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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 25, 74, 78, and 101

[IB Docket No. 98-172, FCC 02-317]

Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document alters the 18 GHz band plan, blanket licensing rules, and relocation rules adopted in a previous First Order on Reconsideration in this proceeding released in 2001. This document changes certain rules in light of the increased number of frequency spectrum options the Commission has recently made available to certain licensees. The rule changes will remove unnecessary burdens on the public and the agency.

DATES: Effective May 8, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Order on Reconsideration, FCC 02-317, released on November 26, 2002. The full texts of the documents are available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257) of the Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. The documents are also available for download over the Internet at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-317. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, Telephone: 202-863-2893, Fax: 202-863-2898, e-mail qualexint@aol.com.

Summary of Report and Order

1. On June 8, 2000, the Commission adopted a Report and Order in this proceeding (18 GHz Order) 65 FR 54155, September 7, 2000 which, among other things, concluded that terrestrial fixed

service (FS) and ubiquitously deployed fixed-satellite service (FSS) earth stations generally could not share the same 18 GHz spectrum. Thus, in the 18 GHz Order, the Commission separated most terrestrial FS operations from most FSS operations by allocating separate sub-bands to each service; however, the Commission retained co-primary allocations for geostationary orbiting (GSO) FSS and FS operations in the 18.3-18.58 GHz band.

2. In response to the original 18 GHz Order, we received petitions for reconsideration from several parties, including Hughes Electronics Corporation (Hughes), a proponent of GSO FSS operations. On November 1, 2001, we released a First Order on Reconsideration 66 FR 63512, December 7, 2000 in this proceeding that resolved many of the petitioners' concerns. We deferred action, however, on two elements of Hughes' petition: (1) That we reconsider the co-primary allocation for FS in the 18.3-18.58 GHz band; and (2) that we permit blanket licensing of earth stations receiving in certain portions of the 18 GHz band.

3. Shortly after the Commission adopted the First Order on Reconsideration, the United States Circuit Court of Appeals for the D.C. Circuit issued an order rejecting a separate challenge to the 18 GHz Order from another FSS licensee in the 18 GHz band. In December 2001, the D.C. Circuit rejected those elements of the appeal not rendered moot by our First Order on Reconsideration. Concluding that the Commission's 18 GHz Order was entitled to the heightened degree of deference traditionally accorded decisions regarding spectrum management, the D.C. Circuit upheld the relocation policies and procedures adopted in the 18 GHz Order that had been challenged.

4. Since that time, the Commission has expanded the eligibility requirements to enable the vast majority of FS operators in the 18.3-18.58 GHz band to access other spectrum. On May 16, 2002, the Commission adopted the CARS Eligibility Order 67 FR 43257, June 27, 2002, which permitted all multichannel video programming distributors (MVPDs) to become eligible for Cable Television Relay Service (CARS) licenses in the 12.7-13.2 GHz and 17.7-18.3 GHz bands. Lifting eligibility restrictions on licenses in the 12.7-13.2 GHz and 17.7-18.3 GHz bands reversed a longstanding Commission policy that had allowed franchised cable systems and wireless cable systems to become CARS licensees, but denied the same opportunity to non-eligible competitors

to traditional cable systems, such as private cable operators (PCOs), which are dependent on the 18 GHz band. MVPD licensees who operate in the 18.3-18.58 GHz band are, following adoption of the CARS Eligibility Order, generally eligible for licenses in these alternative CARS bands.

5. In this Order, the Commission alters the 18 GHz band plan to make the FSS the sole primary spectrum allocation in the 18.3-18.58 GHz band. This action recognizes the Commission's recent decision to make additional spectrum available to current, co-primary users of the 18.3-18.58 GHz band. This Order also permits the blanket licensing of GSO FSS facilities in the 18.3-18.58 GHz and 29.25-29.5 GHz bands, and—consistent with the band clearing procedures that have been adopted in other proceedings—this Order adopts provisions designed to ensure the orderly migration and timely reimbursement of terrestrial FS incumbents in the 18.3-18.58 GHz band. These changes to our rules will help promote the efficient use of spectrum for existing and future users.

