

operations to continue on a secondary basis in the band 2320–2345 MHz. The Commission also proposed to delete the radiolocation service from footnote US328 because there are no non-Federal government radiolocation operations in the Satellite DARS band and because the Federal government already has a secondary direct Table allocation for this service. It further proposed to delete the requirement that Satellite DARS licensees take cognizance of the launch vehicle frequency 2332.5 MHz because satellite DARS systems have been implemented. In addition, the Commission requested comment on whether all secondary operations should be deleted from this band in order to protect Satellite DARS operations. It proposed to amend § 87.303(d)(1) to state that frequencies in the band 2310–2360 MHz may be assigned on a secondary basis for telemetry and telecommand operations associated with the flight testing of manned or unmanned aircraft and missiles, or their major component, and proposed to delete the launch vehicle frequency 2332.5 MHz from § 87.303(d)(1). The Commission also proposed to add cross-references in the U.S. Table to part 25, Satellite Communications, in the band 2320–2345 MHz, and to part 87, Aviation Services, in the band 2310–2390 MHz. Finally, the *NPRM* proposed to delete footnote 5.396 from the band 2310–2360 MHz from the Federal Government Table because that footnote pertains to the broadcasting-satellite service, which is not regulated by NTIA; and to delete footnote US338 from the band 2310–2320 MHz because that footnote does not pertain to that band. These combined actions were designed to clarify use of the band 2310–2390 MHz and to permit the new satellite DARS service to operate in an interference-free environment in the band 2320–2345 MHz.

20. *Decision.* We are adopting the proposals pertaining to the band 2310–2390 MHz set forth in the *NPRM*, except that we are deleting the mobile service allocation from band 2320–2345 MHz in the U.S. Table and are deleting footnotes US276 and US328, which limit uses under the mobile allocation, from that band. The comments of the Aerospace and Flight Test Radio Coordinating Council and the Boeing Company (“Boeing”) convince us that there is no need to maintain a secondary aeronautical telemetry allocation in the band 2320–2345 MHz because such an allocation would be unusable due to potential interference from new Satellite DARS operations. Because footnote

US276 currently limits the use of the mobile service in the band 2320–2385 MHz to aeronautical telemetry, this United States footnote is retained but henceforth will apply only to the band 2360–2385 MHz. In contrast, footnote US328, which applies only to the band 2320–2345 MHz, is deleted in its entirety. In all other respects, we adopt the proposals for the band 2310–2390 MHz set forth in the *NPRM*. This action will eliminate possible interference to Satellite DARS operations, as well as remove confusion regarding use of the band 2310–2390 MHz.

D. ITFS/MDS Band

21. *Proposals.* In the *NPRM*, the Commission stated its belief that FSS and BSS operations in the band 2500–2690 MHz could affect the reliability of point-to-multipoint channels and low-power consumer response channels in that band and noted that service rules for advanced mobile operations may also be implemented in that band in the future. Therefore, the Commission proposed to delete the unused and limited FSS and BSS allocations from the band 2500–2690 MHz in order to remove regulatory uncertainty. Consistent with its proposal to delete these allocations, the Commission also proposed to delete footnotes NG101 and NG102, which limit the use of the allocations. In addition, it proposed to delete footnote NG47 so as to make the band 2655–2690 MHz available for ITFS/MDS use in Alaska.

22. *Decision.* We are adopting the proposals pertaining to the band 2500–2690 MHz set forth in the *NPRM*. No party objects to the proposal to delete the FSS allocation in that band, and only AirTV Limited (“AirTV”) objects to the proposal to delete the BSS allocation in that band. We make no finding on the potential benefits of AirTV’s proposed based Direct-to-Aircraft entertainment and e-mail system in the band 2535–2670 MHz. However, we find that such a system would increase costs for terrestrial services due to the need to mitigate interference caused by AirTV’s system. We concur with Boeing that the World Trade Organization agreement does not apply to AirTV’s system and thus the U.S. may limit new satellite authorizations when faced with potential interference issues with incumbent operations. We concur with the Wireless Communications Association International, Inc. that AirTV has not met the burden of demonstrating that its system will not cause interference to terrestrial services that use the band 2520–2670 MHz. Accordingly, as proposed in the *NPRM*, we are deleting the FSS and BSS

allocations from the band 2500–2690 MHz and are deleting footnotes NG47, NG101, and NG102.

E. Space Science Services

23. *Proposals.* With respect to active spaceborne sensors, in the *NPRM* the Commission proposed, in response to a request from NTIA, to allocate the bands 1215–1300 MHz, 3100–3300 MHz, 5255–5350 MHz, 8550–8650 MHz, 9500–9800 MHz, 13.25–13.4 GHz, 17.2–17.3 GHz, and 35.5–36 GHz to the EESS (active) and SRS (active); the bands 5250–5255 MHz and 13.4–13.75 GHz to the EESS (active) and SRS; and the band 5350–5460 MHz to the EESS (active). These allocation changes would implement WRC–97 allocation changes for the space science services. For the Federal Government Table, the Commission proposed that all of these active spaceborne sensor allocations have primary status, except in the band 3100–3300 MHz, where the sensors would continue to have secondary status. For the non-Federal Government Table, the Commission proposed that all of these allocations have secondary status. At the request of NTIA, the Commission also proposed to add five international footnotes to the U.S. Table to ensure that active spaceborne sensors not cause harmful interference to, nor constrain the use and development of, incumbent primary services in the bands 1215–1300 MHz, 5350–5460 MHz, and 13.25–13.75 GHz. Finally, and also at the request of NTIA, the Commission proposed to add two international footnotes to the U.S. Table to ensure that primary SRS allocations in the bands 5250–5255 MHz and 13.4–13.75 GHz are limited to active spaceborne sensors and that other space research users are on a secondary basis. Consistent with these proposals, the Commission proposed to delete from the U.S. Table international footnotes 5.333 and 5.551, which provide the current secondary active spaceborne sensor allocations, and also proposed to delete the secondary allocation for the SRS (Earth-to-space) in the band 13.25–13.4 GHz.

24. With respect to other space science services, in the band 401–403 MHz the Commission proposed in the *NPRM*, in response to a request from NTIA, to upgrade the secondary EESS and METSAT allocations to primary status for Federal government use and to limit non-Federal government use of these allocations to earth stations transmitting to Federal government space stations. The Commission requested comment on whether non-Federal government use of these allocations should be limited to earth