

without prior proposal and opportunity for comment because we are merely correcting the preamble language in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental

Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act (5 U.S.C. 801 et seq.), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of July 17, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the identification of plan for Alabama is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: June 30, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00-18024 Filed 7-14-00; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 15, 90 and 95

[ET Docket No. 99-255; PR Docket No. 92-235; FCC 00-211]

Wireless Medical Telemetry Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates new spectrum and establishes rules for a Wireless Medical Telemetry Service (WMTS) that allows potentially life-critical equipment to operate on an interference-protected basis. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data,

such as pulse and respiration rates to a nearby receiver, permitting greater patient mobility and increased comfort. This action will increase the reliability of medical telemetry equipment.

DATES EFFECTIVE: October 16, 2000.

FOR FURTHER INFORMATION CONTACT:

Hugh Van Tuyl, Office of Engineering and Technology, (202) 418-7506.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, ET Docket 99-255 and PR Docket 92-235, FCC 00-211, adopted June 8, 2000, and released June 12, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of the Report and Order

1. The Report and Order establishes a new Wireless Medical Telemetry Service (WMTS) which will enhance the ability of health care providers to offer high quality and cost-effective care to patients with acute and chronic health care needs. This action addresses consumer concerns that medical telemetry devices are increasingly at risk of harmful interference due to more extensive use of spectrum resources by other applications. The Commission allocates 14 Megahertz (MHz) to WMTS on a primary basis, which will allow potentially life-critical medical telemetry equipment to operate on an interference-protected basis. The Commission also adopts service rules for WMTS that "license by rule" to minimize regulatory procedures to facilitate rapid deployment. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data, such as pulse and respiration rates to a nearby receiver, permitting greater patient mobility and increased comfort. As this service permits remote monitoring of several patients simultaneously it could also potentially decrease health care costs. The Commission's action will improve the reliability of this vital service.

2. In the Notice of Proposed Rule Making (NPRM), 64 FR 41891, August 2, 1999, in this proceeding, we proposed to allocate spectrum where medical telemetry equipment could operate on a primary basis. We also proposed to establish a new Wireless Medical Telemetry Service (WMTS) under part

95 of the rules. The Commission's proposal was based on recommendations provided by the American Hospital Association's (AHA) Medical Telemetry Task Force, which was established in coordination with the FDA, in response to the incidence of interference to medical telemetry equipment from a DTV station.

Spectrum Allocation

3. We are making available 14 MHz of spectrum in three blocks located at 608–614 MHz, 1395–1400 MHz, and 1429–1432 MHz for wireless medical telemetry. In making available 14 MHz of spectrum, we note that these bands each have significant constraints, such that the entire allocation is unlikely to be available in any individual market. The 608–614 MHz band is constrained as a result of radio astronomy quiet zones, including some sites in large markets, and interference from adjacent TV channels. The remaining 8 MHz that we are allocating is constrained by adjacent band interference from high power radars located below 1390 MHz and grandfathered protected Federal sites. However, this allocation ensures that at least 6 MHz is available for WMTS in all locations, consistent with the AHA needs assessment, with at least some additional spectrum available to accommodate long term needs. We note that this is in fact significantly less than the amount of spectrum that is currently available to medical telemetry on an unprotected basis. However, we find that the benefits of a primary allocation dedicated to this service compensates for the reduced availability of spectrum. We wish to underscore that we do not anticipate any further allocations for medical telemetry devices and expect manufacturers and the health care community to ensure that this spectrum is used efficiently to meet long term needs. We also wish to note that this medical telemetry allocation is an exception to the approach we have been taking toward more flexible allocations that are not service specific. A specific allocation is necessary in this case to protect the public safety by providing spectrum where medical telemetry equipment can operate without interference. Further, it will resolve conflicts that have delayed the land mobile rearming and that are affecting the deployment of DTV.

Frequency Bands

4. The Notice proposed the following two options for frequency bands to be allocated to the WMTS:

Option 1	Option 2
608–614 MHz 1395–1400 MHz 1429–1432 MHz.	608–614 MHz 1391–1400 MHz

The 608–614 MHz band corresponds to TV channel 37, which is not used for TV stations and is currently reserved for radio astronomy. It is available for medical telemetry under part 15 of the rules on an unlicensed basis. The other proposed bands are former government bands that were reallocated for non-government use under the Omnibus Budget Reconciliation Act of 1993. Government operations in those bands may continue at certain sites around the country for a number of years.

5. We conclude that it is necessary to allocate spectrum where medical telemetry equipment can operate on a primary basis. Based on the record, we also conclude that WMTS's planned use is best accommodated by making three blocks of spectrum available in the 608–614 MHz, 1395–1400 MHz, and 1429–1432 MHz bands. We will coordinate the frequency allocations with Canadian and Mexican governments as appropriate. Given the low-power nature of this equipment, we do not anticipate any interference issues in border areas.

6. *608–614 MHz.* We find the 608–614 MHz band to be suitable for WMTS because, other than radio astronomy, it is only used for medical telemetry under part 15 of the rules. We also note that no commenters opposed the use of this band. Accordingly, we allocate this band to medical telemetry equipment on a co-primary basis with radio astronomy. Operation of medical telemetry equipment in this band must not cause interference to sensitive radio astronomy operations, and users will be required to coordinate their operation with radio astronomy facilities. We note that medical telemetry service providers operating on 608–614 MHz (television channel 37) currently must accept adjacent channel interference from broadcast television stations operating on channels 36 and 38. With this allocation, we are not requiring television broadcasters to protect WMTS from adjacent band interference. We believe that the multi-band approach that we are adopting provides sufficient flexibility to WMTS. WMTS providers can operate on one of the other bands that we are making available in situations where a hospital is in close proximity to a television station operating on channels 36 or 38. Furthermore, WMTS providers can design equipment to provide sufficient

protection from adjacent channel interference as is current practice.

