.

2. The proposals are part of the Commission's continuing effort to facilitate the commercialization of ''millimeter wave'' spectrum, and are consistent with the international allocation changes that the United States sought and obtained for this frequency range at the 1997 World Radiocommunication Conference (''WRC–97''). Adoption of these proposals would allocate the spectrum that Government and non-Government satellite users require to interconnect their satellites within their respective networks. More specifically, the ISS proposals are expected to provide a wide range of fixed-satellite service (''FSS'') and mobile-satellite service systems, including both geostationary orbit (''GSO'') and non-geostationary orbit (''NGSO'') systems, with the additional spectrum needed to complete their end-to-end communications service. For example, using the ISS allocations proposed, Ka-band FSS licensees could inter-link their broadband multimedia satellites, thereby permitting the provision of innovative high-speed Internet-like services on a regional and global basis. Our proposals also provide the spectrum that new licensed fixed and mobile services and unlicensed devices are anticipated to require. For example, Personal Communication Service (''PCS'') and cellular licensees could use unlicensed spectrum in the 57–59 GHz frequency range to connect nearby base stations to one another, which would be especially useful in high-density urban areas. We tentatively find that these additional allocations can be made while, at the same time, ongoing passive sensor operations—used to obtain weather and climate data in all weather conditions—are fully protected. We also tentatively find that these proposals would further our efforts towards achieving the overarching goal of section 706 of the Telecommunications Act of 1996, to ''encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing measures that promote competition in the local telecommunications market.''

Inter-Satellite Service

3. We propose, in accordance with international allocation decisions taken at WRC–97, to allocate the 64–71 GHz band to the ISS domestically. We tentatively find that the feasibility of ISS and existing services sharing the 64–71 GHz band has been clearly shown by various studies. At the request of NTIA, we further propose to delete the non-Government ISS allocation from the 56.9–57.0 GHz and 59–64 GHz bands and to allocate the 64–65 GHz segment for exclusive Government ISS use and the 65–71 GHz segment for exclusive non-Government ISS use. This domestic allocation split addresses two concerns.

First, there is a well-established and pressing demand for commercial inter-satellite link spectrum, which we believe necessitates a substantial ISS allocation that can be used by all commercial satellite systems. Furthermore, although commercial systems have requested spectrum below 65 GHz, NTIA asserts that Federal Government ISS operations in the 59–64 GHz band are not compatible with proposed commercial ISS uses of this band. Second, an allocation at 64–65 GHz for Government only use would compensate Federal users for the loss of flexibility in the 59–64 GHz ISS band that will occur as a result of the WRC–97 decision to limit the use of the 59.0–59.3 GHz band to geostationary satellite-to-geostationary satellite communications. The net result of these proposals is that commercial satellite operators would have exclusive use of 6 gigahertz of primary ISS spectrum at 65–71 GHz and Federal agencies would have exclusive use of 6.1 gigahertz of primary ISS spectrum at 56.9–57.0 GHz and 59–65 GHz. We observe that the shared and commercial exclusive ISS spectrum could be used, for example, by Ka-band licensees for satellite-to-satellite communications, making their systems more efficient and enabling them to provide some of the advanced telecommunications capabilities that section 706 of the Communications Act envisions.

4. We also propose to adopt international footnote S5.556A domestically. This footnote limits use of the 54.25–56.90 GHz, 57.0–58.2 GHz, and 59.0–59.3 GHz ISS bands to GSO satellite transmissions that comply with a maximum p.f.d. limit at altitudes of 1000 kilometers (approximately 621.4 miles) or less above the Earth's surface of −147 dBW per square meter per 100 megahertz for all angles of arrival. This proposal reflects the results of studies that have shown these technical restrictions to be necessary to prevent ISS transmissions in these bands from causing harmful interference to passive sensor reception in the 54.25–58.20 GHz band. We tentatively find that, although adoption of footnote S5.556A explicitly precludes NGSO networks from accessing this 4.15 gigahertz of ISS spectrum, the 6 gigahertz we are proposing to allocate at 65–71 GHz for exclusive commercial use is sufficient to accommodate all pending requests by NGSO licensees for ISS spectrum. We request comment on this tentative conclusion.

5. With regard to the 56.9–57.0 GHz band, we observe that WRC–97 limited ISS use of this spectrum through footnote S5.558A, which permits only GSO inter-satellite links and transmissions from NGSO satellites in high-Earth orbit to those in low-Earth orbit. However, Federal agencies, which currently operate in the band, have determined that these restrictions must be loosened slightly by also permitting transmissions between satellites in geostationary orbit and those in high-Earth orbit and between satellites in geostationary orbit and those in low-Earth orbit. Since we have previously proposed that the use of the ISS allocation in the 56.9–57.0 GHz band be limited exclusively to Federal agencies, this expanded use would be authorized under a new Government footnote. We request comment on all of the above proposals.