6. Finally, this Order denies a Petition for Reconsideration of the First Order on Reconsideration filed by the Satellite Industry Association (SIA). SIA questions the Commission's relocation procedures and one-year testing period upon relocation set forth in the First Order on Reconsideration. In the Order, the Commission declined to depart from precedent and stated that the relocation procedures and one-year testing period have been adequately justified and alternatives adequately explored in light of the Commission's overall spectrum management goals.

7. On January 27, 2003, the Commission released an erratum to this Order. The erratum corrects omissions in the rule changes proposed in the Order. The final rules contain the omissions.

Procedural Matters

8. *Paperwork Reduction Act.* The rules adopted in this Second Order on Reconsideration involve no reporting requirements, and it is likely no additional outside professional skills will be necessary to comply with the rules and requirements here listed.

9. *Final Regulatory Flexibility Certification.* As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities was incorporated in the 18 GHz NPRM (63 FR 54100, October 8, 1998). The Commission sought written public

comments on the proposals in the 18 GHz NPRM, including comment on the IRFA. In its 18 GHz Order, the Commission concluded that the rules adopted in that Order would not, under the RFA, affect small entities disproportionately. Many of the rules adopted in the 18 GHz Order pertained to entities, such as licensees of geostationary and non-geostationary space stations, which, because of their size, do not qualify as small entities. While a few of the rules adopted concerned terrestrial facilities, such as microwave services, which qualify as small entities because of their size, the Commission concluded that "procedures do not affect small entities disproportionately and it is likely no additional outside professional skills are required to complete the annual report indicating the number of small antenna earth stations actually brought into service." We received no petitions for reconsideration of that Final Regulatory Flexibility Analysis.

10. Subsequently, the Commission addressed issues unrelated to its RFA analysis in its First Order on Reconsideration. The First Order on Reconsideration altered several previously adopted rules, including changing the power flux density value for the 18.3–18.8 GHz frequency band and extending the same ten-year comparable facilities relocation policy to all FS operations in the 18 GHz band. The First Order on Reconsideration also decided no longer to require the use of the Legacy List coordination process. Finally, the Commission considered the impact of its rule changes on small entities and concluded that the rules adopted would not, under the RFA, affect small entities disproportionately.

11. In this Second Order on Reconsideration, we address issues unrelated to earlier RFA analysis and promulgate additional final rules. This additional Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Rules

12. This Second Order on Reconsideration grants, in part, a Petition for Reconsideration filed in this proceeding by the Hughes Electronics Corporation (Hughes). This Order also denies a Petition for Reconsideration filed by the Satellite Industry Association (SIA) filed against the First Order on Reconsideration. In response to the Hughes Reconsideration Petition, the Commission alters the 18 GHz band plan to make the fixed-satellite service (FSS) the sole primary spectrum allocation in the 18.3–18.58 GHz band. The Commission's actions recognize the increased number of frequency

spectrum options that the Commission has recently made available to licensees in the terrestrial fixed service (FS), the other primary service currently located in the 18.3–18.58 GHz band. The Commission also allows the blanket licensing of GSO FSS facilities in the 18.3–18.58 GHz band and 29.25–29.5 GHz bands and—consistent with the band clearing procedures that we have adopted in other portions of the frequency spectrum—the Commission adopts provisions designed to ensure the orderly migration and timely reimbursement of terrestrial FS incumbents in the 18.3–18.58 GHz band. These changes to the Commission's rules will help promote the efficient use of spectrum for existing and future users.

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

13. No comments were submitted in direct response to the IRFA.

14. Description and Estimate of the Number of Small Entities to Which the 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 adopted rules. 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, we estimate that 81,600 (91 percent) are small entities. Below, we further

describe and estimate the number of small entity licensees that may be affected by the adopted rules.