7. *1395–1400 MHz and 1429–1432 MHz.* In addition to the 608–614 MHz band, we are allocating the 1395–1400 MHz and 1429–1432 MHz bands for medical telemetry. Allocating the 1395–1400 MHz band instead of the alternative band we proposed will result in a 4 MHz greater frequency separation between medical telemetry and government radars operating below 1385 MHz, thereby reducing the risk of interference to medical telemetry equipment. We find that the frequency separation between the 1395–1400 MHz and the 1429–1432 MHz bands will give greater flexibility for medical telemetry by making the bands more useful for two-way communications than a single contiguous band at 1391–1400 MHz.

Service Rules

8. We adopt service rules for the new Wireless Medical Telemetry Service (WMTS). These service rules only apply to the WMTS that will operate at 608–614 MHz, 1395–1400 MHz, and 1429–1432 MHz, and not to the current medical telemetry operations permitted under parts 15 and 90. The rules include licensing requirements and technical standards for the equipment, as well as a frequency coordination procedure.

9. *Definition.* In the NPRM, 64 FR 41892, August 2, 1999, we proposed the following definition for medical telemetry:

Wireless medical telemetry is defined as the measurement and recording of physiological parameters and other patient-related information via radiated bi- or unidirectional electromagnetic signals.

10. We agree that allowing bi-directional transmissions could promote the development of more advanced medical telemetry equipment and encourage more efficient use of the spectrum. The split frequency allocation we are adopting in this item was selected in part to facilitate two-way communications. Accordingly, we are adopting a definition of medical telemetry that will allow bi-directional transmissions. We find it unnecessary to exclude voice and video transmissions in the definition for medical telemetry.

11. *Licensing.* There were no comments opposing our proposal that WMTS equipment be “licensed by rule”, rather than requiring individual operators’ licenses. Individual licensing is generally designed to give a licensee a protected service area, and thus establishes rights among competing entities in the same service. Operators in the WMTS will not be in competition

with each other as are parties in other radio services. The WMTS spectrum will be shared among medical telemetry users, and there will be no mutual exclusivity between users. In addition, "licensing by rule" will minimize regulatory procedures and thus facilitate deployment. We are therefore adopting our proposal that the WMTS exist as one of the Citizen's Band services contained in part 95 of the rules and that the equipment used in this service be "licensed by rule". The Commission has authority under Section 307(e) of the Communications Act to define the citizen's band radio services and to license them by rule.

12. *Eligibility.* We proposed that only authorized health care providers be eligible to operate transmitters in the WMTS. For the purpose of this service, an "authorized health care provider" would be defined as (1) a physician or other individual authorized under state or federal law to provide health care services; (2) a health care facility operated by or employing individuals authorized under state or federal law to provide health care services; or (3) any trained technician under the supervision and control of an individual or health care facility authorized under state or federal law to provide health care services. We proposed to define a "health care provider facility" as a hospital or other establishment that offers services, facilities and beds for use beyond a 24 hour period in rendering medical treatment, and organizations regularly engaged in providing medical services through clinics, public health facilities and similar establishments, including government entities and agencies such as Veterans Administration Hospitals. Health care facilities on tribal lands would also be included under our proposed definition. A health care facility would not include an ambulance or other moving vehicle, and this definition would also not allow home use of WMTS equipment. We are adopting these eligibility definitions as proposed.

13. *Frequency coordination.* The comments supported our proposal to designate a frequency coordinator to maintain a database of all WMTS equipment identified by location, operating frequency, emission type and output power. NTIA notes that a frequency coordinator would facilitate band sharing between hospitals and the remaining government operations at protected sites. Accordingly, we are adopting the proposal to designate a frequency coordinator to maintain a database of WMTS equipment. Without a database, there would be no record of

WMTS usage because WMTS transmitters will not be individually licensed. The database will provide a record of the frequencies used by each facility or device to assist parties in selecting frequencies to avoid interference. The database will be used by eligible users and manufacturers to plan for specific frequency use within a geographic area, especially where numerous WMTS operations may occur.

14. The frequency coordinator will not be a decision maker as to which frequency should be used. Rather, the coordinator will notify users of potential frequency conflicts, and users should be able to resolve any conflicts among themselves. We expect that there will be few conflicts between users of WMTS equipment due to its low operating power, but the Commission will make the final decision on a case-by-case basis in disputes between users, if necessary. The coordinator must be familiar with the medical telemetry user community, and must make its services available to all parties on a first-come, first-served and non-discriminatory basis. The frequency coordinator must be willing to serve a five-year term, which could be renewed by the Commission. In the event that a frequency coordinator does not wish to continue at the end of its term, it will have to transfer its database to another designated entity.

15. The NPRM, 64 FR 41892, August 2, 1999, asked for comments on the following questions about the frequency coordinator: (1) any other qualifications that a frequency coordinator must have, (2) whether a single entity or multiple entities should be designated as frequency coordinator(s), (3) how the frequency records could be maintained with multiple coordinators, and (4) whether we should limit the fees the frequency coordinator(s) can charge.

