

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Fourth Notice of Proposed Rule Making*, ET Docket 00–258 and WT Docket No. 02–8, FCC 03–134, adopted June 13, 2003, and released July 7, 2003. The full text of this document is available for inspection and copying during regular 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: [www.fcc.gov](http://www.fcc.gov). Alternative 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 November 3, 2003, and reply comments on or before December 1, 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 appears 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, Vistronix, 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 Fourth Notice of Proposed Rulemaking

#### *The Band 2025–2110 MHz*

1. The Commission proposes to revise footnote US346 to permit the U.S. Department of Defense (DOD) to operate tracking, telemetry, and commanding (TT&C) transmit earth stations at the 11 existing sites requested by the National Telecommunications and Information Administration (NTIA) on a co-equal, primary basis with Television Broadcast Auxiliary Service (BAS), the Local Television Transmission Service (LTTS), and the Cable Television Relay Service (CARS) (together these three services will be referred to as BAS in this document) operations in the band 2025–2110 MHz. The band 2025–2110 MHz is the principal band for TT&C Earth-to-space transmissions (uplinks) outside of the United States and the proposed action would allow the military services to have access to it, thereby better harmonizing U.S. space operations with the rest of the world. The Commission makes this proposal so that the band 1710–1755 MHz can be substantively cleared of Federal operations, thereby assisting in the introduction of new AWS, including 3G. Specifically, the proposal would give DOD the option of moving any or all of its TT&C uplinks at 11 specific sites up in frequency from 1761–1842 MHz to 2025–2110 MHz in order to clear spectrum in a geographic area for military fixed and mobile systems, including those that must be relocated out of the band 1710–1755 MHz. If specific frequencies within the band 2025–2110 MHz are successfully coordinated, then that earth station would operate on a co-equal, primary

basis with BAS. The Commission states that this action would provide a reasonable opportunity for clearing the band 1710–1755 MHz for new nationwide AWS uses and that permitting DOD earth stations access to the band 2025–2110 MHz would also provide greater use of the band 2025–2110 MHz without a significant impact on incumbent operations.

2. DOD transmit earth stations are used to control satellites in both geostationary and non-geostationary orbits (NGSOs). Further, DOD TT&C earth stations use extremely large antennas and high transmitter output powers to produce highly focused and very powerful mainbeams and could have large coordination areas. Thus, these transmit earth stations could potentially cause interference to BAS operations. Accordingly, the Commission finds that coordination will be necessary between DOD earth stations operating in the band 2025–2110 MHz and 2 GHz BAS operations. In this regard, the Commission will maintain its longstanding policy that first-licensed facilities have the right of protection from later-licensed facilities operating in the same frequency band. The Commission states that—with coordination—DOD earth stations at an additional 11 sites may also successfully share frequencies in this band with the incumbent BAS operations based on a variety of factors that can facilitate sharing of this spectrum. These include terrain shielding and the facts that some of the antennas may be pointed out to sea, that each TT&C channel is generally used only for relatively short periods of time, that a TT&C channel is expected to impact only one BAS channel, that earth stations controlling GSO satellites may point at such high elevation angles as to have a minimal impact on BAS operations, etc. The Commission solicits comment on the specific factors that would permit proposed spectrum sharing.

3. Ordinarily in a Federal/non-Federal Government shared band, DOD would follow NTIA's procedures in securing coordination; that is, NTIA would approve the change in frequency for the earth stations and submit the frequency change to the Commission through the Frequency Assignment Subcommittee (FAS) of the Interdepartment Radio Advisory Committee (IRAC). Commission engineers would then provide input to ensure that incumbent non-Federal Government operations would be protected. However, in this case, the Commission does not believe that the ordinary processes in Federal/non-Federal Government shared bands can be used without some