15. *Satellite Telecommunications.* The SBA has developed a small business size standard for Satellite Telecommunications Carriers, which consists of all such companies having \$12.5 million or less in annual receipts. In addition, a second SBA size standard for Other Telecommunications includes "facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems," and also has a size standard of annual receipts of \$12.5 million or less. According to Census Bureau data for 1997, there were 324 firms in the category Satellite Telecommunications, total, that operated for the entire year. Of this total, 273 firms had annual receipts of \$5 million to \$9,999,999 and an additional 24 firms had annual receipts of \$10 million to \$24,999,990. Thus, under this size standard, the majority of firms can be considered small. In addition, according to Census Bureau data for 1997, there were 439 firms in the category Satellite Telecommunications, total, that operated for the entire year. Of this total, 424 firms had annual receipts of \$5 million to \$9,999,999 and an additional 6 firms had annual receipts of \$10 million to \$24,999,990. Thus, under this second size standard, the majority of firms can be considered small.

16. *Space Stations (Geostationary).* Commission records reveal that there are 15 space station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate of the number of geostationary space stations that would constitute a small business under the SBA definition, or apply any rules providing special consideration for Space Station (Geostationary) licensees that are small businesses.

17. *Fixed Satellite Transmit/Receive Earth Stations.* Currently there are 10 operational fixed-satellite transmit/receive earth stations authorized for use in the 18.3–18.58 GHz and 29.25–29.5 GHz bands. We do not request or collect annual revenue information, and thus are unable to estimate the number of earth stations that would constitute a small business under the SBA definition.

18. *Broadcast Auxiliary Service.* (BAS) 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 stations). The Commission has not developed a definition of small entities specific to broadcast auxiliary licensees. The U.S. Small Business Administration (SBA) has developed small business size standards, as follows: (1) For TV BAS, we will use the size standard for Television Broadcasting, which consists of all such companies having annual receipts of no more than \$12.0 million; (2) For Aural BAS, we will use the size standard for Radio Stations, which consists of all such companies having annual receipts of no more than \$6 million; (3) For Remote Pickup BAS we will use the small business size standard for Television Broadcasting when used by a TV station and that for Radio Stations when used by such a station.

19. According to Census Bureau data for 1997, there were 906 Television Broadcasting firms, total that operated for the entire year. Of this total, 734 firms had annual receipts of \$9,999,999.00 or less and an additional 71 had receipts of \$10 million to \$24,999,999.00. Thus, under this standard, the majority of firms can be considered small.

20. According to Census Bureau data for 1997, there were 4,476 Radio Stations (firms), total, that operated for the entire year. Of this total 4,265 had annual receipts of \$4,999,999.00 or less, and an additional 103 firms had receipts of \$5 million to \$9,999,999.00. Thus, under this standard, the great majority of firms can be considered small.

21. *Fixed Microwave Services.* (FS) includes common carrier, private-operational fixed, and broadcast auxiliary radio services. Presently 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 SBA has developed a small business size standard for Cellular and other Wireless Telecommunications, which consists of

all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 had employment of 1,000 employees or more. Thus, under this standard, virtually all firms can be considered small. Microwave services in the 18.3–18.58 GHz band include point-to-point Private Cable Operator (PCO) systems, Cable Television Relay Systems and common carrier systems. Private point-to-point PCO systems use ninety-eight percent of the operational channels in the band; Cable Television Relay Systems less than two percent of the operational channels; and common carrier systems use less than one percent of the operational channels in the band.

22. *Report to Congress:* The Commission will send a copy of the Order, including a copy of the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the Order and this Certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration and will be published in the **Federal Register**, 5 U.S.C. 605(b).

Ordering Clauses

23. Pursuant to the authority contained in sections 1, 4(i), 4(j), 301, 302, 303(c), 303(e), 303(f), 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 302, 303(c), 303(e), 303(f), 303(r), and 403, this Order is hereby adopted.

24. *It is further ordered* that the Petition for Reconsideration of Hughes Electronics Corporation is granted, in part, and denied in part.

25. *It is further ordered* that the Petition for Reconsideration of the Satellite Industry Association is denied.