16. Several entities expressed an interest in being a frequency coordinator for WMTS. In the past the Commission has tried, where appropriate, to introduce market forces into the frequency coordination process. Therefore, rather than adopt a Commission rule restricting database management of WMTS spectrum to a single coordinator, we will leave the ultimate decision on the number of coordinators up to the Commission's Wireless Telecommunications Bureau (WTB). WTB already has delegated authority to select frequency coordinators in the services it administers. WTB will announce its coordination selection procedures in a Public Notice in the near future. We have not found it necessary to set limits on the fees charged by coordinators in

other services, and we have no reason to believe that fee limits will be necessary in the WMTS. Accordingly, we will allow the designated coordinator to set the fee structure as necessary to recoup costs.

17. The NPRM, 64 FR 41892, August 2, 1999, proposed that certain information be submitted to the frequency coordinator for inclusion on the database, including:

- (1) Frequency range(s) used
- (2) Modulation scheme used
- (3) Effective radiated power
- (4) Number of transmitters in use at the health care facility at the time of registration
- (5) Legal name of the authorized health care provider
- (6) Location of transmitter (coordinates, street address, building)
- (7) Point of contact for the authorized health care provider.

We find that including the equipment manufacturer and model number in the database could be useful for helping the frequency coordinator and users in determining the interference potential of WMTS equipment. This information could also assist the Commission or the FDA in locating certain devices in the event a question of compliance with the rules arose. Accordingly, we will specify that the equipment manufacturer and model number be submitted to the frequency coordinator for inclusion on the database. Much of the other information (fax numbers, e-mail addresses, assigned frequencies and occupied bandwidth) simply represents a more detailed description of the information we proposed. We agree with these recommendations and are including them in the final rules. We recognize that including the name of the health care provider and point of contact in the database could possibly make that information available to commercial entities. However, we find that this information is necessary to allow the coordinator and parties using the WMTS to contact other users to verify information and resolve potential conflicts. Thus, we will require the name of the health care provider and a point of contact to be included on the database. Including this information should not raise issues of privacy of patient information, because the database will not contain the patient names or other patient identification information.

18. We find that requiring periodic equipment registration renewals from health care providers to be an unnecessary burden. Most hospitals would find it difficult to remember to renew their registrations after five years have passed, and requiring coordinators

to send out periodic renewal notices and process renewal applications could significantly increase their workload. However, we will not preclude coordinators from verifying the continued use of registered equipment on an "as needed" basis, such as when the database shows a conflict between a registered user and a new user. Accordingly, we are adopting our proposal that equipment registrations will remain valid until the health care provider requests cancellation. Restricting access to the database to certain parties would be difficult and burdensome for the coordinator because the coordinator would have to verify that each and every party accessing the database has a need for the information that is related to health care. Such restrictions could make it difficult for parties with legitimate needs for information to view the database. We therefore find that the database should be open to all parties.

19. *Permissible communications.* We proposed that the WMTS could be used for all types of communications, except for voice or video transmissions. We proposed to exclude these types of transmissions because we were concerned that video could occupy a

significant portion of the spectrum allocated to the WMTS, and that allowing voice transmissions could encourage the equipment to be used as a form of wireless intercom.

20. We find that the transmission of waveform information such as electrocardiograms (ECGs) is within the intended purpose of the WMTS, which is to transmit vital patient data. Accordingly, we will permit the transmission of waveform information in the WMTS. However, allowing the general purpose use of video in the WMTS could potentially result in video occupying a large portion of the available spectrum. This is a greater concern initially because portions of the WMTS spectrum will be unavailable for a number of years in parts of the country due to grandfathered government operations. We are not persuaded that there is currently a need for voice capabilities in telemetry equipment, and we reiterate our concern that allowing such capabilities could encourage use of the equipment for other than its intended purpose of transmitting patient data. Accordingly, we will prohibit voice and video transmissions in the WMTS at this time, but we may revisit

the issue at a later date after government operations cease in the WMTS bands.

21. *Technical Standards.* We proposed only minimal technical standards for WMTS equipment to give manufacturers the flexibility to develop different applications for medical telemetry. We did not propose a specific channelization scheme for the 1395–1400 MHz and 1429–1432 MHz bands. However, to prevent users from monopolizing the 608–614 MHz band, we proposed that equipment using broadband technologies, such as spread spectrum, be capable of operating on channels of 1.5 MHz each, up to a maximum of 6 MHz. Such equipment would operate on the minimum number of channels necessary, and must have the capability of being "throttled back" so it will occupy as little as one 1.5 MHz channel, if necessary, to allow multiple users to share that band. There were no objections to the proposed requirement on maximum channel usage in the 608–614 MHz band, so we are adopting this requirement which will allow the WMTS spectrum to be used more efficiently.

22. We proposed the following field strength limits for transmitters in the WMTS.

Frequency band	Maximum field strength	Measurement distance	Measurement bandwidth	Detector function
608–614 MHz	200 mV/m	3 meters	120 +/- 20 kHz	CISPR QP.
1395–1400 MHz	740 mV/m	3 meters	1 MHz	Average.
1429–1432 MHz	740 mV/m	3 meters	1 MHz	Average.

23. We proposed the same out-of-band field strength limits for transmitters in the WMTS bands that are used for most intentional radiators under part 15 of the rules. We have found those limits to be effective at controlling interference. There were no objections to applying the part 15 out-of-band emission limits to WMTS equipment, and we are adopting them.

