

**FOR FURTHER INFORMATION CONTACT:**

Shameeka Parrott, Office of Engineering and Technology, (202) 418-2062, email: [sparrott@fcc.gov](mailto:sparrott@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rulemaking*, ET Docket No. 03-102 and 99-261, FCC 03-90, adopted April 16, 2003, and released April 28, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternate formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before August 4, 2003, and reply comments on or before September 2, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

#### **Summary of the Notice of Proposed Rule Making**

##### *Reallocation of the Frequency Bands Above 76 GHz*

1. The primary need for realigning spectrum above 76 GHz is to accommodate the requirements of the RAS and EESS services. Specifically, RAS must operate in bands that meet the requirements for spectral line and wideband continuum observations. Additionally, the EESS must operate in bands that are optimal for microwave limb sounding and nadir sounding of water vapor and other atmospheric constituents. Therefore, we proposed to incorporate WRC-2000 changes into our domestic frequency allocation table. Consistent with proposed allocation changes, we proposed to update several footnotes in the Table (US74, US211, US246, US263, and US342) to incorporate proposed bands which footnotes apply. Also, we proposed to replace international footnote 5.340 and 5.149 with U.S. footnotes US246 and US342, respectively and apply these footnotes to additional bands. Finally, to make the U.S. Table consistent with WRC-2000 changes, we proposed to remove nine U.S. footnotes that were adopted in a previous Commission proceeding. We seek comments on the proposed changes.

##### *Maximum Power Density in the Band 55.78-56.26 GHz*

2. We proposed to adopt the U.S. proposal of -28.5 dB (W/MHz)

domestically as the maximum power spectral density limit delivered to fixed service transmitter antennas at 55.78-56.26 GHz. This was proposed due to WRC-200 adopting a higher power density limit of -26 dB, which NTIA believes is unacceptable for domestic use. The tighter limit proposed by the U.S. since passive measurements are extremely vulnerable to interference due to the variability of the atmosphere. A new U.S. footnote was proposed to reflect the proposed change in power spectral density limit.

3. We seek comment on the proposed power spectral density limit. Commenters should address the power spectral density in terms of its ability to protect EESS and its impact on equipment development, as well as, alternative power limits for the 55 GHz systems that would provide the same overall protection to EESS services. Commenters should address the impact of this limit on other services in the band.

#### **Initial Regulatory Flexibility Certification**

4. The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> requires that regulatory flexibility analyses be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."<sup>2</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>3</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>4</sup> 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).<sup>5</sup>

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> 5 U.S.C. 605(b).

<sup>3</sup> 5 U.S.C. 601(6).

<sup>4</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the *Federal Register*."

<sup>5</sup> 15 U.S.C. 632.