26. *It is further ordered* that the Regulatory Flexibility Analysis, as required by section 604 of the Regulatory Flexibility Act, is adopted.

27. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Order*, including the Final Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

28. *It is further ordered* that this proceeding is terminated pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 154(j).

List of Subjects in 47 CFR Parts 2, 21, 25, 74, 78, and 101

Auxiliary, Cable television relay service, Experimental radio, Fixed microwave services, Public fixed radio services, Reporting and recordkeeping requirements, Satellite communications, Special broadcast.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rule

■ For the reasons set forth in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 21, 25, 74, 78, 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 is amended by revising page 69 of the Table of Frequency Allocations and the Non-Government (NG) Footnotes to read as follows:

18.3–22.5 GHz (SHF)

[See previous page for 18.1–18.4 GHz]

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
18.4–18.6 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE			18.3–18.6	18.3–18.6	Satellite Communications (25)
			FIXED-SATELLITE (space-to-Earth) G117	FIXED-SATELLITE (space-to-Earth) NG164	
			US334	US334 NG144	
18.6–18.8	18.6–18.8	18.6–18.8	18.6–18.8	18.6–18.8	

18.3–22.5 GHz (SHF)—Continued

[See previous page for 18.1–18.4 GHz]

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
EARTH EXPLO- RATION SAT- ELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aero- nautical mobile SPACE RESEARCH (passive) 5.522A 5.522C	EARTH EXPLO- RATION SAT- ELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aero- nautical mobile SPACE RESEARCH (passive) 5.222A	EARTH EXPLO- RATION SAT- ELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aero- nautical mobile SPACE RESEARCH (passive) 5.522A	EARTH EXPLO- RATION SAT- ELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 G117 SPACE RESEARCH (passive) US254 US334	EARTH EXPLO- RATION SAT- ELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 NG164 SPACE RESEARCH (passive) US254 US334 NG144	
18.8–19.3 FIXED FIXED-SATELLITE (space-to-Earth) 5.523A MOBILE			18.8–20.2 FIXED-SATELLITE (space-to-Earth) G117	18.8–19.3 FIXED-SATELLITE (space-to-Earth) NG165 US334 NG144	
19.3–19.7 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-space) 5.523B 5.523C 5.523D 5.523E MOBILE				19.3–19.7 FIXED FIXED-SATELLITE (space-to-Earth) NG166 US334 NG144	Satellite Communica- tions (25) Auxiliary Broadcast (74) Cable TV Relay (78) Fixed Microwave (101)
19.7–20.1 FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE-SATELLITE (space-to-Earth) 5.524	19.7–20.1 FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528 5.529	19.7–20.1 FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE-SATELLITE (space-to-Earth) 5.524		19.7–20.1 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 5.529 US334	Satellite Communica- tions (25)

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Non-Federal Government (NG)**Footnotes**

* * * * *

NG144 Stations authorized as of September 9, 1983 to use frequencies in the bands 17.7–18.3 GHz and 19.3–19.7 GHz may, upon proper application, continue operations. Fixed stations authorized in the 18.3–19.3 GHz band that remain co-primary under the provisions of 47 CFR 21.901(e), 74.502(c), 74.602(g), 78.18(a)(4), and 101.147(r) of this chapter may continue operations consistent with the provisions of those sections.

* * * * *

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

■ 3. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

■ 4. Section 21.901 is amended by revising paragraph (e) to read as follows:

§ 21.901 Frequencies.

* * * * *

(e) Frequencies in the band segments 18,580–18,820 MHz and 18,920–19,160 MHz that were licensed or had applications pending before the Commission as of September 18, 1998

may continue those operations for point-to-point return links from a subscriber's location on a shared co-primary basis with other services under parts 25, 74, 78 and 101 of this chapter until June 8, 2010. Prior to June 8, 2010, such stations are subject to relocation by licensees in the fixed-satellite service. Such relocation is subject to the provisions of §§ 101.85 through 101.97 of this chapter. After June 8, 2010, such operations are not entitled to protection from fixed-satellite service operations and must not cause unacceptable interference to fixed-satellite service station operations. No applications for new licenses will be accepted in these bands after June 8, 2000.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

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

Authority: 47 U.S.C. 701–744. Interprets or applies sec. 303, 47 U.S.C. 303. 47 U.S.C. sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 6. Section 25.115 is amended by revising paragraph (e) to read as follows:

§ 25.115 Application for earth station authorizations.