24. *Protection of other existing services.* The WMTS must not cause interference to radio astronomy operations, and to certain grandfathered government operations. We are therefore adopting rules requiring the coordination of WMTS operations in the 608–614 MHz band with radio astronomy operations, which are the same as the coordination requirements currently found in part 15. The rules also require operators in the 1395–1400 MHz and 1429–1432 MHz bands to protect certain government operations. Finally, parties using WMTS equipment should be aware that the operation of transmitters in close proximity to medical equipment could cause

interference to the operation of the medical equipment. The rules provide a warning to this effect, which is the same warning found in part 15.

25. *RF Safety.* We do not currently require the routine evaluation of medical telemetry equipment for compliance with the radiofrequency (RF) radiation safety guidelines in our rules due to the low power of the equipment. The NPRM, 64 FR 41892, August 2, 1999 did not propose to require RF safety measurements for WMTS equipment because such equipment would also operate at relatively low power levels.

26. Our rules for RF safety classify equipment into two categories: (1) mobile devices, which normally operate with at least a 20 centimeter separation from the radiating element to the body of the user or a nearby person, and (2) portable devices, which normally operate with less than a 20 centimeter separation from the radiating element to the body of the user. Based upon our analysis, we agree that portable WMTS equipment could possibly exceed the RF

safety guidelines in our rules.

Accordingly, we will require routine environmental evaluation for RF exposure of portable WMTS equipment prior to equipment authorization or use. We expect that the majority of WMTS equipment will be classified as "portable" because medical telemetry transmitters are typically worn on the body. However, we realize that there may be some applications where the transmitter is separated from the body by more than 20 centimeters, such as a unit mounted on a bed or incorporated within a separate device. Consistent with the RF safety requirements for other services, mobile WMTS equipment will be categorically excluded from routine environmental evaluation because WMTS equipment complying with the technical requirements we are adopting will operate with an effective radiated power (ERP) of less than 1.5 watts, which is the threshold for the exclusion of equipment operating below 1.5 GHz.

27. *Equipment authorization requirement.* The NPRM, 64 FR 41892,

August 2, 1999 proposed authorizing WMTS transmitters through the Declaration of Conformity (DoC) procedure in part 2 of the rules. DoC is a manufacturer's self-approval procedure where the equipment is tested to ensure it complies with the Commission's technical standards, and may then be marketed without an approval by the Commission.

28. The certification procedure requires the manufacturer to file electronically a test report showing the equipment complies with the rules along with other supporting documentation to the Commission or to a designated Telecommunication Certification Body (TCB). The equipment may not be marketed until an approval has been received from the Commission or a TCB. Upon further consideration, we agree that certification is the appropriate authorization procedure for WMTS equipment. WMTS equipment involves new technologies, and the majority will be subject to routine environmental evaluation for RF safety. Requiring certification is consistent with the actions we have taken in similar cases, such as the Medical Implant Communication Service (MICS) in part 95. However, we note that procedures for making the RF exposure measurements are currently under development. When such procedures are developed, we may consider relaxing the certification requirement for medical telemetry equipment.

Transition Provisions

29. *Equipment authorization.* We proposed that all new medical telemetry equipment that receives an equipment authorization starting two years after the adoption of final rules must operate in the newly authorized frequency bands. Two years is a reasonable timetable for requiring manufacturers to produce equipment to operate in the new bands. Based on the comments received, we are confident that manufacturers will be able to meet this deadline. We decline to allow equipment approved after that deadline to have the capability of operating in the current part 15 and part 90 bands. Our goal in this proceeding is to not only provide spectrum where medical telemetry the Commission has taken, such as the freeze in the 450–470 MHz band and the requirement for DTV stations to notify nearby health care facilities, affect other parties. We therefore wish to encourage medical telemetry users to migrate out of the current frequency bands and into the new frequency bands. Allowing the development of new equipment that can operate in the old bands after the

transition date would discourage the eventual migration to the new bands.

30. *Grandfathering.* Requiring the replacement of functional medical telemetry systems that are not subject to interference would be an unnecessary financial burden on hospitals.

Accordingly, we will permit medical telemetry equipment that has received an equipment authorization to operate in current part 15 and part 90 bands prior to the two year transition date to be manufactured, imported, marketed and operated without a cutoff date. This action will ensure that manufacturers will be able to make replacement parts for systems operating in the old bands, and that hospitals will be permitted to operate their existing systems as long as possible until replacement is necessary due to age or interference concerns.

31. *Existing equipment registration.* We find it unlikely that a complete database of all part 15 and part 90 medical telemetry transmitters could be developed prior to the transition to the new frequency bands. However, placing even some transmitters in a database could possibly assist parties in avoiding cases of interference. We therefore have no objection to allowing the voluntary registration of existing part 15 and part 90 medical telemetry devices. The rules we are adopting allow frequency coordinators to process voluntary requests to register equipment operating under parts 15 and 90.

450–470 MHz Freeze

32. In 1995, the Commission adopted changes to part 90 of the rules to allow more efficient use of the spectrum for land mobile services. These changes permitted high power operations on channels in the 450–470 MHz band. However, under the new channeling scheme, high-power primary users of the band would be able to operate on the same frequencies used for medical telemetry equipment. This could possibly result in interference to medical telemetry equipment. For this reason, on August 11, 1995, the Commission placed a freeze on the filing of applications for high power operation in the 450–470 MHz band on the 12.5 kHz offset channels.