Fixed and Mobile Services/Unlicensed Devices

6. We propose to allocate the 51.4–52.6 GHz and 58.2–59.0 GHz bands to Government and non-Government fixed and mobile services on a primary basis. We also propose to make the 64–66 GHz band available to the Government and non-Government fixed and mobile (except aeronautical mobile) services on a primary basis by allocating the 64–65 GHz segment for these purposes and by upgrading the status of the secondary fixed and mobile services in the 65–66 GHz segment. In order to protect ongoing passive sensor reception in the 50.2–50.4 GHz and 54.25–55.78 GHz bands from future disruption, we propose to delete the unused Government and non-Government fixed and mobile service allocations from these bands. We also propose to delete the requirement that aeronautical mobile station transmissions not cause harmful interference to ISS operations in the 54.25–55.78 band and to add this requirement in the 66–71 GHz band. Finally, we observe that any future land mobile services in the 66–71 GHz band will be required to protect the new non-Government ISS service—as well as the existing space radiocommunication services—from harmful interference.

7. These fixed and mobile service proposals have been enabled by: (1) NTIA's finding that the 51.4–52.6 GHz and 64–65 GHz bands are no longer required for Government passive sensor operations, and (2) ITU–R studies that have shown that passive sensors can share with fixed and mobile services at frequencies above 55.78 GHz due to the high atmospheric attenuation that exists. These studies found that, at lower frequencies, undesirable constraints would be required on the fixed and mobile services and the meteorological community would still receive interference that could effect weather forecasts and give false results to measurements of warming of the Earth. Thus, our related proposal to delete the fixed and mobile service allocations from the 50.2–50.4 GHz and 54.25–55.78 GHz bands will provide exclusive spectrum for the measurement of atmospheric temperature using passive spaceborne sensors in bands where sharing with other services is not feasible. In sum, these proposals, if adopted, would result in a net gain of 2.27 gigahertz of primary spectrum for fixed and mobile services, while eliminating the need for constraints on the parameters of fixed and mobile systems since these services would not share allocations with the passive services below 55.78 GHz. We request comment on all of the above proposals.

8. We also observe that WRC–97 adopted new footnote S5.547, which makes the 51.4–52.6 GHz, 55.78–59.00 GHz and 64–66 GHz bands ''available for high-density applications in the fixed service'' (''HDFS''). We request comment on whether footnote S5.547 should be adopted domestically, what the ramifications of such an action would be, and whether, in order to assure spectrum availability for HDFS, the bands should not be allocated to the mobile service.

9. *Unlicensed Devices.* In 1996, we made the 59–64 GHz band available for unlicensed devices under part 15 of Commission's Rules. We observe that the 55.78–59 GHz and 64–66 GHz bands are adjacent to this unlicensed band, that both of these bands would, if our proposals are adopted, be allocated to the fixed and mobile services on a primary basis, and that, furthermore, both of these bands could be made available for use by HDFS.

10. We also observe that the European Radiocommunications Committee has adopted a Recommendation entitled ''Radio Frequency Channel Arrangement for Fixed Services Operating in the Band 57.0–59.0 GHz Which Do Not Require Frequency Planning,'' but that this Recommendation has not yet been implemented. This Recommendation states, *inter alia*, ''that the high frequency reuse achievable in the oxygen absorption band reduces the requirement for frequency planning techniques and offers the possibility of deregulated telecommunications environment within CEPT [the European Conference of Postal and Telecommunications Administrations] for various low power, low cost and short range radio-relays.'' In addition, it is our understanding that there are ongoing discussions in Europe concerning unlicensed broadband HDFS

use of the 57–59 GHz band. We anticipate a similar need in the United States. Specifically, we believe that PCS, cellular, and other mobile service licensees will require unlicensed spectrum in the 57–59 GHz frequency range to connect nearby base stations to one another, especially in high-density urban areas, i.e., ''hot spots.''

11. We tentatively find that the 57–59 GHz and 64–66 GHz bands are well suited for use by unlicensed devices, and accordingly, we propose to make these bands available for use by unlicensed devices under part 15 of Commission's Rules. We base this proposal on the propagation characteristics of the bands, and on the technical material previously presented by the Millimeter Wave Communications Working Group in the Above 40 GHz proceeding. We tentatively find that licensing is not necessary because of the limited potential for interference due to oxygen absorption and the narrow beamwidth of point-to-point antennas likely to be operating in this range. We also tentatively find that low-power unlicensed use of 57–59 GHz and 64–66 GHz bands is an ideal use of this Government/non-Government shared spectrum because this proposed use further reduces the chance of harmful interference to in-band sensors. We request comment on these proposals. We also request comment on whether the 55.78–57.00 GHz segment should be made available for use by unlicensed devices or whether this segment should be made available for licensed fixed and mobile services.