* * * * *

(e) Earth stations operating in the 20/30 GHz Fixed-Satellite Service with U.S.-licensed or non-U.S. licensed satellites: Applications to license individual earth stations operating in the 20/30 GHz band shall be filed on FCC Form 312, Main Form and Schedule B, and shall also include the information described in § 25.138. Earth stations belonging to a network operating in the 18.3–18.8 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz or 29.25–30.0 GHz bands may be licensed on a blanket basis. Applications for such blanket authorization may be filed using FCC Form 312, Main Form and Schedule B, and specifying the number of terminals to be covered by the blanket license. Each application for a blanket license under this section shall include the information described in § 25.138.

* * * * *

■ 7. Section 25.138 is amended by revising the section heading and paragraph (a) introductory text to read as follows:

§ 25.138 Blanket Licensing Provisions of GSO FSS Earth Stations in the 18.3–18.8 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 28.35–28.6 GHz (Earth-to-space), and 29.25–30.0 GHz (Earth-to-space) bands.

(a) All applications for a blanket earth station license in the GSO FSS in the 18.3–18.8 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz, and 29.25–30.0 GHz bands

that meet the following requirements shall be routinely processed:

* * * * *

■ 8. Section 25.145 is amended by revising paragraph (h) to read as follows:

§ 25.145 Licensing conditions for the Fixed-Satellite Service in the 20/30 GHz bands

* * * * *

(h) *Policy governing the relocation of terrestrial services from the 18.3 to 19.3 GHz band.* Frequencies in the 18.3–19.3 GHz band listed in parts 21, 74, 78, and 101 of this chapter have been reallocated for primary use by the Fixed-Satellite Service, subject to various provisions for the existing terrestrial licenses. Fixed-Satellite Service operations are not entitled to protection from the co-primary operations until after the period during which terrestrial stations remain co-primary has expired. (see §§ 21.901(e), 74.502(c), 74.602(g), 78.18(a)(4), and 101.147(r) of this chapter).

■ 9. Section 25.202 is amended by revising the table in paragraph (a)(1) to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

* * * * *

Space-to-Earth (GHz)	Earth-to-space (GHz)
3.7–4.21 ¹	5.091–5.25 ^{12, 14}
6.7–7.025 ¹²	5.925–6.4251 ¹
10.7–10.95 ^{1, 12}	12.75–13.15 ^{1, 12}
10.95–11.2 ^{1, 2, 12}	13.2125–13.25 ^{1, 12}
11.2–11.45 ^{1, 12}	13.75–14 ^{4, 12}
11.45–11.7 ^{1, 2, 12}	14–14.25 ⁵
11.7–12.2 ³	14.2–14.5
12.2–12.7 ¹³	15.43–15.63 ^{12, 15}
18.3–18.58 ^{1, 10, 16}	17.3–17.89 ⁹
18.58–18.8 ^{6, 10, 11}	27.5–29.5 ¹
18.8–19.3 ^{7, 10}	29.5–30
19.3–19.7 ^{8, 10}	48.2–50.2
19.7–20.2 ¹⁰	
37.6–38.6	
40–41	

¹This band is shared coequally with terrestrial radiocommunication services.

²Use 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.

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

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

⁵In this band, stations in the radio-navigation service shall operate on a secondary basis to the fixed-satellite service.

⁶The band 18.58–18.8 GHz is shared co-equally with existing terrestrial radiocommunication systems until June 8, 2010.

⁷The band 18.8–19.3 GHz is shared co-equally with terrestrial radiocommunications services until June 8, 2010, except for operations in the band 19.26–19.3 GHz and for low power systems operating under Section 101.147(r)(10), which shall operate on a co-primary basis until October 31, 2011.