33. *450–460 MHz band freeze.* On October 20, 1999, the Commission issued a public notice asking parties operating medical telemetry equipment in the 450–460 MHz band to provide certain information to the Commission. We received responses from 25 parties around the country operating in this band. The majority of these users were operating a small number of devices on a limited number of frequencies around 457 and 458 MHz. Based on the limited

usage of the 450–460 MHz band for medical telemetry, we find that the freeze on high-power land mobile applications in the 450–460 MHz band can be lifted. Accordingly, the Wireless Telecommunications Bureau will issue a public notice announcing the lifting of the freeze in this band in the near future.

34. *460–470 band freeze.* We find that a five-year transition period is longer than is necessary to prepare for the lifting of the freeze in the 460–470 MHz band. The freeze was announced almost five years ago, so hospitals have been on notice that they may eventually have to change frequencies. Equipment is already available to operate in the 608–614 MHz band we are allocating in this proceeding, and equipment to operate in the other bands allocated in this proceeding should become available over the next two years. Five more years should not be required for hospitals to make the transition. We will therefore lift the freeze on high power land mobile application in the 460–470 MHz band within three years from the effective date of final rules in this proceeding.

35. The NPRM, 64 FR 41892, August 2, 1999, did not propose to preclude medical telemetry equipment from operating in the ISM bands under part 15 because only a small number of devices operate under these provisions. Therefore, there is not the same potential for a large number of cases of interference to medical telemetry equipment in these bands as there is for medical telemetry equipment operating in the TV and PLMR bands. We expect that the majority of medical telemetry equipment manufacturers will design equipment for the new bands allocated in this proceeding, and that only a small number of devices will continue to use the ISM bands. There, we will continue to allow medical telemetry equipment to operate in the ISM bands under part 15. While such operation will be permissible, manufacturers and users are cautioned that equipment operating in these bands has no protection from interference from ISM equipment operating under part 18 of the rules or other low power transmitters operating under part 15 of the rules.

36. Pursuant to sections 4(I), 11, 301, 302, 303(e), 303(f), 303(r) 304, 307 and 332(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 301, 302, 303(3), 303(f), 303(r), 304, 307 and 332(b).

Final Regulatory Flexibility Analysis

37. As required by the Regulatory Flexibility Act (RFA),¹ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rule Making, Amendment of parts 2 and 95 of the Commission's Rules to Establish a Wireless Medical Telemetry Service.² The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. The comments received are discussed below. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.³

A. Need for, and Objectives of, the Report and Order

38. Medical telemetry equipment currently operates on an unlicensed basis on certain unused TV channels under part 15 of the rules, and on a secondary basis to private land mobile services in the 450–470 MHz band under part 90 of the rules. With the transition to digital TV service, both full power and low-power TV stations may begin operating on some of the vacant channels used by medical telemetry equipment. In addition, the new channelization scheme being implemented in the 450–470 MHz band will allow high-power operation on the channels currently reserved for low-power use where medical telemetry equipment operates. Both of these changes could result in severe interference to medical telemetry equipment. The rules adopted in the Report and Order allocate new frequency bands where medical telemetry equipment can operate on a primary basis without receiving interference.

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

39. There were no timely filed comments in response to the IRFA. The Office of Advocacy, U.S. Small Business Administration (SBA) filed "reply comments" after the comment deadline, but prior to the reply comment deadline. Because they do not respond to comments on the IRFA, they are in fact untimely filed comments. Nevertheless, we will address the issues raised by the SBA.

40. The SBA claims two deficiencies on the part of the Commission in this proceeding. First, SBA states that the NPRM did not consider the impact of the proposed rules on small businesses.⁴ Second, SBA states that the IRFA does not describe the impact of the rules on small businesses and does not provide significant alternatives designed to minimize this impact.⁵

41. We believe SBA is clearly in error on the first point. The RFA only requires agencies to provide an analysis of the impact of the proposed rules on small businesses in the IRFA.⁶ There is no requirement in the RFA to provide such an analysis in the NPRM, which would unnecessarily duplicate the analysis in the IRFA. Thus we reject SBA's first claim.

42. We disagree with SBA on the second point as well. The RFA requires the Commission to provide an analysis that discusses significant alternatives such as (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.⁷ These are merely examples of the type of information that should be included; this list is not a rigid checklist. The IRFA included with the NPRM in this proceeding did in fact include an analysis of the type required by the RFA. Specifically, it discussed the simplified compliance and reporting requirements we considered to minimize the impact of the rules on small businesses. We considered the effect on small business from the outset and made the rules apply equally to all parties. Thus, we consider the IRFA in this proceeding to be adequate. We further note that no other parties had any objections to the IRFA or considered it to be inadequate.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

43. 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 proposed rules, if adopted.⁸ Under

the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions.⁹ 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. 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 SBA. This standard also applies in determining whether an entity is a small business for purposes of the RFA.

44. The Commission has not developed a definition of small entities applicable to RF Equipment Manufacturers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to manufacturers of "Radio and Television Broadcasting and Communications Equipment." According to the SBA's regulation, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business.⁹ Census Bureau data indicates that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.¹⁰ Therefore, we believe that many of the companies that manufacture RF equipment would qualify as small entities.

45. According to the SBA's regulations, nursing homes and hospitals must have annual gross receipts of \$5 million or less in order to qualify as a small business concern. 13 CFR 121.201. There are approximately 11,471 nursing care firms in the nation, of which 7,953 have annual gross receipts of \$5 million or less.¹¹ There are approximately 3,856 hospital firms in the nation, of which 294 have gross receipts of \$5 million or less. Thus, the approximate number of small confined setting entities to which the Commission's new rules will apply is 8,247.

¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et seq., has been amended by the Contract With America Advancement Act of 1996, *Public Law 104-121*, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² See *Notice of Proposed Rule Making* in ET Docket 99-255, 64 FR 41891, 41896 (August 2, 1999).

³ See 5 U.S.C. 604.

⁴ See SBA comments at 1-2.

⁵ See SBA comments at 2-3.

⁶ See 5 U.S.C. 603(a).

⁷ See 5 U.S.C. 603(c).

⁸ See 5 U.S.C. 603(b)(3).

⁹ See 13 CFR 121.201, Standard Industrial Classification (SIC) Code 3663.

¹⁰ See U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities (issued May 1995), SIC category 3663.

¹¹ See Small Business Administration Tabulation File, SBA Size Standards Table 2C, January 23, 1996, SBA, Standard Industrial Code (SIC) categories 8050 (Nursing and Personal Care Facilities) and 8060 (Hospitals). (SBA Tabulation File)

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

46. WMTS equipment will be authorized through the certification procedure. The certification procedure requires the manufacturer to file electronically a test report showing the equipment complies with the rules along with other supporting documentation to the Commission or to a designated Telecommunication Certification Body (TCB). The equipment may not be marketed or operated until an approval has been received from the Commission or TCB. This is the same process adopted by the Commission for the Medical Implant Communication Service (MICS).¹² We are requiring that all parties including small businesses have their equipment approved through the certification procedure because of concerns over radiofrequency radiation safety.

47. Parties operating the equipment will not be required to obtain an individual operator's license from the Commission, but they will have to register with a frequency coordinator designated by the Commission. The Commission may designate multiple coordinators to provide competition to keep costs at a minimum. The information submitted to the frequency coordinator will be:

- (1) Specific frequencies or frequency range(s) used;
- (2) Modulation scheme used (including occupied bandwidth);
- (3) Effective radiated power;
- (4) Number of transmitters in use at the health care facility as of the date of registration (including manufacturer name(s) and model numbers);
- (5) Legal name of the authorized health care provider;
- (6) Location of transmitter (coordinates, street address, building);
- (7) Point of contact for the authorized health care provider (name, title, office, phone number, fax number, e-mail address).

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.

48. We are not requiring individual operators' licenses for equipment in the WMTS. Instead, the equipment will be "licensed by rule", meaning that users are permitted to operate WMTS equipment that complies with rules without the need to apply for a license from the Commission. Licensing by rule benefits small businesses by eliminating the expense and delays that would

result if parties were required to obtain individual operators' licenses.

49. New equipment for the WMTS will not have to operate in the newly allocated frequency bands until two years after the effective date of the new rules. This will allow sufficient time for manufacturers to develop equipment for the new bands, thus reducing the development costs for small businesses. We are also allowing equipment in the old frequency bands that has received an equipment authorization before the two year transition date to be manufactured, imported, marketed and operated without a cutoff date. This will ensure that replacement parts are available for existing telemetry systems and that hospitals will be able to use their existing systems as long as possible before replacement is required, thus reducing expenses for small businesses.

50. There is currently a freeze on high-power land mobile operations in the 450–470 MHz band. The freeze was put in effect in 1995 to protect medical telemetry in that band from interference. We are providing a three-year transition period before lifting the freeze in the 460–470 MHz band. This will assist small businesses by providing adequate time for medical telemetry users to begin migration to the new frequency bands, if necessary. The freeze in the 450–460 MHz band will be lifted shortly after release of this Order because we have determined that little medical telemetry equipment operates in this portion of the band. Therefore, there will be little impact on small businesses.

Report to Congress: The Commission will send a copy of the *Report and Order, Amendment of parts 2 and 95 of the Commission's Rules to Establish a Wireless Medical Telemetry Service*, including this FRFA, in a report to be sent to Congress pursuant to the SBREFA, *see* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order*, including FRFA, to the Chief Counsel for Advocacy of the SBA.

List of Subjects

47 CFR Part 1

Reporting and recordkeeping requirements

47 CFR Part 2 and 95

Communications equipment, Reporting and recordkeeping requirement.

47 CFR Part 15

Communications equipment.

47 CFR Part 90

Communications equipment, Emergency medical services. Federal Communications Commission. William F. Caton, Deputy Secretary.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, 15, 90, and 95 as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. Section 1.1307 is amended by revising paragraph (b)(2) to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(2) Mobile and portable transmitting devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services (PCS), the Satellite Communications Services, the General Wireless Communications Service, the Wireless Communications Service, the Maritime Services (ship earth stations only) and the Specialized Mobile Radio Service authorized under Subpart H of parts 22, 24, 25, 26, 27, 80, and 90 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 2.1091 and 2.1093 of this chapter. Unlicensed PCS, unlicensed NII and millimeter wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 15.253(f), 15.255(g), 15.319(i), and 15.407(f) of this chapter. Portable transmitting equipment for use in the Wireless Medical Telemetry Service (WMTS) is subject to routine environment evaluation as specified in §§ 2.1093 and 95.1125 of this chapter. Equipment authorized for use in the Medical Implant Communications Service (MICS) as a medical implant transmitter (as defined in Appendix 1 to Subpart E of part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in § 2.1093 of this chapter by finite difference time domain computational

¹² See para. 53, *supra*.

modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that specific absorption rate measurement data be submitted. All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§ 2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307, 336, and 337, unless otherwise noted.