12. We are not proposing technical rules for unlicensed use of the 57–59 GHz and 64–66 GHz bands in this proceeding, except that operation in the 57–59 GHz band would not be permitted on aircraft or satellites. Instead, we intend to initiate a separate rulemaking to address appropriate technical rules. Nonetheless, we invite comment looking toward this further rulemaking on the technical rules needed for the spectrally efficient operation of unlicensed devices in these band. For example, should we simply employ the existing technical rules and etiquette from the 59–64 GHz band throughout an extended 57–66 GHz unlicensed band, or should we develop different technical rules for the 57–59 GHz and 64–66 GHz bands? If we adopt different technical rules, should either of the bands be channelized, and should the use of listen-before-transmit etiquette be required on all or some of these channels? We request comment on all of the above proposals.

Passive Sensors

13. Satellite-borne passive microwave sensors are used to obtain atmospheric temperature profiles that are of utmost importance to weather forecasting and to climate studies, and these sensor measurements can only be obtained in the vicinity of unique molecular oxygen resonance frequencies located between 50 GHz and 70 GHz. WRC–97 allocated the 59.0–59.3 GHz band to the earth exploration-satellite (passive) and space research (passive) services on a primary basis and deleted unneeded earth exploration-satellite (passive) and space research (passive) service allocations from the 51.4–52.6 GHz and 64–65 GHz bands. WRC–97 also modified the text of footnote 907 (re-numbered as footnote S5.340) in order to delete the prohibition on emissions from the 51.40–54.25 GHz, 58.2–59.0 GHz, and 64–65 GHz bands and to add the prohibition on emissions to the 50.2–50.4 GHz and 52.60–54.25 GHz bands. In order to implement domestically the WRC–97 revision of footnote S5.340, NTIA requests that the text of footnote US246 be modified to reflect these international rule changes. Similarly, NTIA requests that the text of footnote US263 be modified to specify that passive sensor operations in the 56.26–58.20 GHz band (rather than the 50.2–50.4 GHz and 54.25–58.20 GHz bands) will not receive protection from fixed and mobile services operating in accordance with the Table of Frequency Allocations. We agree that these WRC–97 amendments and the consequential changes to United States footnotes adequately provide for passive sensor operations and therefore propose to implement these changes domestically. We request comment on all of the above proposals.

Other Matters

14. Internationally, radio astronomy observations may be carried out under national arrangements in the 51.40–54.25 GHz, 58.2–59.0 GHz, and 64–65 GHz bands per footnote 906 (revised and re-numbered as footnote S5.556). In the United States, these bands are allocated to the Government and non-Government radio astronomy (''RA'') service on a primary basis. Recently, the coordinator for Task 2 of ITU–R Joint Rapporteurs Group 7D–9D stated that:

> there is no known usage of [the 51.4–52.6 GHz, 55.78–59.00 GHz, and 64–66 GHz bands] by the RA community (potentially due to atmospheric absorption) and no studies on potential sharing have been done to date. Even if radio astronomical use were to develop, there should not be any problems with radio astronomy stations sharing [these] band[s] with HDFS since RA use of these bands must already be coordinated with the fixed service within individual Administrations. Therefore, sharing between HDFS and RA is a domestic issue.

NTIA requests that the radio astronomy service allocation be deleted from the 51.40–54.25 GHz and 64–65 GHz bands and that international footnote S5.556 be added to these bands. NTIA did not propose any change to the radio astronomy service allocation at 58.2–59.0 GHz. We tentatively find that radio astronomy use of the 51.40–54.25 GHz and 64–65 GHz bands is a domestic issue that is best authorized under a national arrangement. Accordingly, we propose to delete radio astronomy service allocation from the 51.40–54.25 GHz and 64–65 GHz bands and to add international footnote S5.556 to these bands. We solicit comment on these proposals and on the specifics of such national arrangements. For example, should RA observatories that may need protection in the future be listed in a US footnote?

15. Finally, we propose to correct a typographical error in the Allocation Table by adding a reference to footnote S5.559 in the 59–64 GHz band. This reference has inadvertently been dropped from the Table.

16. *Initial Regulatory Flexibility Analysis.* Section 603 of the Regulatory Flexibility Act, as amended,[1] requires that the Commission prepare an Initial Regulatory Flexibility Analysis in notice and comment rulemaking proceedings, unless we certify that ''the rule will not, if promulgated, have a significant economic impact on a significant number of small entities.'' [2] In this *Notice of Proposed Rule Making,* we propose, *inter alia,* to reallocate spectrum that will result in net gain of 2.27 gigahertz of primary spectrum for fixed and mobile services, and to also designate 4 gigahertz of spectrum at 57–59 GHz and 64–66 GHz for unlicensed devices. We believe that this net increase in fixed and mobile spectrum and the designation of new unlicensed bands will provide new opportunities for small entities, without any known harmful effects. Accordingly, we hereby certify that the proposed reallocations will not, if promulgated, have significant economic impact on a significant number of small entities. The Secretary shall send a copy of this *Notice of Proposed Rule Making,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance

[1] *See* 47 U.S.C. 603.

[2] *Id.* at § 605(b).

with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

17. *Ex Parte Rules—Permit-But-Disclose Proceedings.* This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during any Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202(a), 1.1203, and 1.1206.

List of Subjects in 47 CFR Part 2

Comunications equipment, radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–20692 Filed 8–10–99; 8:45 am]

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