⁸The 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.

⁹The use of the band 17.3–17.8 GHz by the Fixed-Satellite Service (Earth-to-space) is limited to feeder links for the Direct Broadcast Satellite Service, and the sub-band 17.7–17.8 GHz is shared co-equally with terrestrial fixed services.

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

¹¹The band 18.6–18.8 GHz is shared co-equally with the non-Federal Government and Federal Government Earth exploration-satellite (passive) and space research (passive) services.

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

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

¹⁴See 47 CFR 2.106, footnotes S5.444A and US344, for conditions that apply to this band.

¹⁵See 47 CFR 2.106, footnotes S5.511C and US359, for conditions that apply to this band.

¹⁶The band 18.3–18.58 GHz is shared co-equally with terrestrial radiocommunications services until November 19, 2012.

* * * * *

■ 10. Section 25.258 is amended by revising paragraph (b) to read as follows:

§ 25.258 Sharing between NGSO MSS Feeder links Stations and GSO FSS services in the 29.25–29.5 GHz Bands.

* * * * *

(b) Licensed GSO FSS systems shall, to the maximum extent possible, operate with frequency/polarization selections, in the vicinity of operational or planned NGSO MSS feeder link earth station complexes, that will minimize instances of unacceptable interference to the GSO FSS space stations. Earth station licensees operating with GSO FSS systems shall be capable of providing earth station locations to support coordination of NGSO MSS feeder link stations under paragraphs (a) and (c) of this section. Operation of ubiquitously deployed GSO FSS earth stations in the 29.25–29.5 GHz frequency band shall conform to the rules contained in § 25.138.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 11. The authority citation for part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1032; 47 U.S.C. 158, 303.

■ 12. Section 74.502 is amended by revising paragraph (c) introductory text to read as follows:

§ 74.502 Frequency assignment.

* * * * *

(c) Aural broadcast STL and intercity relay stations that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations in the band 18,760–18,820 and 19,100–19,160 MHz on a shared co-primary basis with other services under parts 21, 25, and 101 of this chapter until June 8, 2010. Prior to June 8, 2010, such stations are subject to relocation by licensees in the fixed-satellite service. Such relocation is subject to the provisions of §§ 101.85 through 101.97 of this chapter. After June 8, 2010, such operations are not entitled to protection from fixed-satellite service operations and must not cause unacceptable interference to fixed-satellite service station operations. No applications for new licenses will be accepted in these bands after June 8, 2000.

* * * * *

■ 13. Section 74.551 is amended by revising paragraph (d) to read as follows:

§ 74.551 Equipment changes.

* * * * *

(d) Permissible changes in equipment operating in the bands 18.3–18.58, 18.76–18.82 GHz and 19.1–19.16 GHz. Notwithstanding other provisions of this section, licensees of stations that remain co-primary under the provisions of § 74.502(c) may not make modifications to their systems that increase interference to satellite earth stations, or result in a facility that would be more costly to relocate.

§ 74.602 Frequency assignment.

■ 14. Section 74.602 is amended by revising paragraph (g) introductory text to read as follows:

* * * * *

(g) The following frequencies are available for assignment to television STL, television relay stations and television translator relay stations. Stations operating on frequencies in the sub-bands 18.3–18.58 GHz and 19.26–19.3 GHz that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations on a shared co-primary basis with other services under parts 21, 25, 78, and 101 of this chapter. Such stations, however, are subject to relocation by licensees in the fixed-satellite service. Such relocation is subject to the provisions of §§ 101.85 through 101.97 of this chapter. No new applications for new licenses will be accepted in the 19.26–19.3 GHz band after June 8, 2000, and no new applications for new licenses will be accepted in the 18.3–18.58 GHz band after November 19, 2002. The provisions of § 74.604 do not apply to the use of these frequencies. Licensees may use either a two-way link or one or both frequencies of a frequency pair for a one-way link and shall coordinate proposed operations pursuant to procedures required in § 101.103(d) of this chapter.