4. Section 2.106 is amended as follows:

a. Revise the entries for the MHz bands of the Table of Frequency Allocations to read as follows.

b. In the United States (US) footnotes, revise footnote US246 and add footnotes US350, US351, and US352.

c. In the Government (G) footnotes, revise footnotes G27, G30, and G114.

The revisions and additions read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

BILLING CODE 6712-01-W

470-849 MHz (UHF)			Page 37		
International Table		United States Table			
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	FCC Rule Part(s)
470-790 BROADCASTING	470-512 BROADCASTING Fixed Mobile	470-585 FIXED MOBILE BROADCASTING	470-608	470-512 FIXED BROADCASTING LAND MOBILE	Public Mobile (22) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74) Private Land Mobile (90)
	S5.292 S5.293	S5.291 S5.298		NG66 NG114 NG127 NG128 NG149	
	512-608 BROADCASTING	S5.291 S5.298		512-608 BROADCASTING	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
	S5.297	585-610 FIXED MOBILE BROADCASTING RADIO NAVIGATION		NG128 NG149	
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)	S5.149 S5.305 S5.306 S5.307	608-614 LAND MOBILE US350 RADIO ASTRONOMY US74		Personal (95)
	614-806 BROADCASTING Fixed Mobile	610-890 FIXED MOBILE BROADCASTING	US246	614-698 BROADCASTING	Broadcast Radio (TV) (73) Auxiliary Broadcast. (74)
			614-890	NG128 NG149 698-746 BROADCASTING	Broadcast Radio (TV) (73) Auxiliary Broadcast. (74)
				NG128 NG149	Note: Band to be reallocated and auction- ed by Sept. 30, 2002.

1300-1350 AERONAUTICAL RADIONAVIGATION S5.337 Radiolocation	1300-1350 AERONAUTICAL RADIO- NAVIGATION S5.337 Radiolocation G2	1300-1350 AERONAUTICAL RADIO- NAVIGATION S5.337	Aviation (87)
S5.149	S5.149	S5.149	
1350-1400 FIXED MOBILE RADIOLOCATION	1350-1390 FIXED MOBILE RADIOLOCATION G2	1350-1390	
S5.149 S5.338 S5.339	S5.149 S5.334 S5.339 US311 G27 G114	S5.149 S5.334 S5.339	Note: 1390-1395 MHz became non-Federal Government exclusive spectrum in January 1999
1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive)	1390-1395 RADIOLOCATION G2 Fixed Mobile	1390-1395	
S5.340 S5.341	S5.149 S5.339 US311 US351 G27 G114	S5.149 S5.339 US351	
1427-1429 SPACE OPERATION (Earth-to-space) FIXED MOBILE except aeronautical mobile	1395-1400 LAND MOBILE US350	1395-1400 LAND MOBILE US350	Personal (95)
S5.341	S5.149 US5.339 US311 US351	S5.149 US5.339 US311 US351	
1427-1429 SPACE OPERATION (Earth-to-space) FIXED MOBILE except aeronautical mobile	1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)	1427-1429 SPACE OPERATION (Earth-to-space) Fixed (telemetry) Land mobile (telemetry and telecommand)	Satellite Communications (25) Private Land Mobile (90) Note: 1427-1429 MHz became non-Federal government exclusive spectrum in January 1999
S5.341	S5.341 US246	S5.341 US246	
S5.341	S5.341 G30	S5.341 G30	

International Table		1429-1610 MHz (UHF)		United States Table		FCC Rule Part(s)
		Region 1	Region 2	Region 3	Federal Government	
Region 1 1429-1452 FIXED MOBILE except aeronautical mobile	Region 2 1429-1452 FIXED MOBILE S5.343	Region 3	Federal Government 1429-1432 LAND MOBILE US350 S5.341 US352 1432-1435 FIXED MOBILE S5.341 G30	Non-Federal Government 1429-1432 LAND MOBILE US350 Fixed (telemetry) Land mobile (telemetry and telecommand) S5.341 US352 1432-1435 Fixed (telemetry) Land mobile (telemetry and telecommand) S5.341	Private Land Mobile (90) Personal (95) Private Land Mobile (90) Note: 1432-1435 MHz became mixed-use spectrum in January 1999.	
S5.341 S5.342	S5.341		1435-1525 MOBILE (aeronautical telemetry)		Aviation (87)	
1452-1492 FIXED MOBILE except aeronautical mobile BROADCASTING S5.345 S5.347 BROADCASTING- SATELLITE S5.345 S5.347 S5.341 S5.342	1452-1492 FIXED MOBILE S5.343 BROADCASTING S5.345 S5.347 BROADCASTING-SATELLITE S5.345 S5.347 S5.341 S5.344					
1492-1525 FIXED MOBILE except aeronautical mobile	1492-1525 FIXED MOBILE S5.343 MOBILE-SATELLITE (space-to-Earth) S5.348A S5.341 S5.344 S5.348	1492-1525 FIXED MOBILE S5.341 S5.348A				
1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite mobile except aeronautical mobile S5.349	1525-1530 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite Fixed Mobile S5.343	1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) Earth exploration-satellite Mobile S5.349	1525-1530 MOBILE-SATELLITE (space-to-Earth) Mobile (aeronautical telemetry)		Satellite Communications (25) Aviation (87)	
S5.341 S5.342 S5.350 S5.351 S5.352A S5.354	S5.341 S5.351 S5.354	S5.341 S5.351 S5.352A S5.354	S5.341 S5.351 US78			

