

seeks comment on measures that need to be taken by fixed and mobile receivers to protect against this type of interference.

8. The Commission also proposes to permit DOD to operate stations in the fixed and mobile except aeronautical mobile services on a secondary basis in the band 2025–2110 MHz at the six sites identified by NTIA in the southwestern United States. NTIA states that because these operations (such as tactical radio relay systems) are usually in remote areas, it would appear to be feasible for DOD to operate on a coordinated basis in this band. The Commission agrees with NTIA that it appears feasible for DOD to operate stations in the fixed and land mobile services on a secondary basis at six sites in the southwestern United States and to also operate stations in the maritime service in the Pacific Missile Test Range/Pt. Mugu on a secondary basis without hindering BAS fixed and mobile operations. The Commission requests comment on this tentative finding and proposes to adopt a United States footnote.

9. The Commission requests comment on all of the above proposals for the band 2025–2110 MHz. The Commission is particularly interested in commenters' suggestions regarding how best to share the band 2025–2110 MHz between incumbent uses and the proposed extremely high powered transmitting earth stations. In addition, if commenters believe any of the 11 proposed earth station locations to be particularly problematic with regard to protecting BAS receive sites, it requests specific suggestions and detailed engineering analysis showing how such situations can be resolved.

#### *The Band 2360–2400 MHz*

10. Consistent with the 2002 *Viability Assessment*, the Commission proposes to allocate the band 2360–2395 MHz for aeronautical mobile purposes on a primary basis for Federal Government use so that aeronautical mobile systems that currently operate in the band 1710–1755 MHz at the 16 protected sites can be relocated by December 2008. This relocation would substantively clear the band 1710–1755 MHz of Federal Government systems so that this spectrum can be used to accommodate AWS, including 3G systems.

11. The Commission also proposes to allocate the band 2390–2395 MHz to the mobile service on a primary basis for non-Federal Government use and to generally limit the use of this allocation and of the existing non-Federal Government mobile service allocation in the band 2385–2390 MHz to aeronautical telemetry use. This action

would provide 10 megahertz of needed spectrum for commercial aeronautical telemetry operations. The Commission observes that aeronautical telemetry bandwidth requirements have significantly increased in recent years as aircraft manufacturers collect increasing amounts of data and video concerning the performance of prototype aircraft. Given the increasing amounts of data being collected in flight tests, and the higher and higher data rates being utilized for such purposes, the Commission tentatively finds that additional spectrum for aeronautical telemetry use is necessary.

12. In addition, the Commission observes that the aircraft manufacturers that make military aircraft are the same as those that make commercial aircraft. Further, Federal and non-Federal Government users have traditionally shared the aeronautical telemetry bands on a co-primary basis, including the band 2385–2390 MHz. Therefore, the Commission considers it beneficial to expand the primary non-Federal Government aeronautical telemetry allocation to include the band 2385–2395 MHz. This action would make the band available to non-Federal Government aeronautical telemetry operations, as well as to Federal Government aeronautical mobile operations. As a consequence of these proposals, the Commission proposes to make a number of specific changes to rules affecting various portions of the band 2360–2400 MHz.

13. As indicated previously, the band 2360–2385 MHz is currently allocated to the mobile service on a primary basis for Federal and non-Federal Government use. The use of these mobile allocations is limited by footnote US276 to aeronautical telemetering and associated telecommand operations for flight testing of manned and unmanned aircraft, missiles, or major components thereof. In order to implement the proposal, the Commission would allocate the band 2385–2395 MHz to the mobile service on a primary basis for Federal Government use and would modify footnote US276 to permit Federal agencies to conduct all types of aeronautical mobile operations, not just aeronautical telemetering and telecommand operations. The Commission also proposes to expand the permissible uses under the Federal Government mobile service allocation in the band 2360–2395 MHz to include land mobile and maritime mobile applications on a secondary basis to aeronautical mobile applications.

14. Except as described, this approach would return the band 2385–2390 MHz to its allocation status prior to its recent

transfer and reallocation. Therefore, the Commission also proposes to allocate the band 2385–2390 MHz to the radiolocation service on a primary basis and to the fixed service on a secondary basis for Federal Government use. NTIA indicates that Federal Government use of the radiolocation allocation in the band 2385–2390 MHz would be limited to the military services and thus, footnote G2 would be revised to reflect this limitation. Consistent with the above proposal to allocate the band 2390–2395 MHz to the aeronautical mobile service on a primary basis for Federal Government use, the Commission proposes to revise footnote G122 so that Federal Government operations in the band 2390–2395 MHz would no longer be shown as being on a non-interference basis to non-Federal Government operations.

15. By footnote G120, NTIA prohibits the development of airborne primary radars in the band 2310–2385 MHz with a peak transmitter power in excess of 250 watts for use in the United States. NTIA has previously applied footnote G120 to the band 2385–2390 MHz. During its work on this proposed rule, Commission staff noticed that the bands 2310–2320 MHz and 2345–2360 MHz are no longer allocated to the Federal radiolocation service on a primary basis. In addition, the Commission has recently proposed to downgrade the Federal radiolocation service allocation from primary to secondary status in the band 2320–2345 MHz because Satellite DARS licensees have commenced operations. Therefore, the Commission proposes, with NTIA's concurrence, to amend footnote G120 by removing the band 2310–2360 MHz and by adding the band 2385–2390 MHz.

16. In order to promote spectrum sharing between Federal and non-Federal Government operations, the Commission proposes to remove the recently added, but still unused, fixed allocation from the band 2385–2390 MHz in the non-Federal Government Table. The Commission also proposes to re-apply the prior footnote US276 limitations on non-Federal Government mobile use of the band 2385–2390 MHz and to also apply the footnote US276 limitations on non-Federal Government mobile use of the band 2390–2395 MHz. These actions would return the band 2385–2390 MHz to use for non-Federal Government flight test stations and would also make available replacement spectrum for non-Federal Government flight test stations that are displaced from the band 2310–2360 MHz, thereby providing 35 megahertz (2360–2395 MHz) of primary spectrum for non-Federal Government aeronautical