* * * * *

■ 15. Section 74.651 is amended by revising paragraph (c) to read as follows:

§ 74.651 Equipment changes.

* * * * *

(c) Permissible changes in equipment operating in the bands 18.3–18.58 GHz and 19.26–19.3 GHz. Notwithstanding other provisions of this section, licensees of stations that remain co-primary under the provisions of § 74.602(g) may not make modifications to their systems that increase interference to satellite earth stations, or result in a facility that would be more costly to relocate.

PART 78—CABLE TELEVISION RELAY SERVICE

■ 16. The authority citation for part 78 continues to read as follows:

Authority: Secs. 4(i), 301 and 303(r), Federal Communications Act of 1934, as amended, 47 U.S.C. 4(i), 301 and 303(r)).

■ 17. Section 78.18 is amended by revising paragraph (a)(4) introductory text to read as follows:

§ 78.18 Frequency assignments.

(a) * * *

(4) The Cable Television Relay Service is also assigned the following frequencies in the 17,700–19,700 MHz band. These frequencies are co-equally shared with stations in other services under parts 25, 74, and 101 of this chapter. Cable Television Relay Service stations operating on frequencies in the sub-bands 18.3–18.58 GHz and 19.26–19.3 GHz that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations on a shared co-primary basis with other services under parts 25, 74, and 101 of this chapter. Such stations, however, are subject to relocation by licensees in the fixed-satellite service. Such relocation is subject to the provisions of §§ 101.85 through 101.97 of this chapter. No new applications for part 78 licenses will be accepted in the 19.26–19.3 GHz band after June 8, 2000, and no new applications for part 78 licenses will be accepted in the 18.3–18.58 GHz band after November 19, 2002.

* * * * *

■ 18. Section 78.109 is amended by revising paragraph (d) as follows:

§ 78.109 Equipment changes.

* * * * *

(d) *Permissible changes in equipment operating in the bands 18.3–18.58 GHz and 19.26–19.3 GHz.* Notwithstanding other provisions of this section, licensees of stations that remain co-primary under the provisions of § 78.18(a)(4) may not make modifications to their systems that increase interference to satellite earth stations, or result in a facility that would be more costly to relocate, unless the modifications are needed as a result of a Commission requirement.

PART 101—FIXED MICROWAVE SERVICES

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

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

■ 19a. Section 101.83 is revised to read as follows:

§ 101.83 Modification of station license.

Permissible changes in equipment operating in the band 18.3–19.3 GHz: Notwithstanding other provisions of this section, stations that remain co-primary under the provisions of § 101.147(r) may not make modifications to their systems that increase interference to satellite earth stations, or result in a facility that would be more costly to relocate.

■ 20. Section 101.85 is amended by revising the section heading, the introductory text and paragraphs (a) and (b) to read as follows:

§ 101.85 Transition of the 18.3–19.3 GHz band from the terrestrial fixed services to the fixed-satellite service (FSS).

Fixed services (FS) frequencies in the 18.3–19.3 GHz bands listed in §§ 21.901(e), 74.502(c), 74.602(g), and 78.18(a)(4) and § 101.147(a) and (r) of this chapter have been allocated for use by the fixed-satellite service (FSS). The rules in this section provide for a transition period during which FSS licensees may relocate existing FS licensees using these frequencies to other frequency bands, media or facilities.

(a) FSS licensees may negotiate with FS licensees authorized to use frequencies in the 18.3–19.3 GHz bands for the purpose of agreeing to terms under which the FS licensees would:

(1) Relocate their operations to other frequency bands, media or facilities; or alternatively

(2) Accept a sharing arrangement with the FSS licensee that may result in an otherwise impermissible level of interference to the FSS operations.

(b)(1) FS operations in the 18.3–18.58 GHz band that remain co-primary under the provisions of §§ 21.901(e), 74.502(c), 74.602(d), 78.18(a)(4) and § 101.147(r) of this chapter will continue to be co-primary with the FSS users of this spectrum until November 19, 2012 or until the relocation of the fixed service operations, whichever occurs sooner.

(2) FS operations in the 18.58–19.3 GHz band that remain co-primary under the provisions of §§ 21.901(e), 74.502(c), 74.602(d), 78.18(a)(4) and § 101.147(r) of this chapter will continue to be co-primary with the FSS users of this spectrum until June 8, 2010 or until the relocation of the fixed service operations, whichever occurs sooner, except for operations in the band 19.26–19.3 GHz and low power systems operating pursuant to § 101.47(r)(10), which shall operate on a co-primary basis until October 31, 2011.

(3) If no agreement is reached during the negotiations pursuant to § 101.85(a), an FSS licensee may initiate relocation procedures. Under the relocation procedures, the incumbent is required to relocate, provided that the FSS licensee meets the conditions of § 101.91.

* * * * *

■ 21. Section 101.95 is amended by revising the section heading to read as follows:

§ 101.95 Sunset provisions for licensees in the 18.30–19.30 GHz band.

■ 22. Section 101.97 is amended by revising the section heading and paragraph (a) introductory text to read as follows:

§ 101.97 Future licensing in the 18.30–19.30 GHz band.

(a) All major modifications and extensions to existing FS systems in the 18.3–18.58 band after November 19, 2002, or in the 18.58–19.30 band after June 8, 2000 (with the exception of certain low power operations authorized under § 101.147(r)(10)) will be authorized on a secondary basis to FSS systems. All other modifications will render the modified FS license secondary to FSS operations, unless the incumbent affirmatively justifies primary status and the incumbent FS licensee establishes that the modification would not add to the relocation costs for FSS licensees. Incumbent FS licensees will maintain primary status for the following technical changes:

* * * * *

23. Section 101.147 is amended by revising paragraph (r) to read as follows:

§ 101.147 Frequency assignments.

* * * * *

(r) *17,700 to 19,700 and 24,250 to 25,250 MHz:* Operation of stations using frequencies in these bands is permitted to the extent specified below.

(1) Until November 19, 2012, stations operating in the band 18.3–18.58 GHz that were licensed or had applications pending before the Commission as of November 19, 2002 shall operate on a shared co-primary basis with other services under parts 21, 25, and 74 of the Commission's rules;

(2) Until October 31, 2011, operations in the band 19.26–19.3 GHz and low power systems operating pursuant to § 101.47(r)(10) shall operate on a co-primary basis;

(3) Until June 8, 2010, stations operating in the band 18.58–18.8 GHz that were licensed or had applications pending before the Commission as of

June 8, 2000 may continue those operations on a shared co-primary basis with other services under parts 21, 25, and 74 of the Commission's rules;

(4) Until June 8, 2010, stations operating in the band 18.8–19.3 GHz that were licensed or had applications pending before the Commission as of September 18, 1998 may continue those operations on a shared co-primary basis with other services under parts 21, 25, and 74 of the Commission's rules;

(5) After November 19, 2012, stations operating in the band 18.3–18.58 GHz are not entitled to protection from fixed-satellite service operations and must not cause unacceptable interference to fixed-satellite service station operations.

(6) After June 8, 2010, operations in the 18.58–19.30 GHz band are not entitled to protection from fixed-satellite service operations and must not cause unacceptable interference to fixed-satellite service station operations.

(7) After November 19, 2002, no new applications for Part 101 licenses will be accepted in the 18.3–18.58 GHz band.

(8) After June 8, 2000, no new applications for Part 101 licenses will be accepted in the 18.58–19.3 GHz band.

(9) Licensees may use either a two-way link or one frequency of a frequency pair for a one-way link and must coordinate proposed operations pursuant to the procedures required in § 101.103. (Note, however, that stations authorized as of September 9, 1983, to use frequencies in the band 17.7–19.7 GHz may, upon proper application, continue to be authorized for such operations, consistent with the above conditions related to the 18.58–19.3 GHz band.)

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–813]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on