<p>1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) S5.353A Earth exploration-satellite Fixed Mobile S5.343</p>	<p>1530-1535 MOBILE-SATELLITE (space-to-Earth) MARITIME MOBILE-SATELLITE (space-to-Earth) Mobile (aeronautical telemetry)</p>	<p>1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) S5.353A Earth exploration-satellite Fixed Mobile S5.343</p>	<p>1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) S5.353A Earth exploration-satellite Fixed Mobile except aeronautical mobile</p>	<p>S5.341 S5.351 US78 US315</p>	<p>S5.341 S5.351 US315</p>	<p>S5.341 S5.351 S5.354</p>	<p>S5.341 S5.342 S5.351 S5.354</p>	<p>Satellite Communications (25) Maritime (80)</p>	<p>MOBILE-SATELLITE (space-to-Earth) MARITIME MOBILE-SATELLITE (space-to-Earth) S5.341 S5.351 US315</p>	<p>MOBILE-SATELLITE (space-to-Earth)</p>	<p>MOBILE-SATELLITE (space-to-Earth)</p>	<p>Aviation (87)</p>	<p>1544-1545 MOBILE-SATELLITE (space-to-Earth) S5.341 S5.356</p>	<p>1545-1549.5 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) Mobile-satellite (space-to-Earth) S5.341 S5.351 US308 US309</p>	<p>1549.5-1558.5 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) S5.341 S5.351 US308 US309</p>	<p>Note: The NTIA Manual (footnote G126) states that differential GPS stations may be author- ized in the 1559-1610 MHz band, but the FCC has not yet addressed this footnote.</p>	<p>1558.5-1559 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) S5.341 S5.351 US308 US309</p>	<p>1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth)</p>	<p>S5.341 S5.355 S5.356 S5.357 S5.357A S5.359 S5.362A</p>
<p>1535-1559 MOBILE-SATELLITE (space-to-Earth)</p>	<p>1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth)</p>	<p>S5.341 S5.351 S5.359 S5.363</p>	<p>S5.341 S5.351 US208 US260</p>	<p>S5.341 S5.351 US208 US260</p>	<p>S5.341 S5.355 S5.359 S5.363</p>	<p>S5.341 S5.351 S5.359 S5.363</p>	<p>S5.341 S5.351 S5.359 S5.363</p>	<p>S5.341 S5.355 S5.359 S5.363</p>	<p>S5.341 S5.351 S5.359 S5.363</p>	<p>S5.341 S5.355 S5.359 S5.363</p>	<p>S5.341 S5.355 S5.359 S5.363</p>	<p>S5.341 S5.355 S5.359 S5.363</p>	<p>S5.341 S5.355 S5.359 S5.363</p>	<p>S5.341 S5.355 S5.359 S5.363</p>					

BILLING CODE 6712-01-C

* * * * *

United States (US) Footnotes

* * * * *

US246 Except for medical telemetry equipment operating in the band 608–614 MHz, no stations shall be authorized to transmit in the following bands: 608–614 MHz, 1400–1427 MHz, 1660.5–1668.4 MHz, 2690–2700 MHz, 4990–5000 MHz, 10.68–10.70 GHz, 15.35–15.40 GHz, 23.6–24.0 GHz, 31.3–31.8 GHz, 51.4–54.25 GHz, 58.2–59.0 GHz, 64–65 GHz, 86–92 GHz, 100–102 GHz, 105–116 GHz, 164–168 GHz, 182–

185 GHz and 217–231 GHz. Medical telemetry equipment shall not cause harmful interference to radio astronomy operations in the band 608–614 MHz and shall be coordinated under the requirements found in 47 CFR 95.1119.

* * * * *

US350 In the bands 608–614 MHz, 1395–1400 MHz, and 1429–1432, the land mobile service is limited to medical telemetry and telecommand operations. Additionally, the band 1429–1432 MHz may be used on secondary basis for non-Government

land mobile telemetry and telecommand and fixed telemetry.

US351 In the band 1390–1400 MHz, Government operations, except for medical telemetry operations in the sub-band 1395–1400 MHz, are on a non-interference basis to authorized non-Government operations and shall not hinder implementation of any non-Government operations. However, Government operations authorized as of March 22, 1995 at 17 sites identified below will be continued on a fully protected basis until January 1, 2009.

Sites	Lat/Long	Radius (km)	Sites	Lat/Long	Radius (km)
Eglin AFB, FL	30°28'N/086°31'W	80	Ft. Greely, AK	63°47'N/145°52'W	80
Dugway PG, UT	40°11'N/112°53'W	80	Ft. Rucker, AL	31°13'N/085°49'W	80
China Lake, CA	35°41'N/117°41'W	80	Redstone, AL	34°35'N/086°35'W	80
Ft. Huachuca, AZ	31°33'N/110°18'W	80	Utah Test Range, UT	40°57'N/113°05'W	80
Cherry Point, NC	34°57'N/076°56'W	80	WSM Range, NM	32°10'N/106°21'W	80
Patuxent River, MD	38°17'N/076°25'W	80	Holloman AFB, NM	33°29'N/106°50'W	80
Aberdeen PG, MD	39°29'N/076°08'W	80	Yuma, AZ	32°29'N/114°20'W	80
Wright-Patterson AFB, OH	39°50'N/084°03'W	80	Pacific Missile Range, CA	34°07'N/119°30'W	80
Edwards AFB, CA	34°54'N/117°53'W	80			

US352 In the band 1429–1432 MHz, Government operations, except for medical telemetry operations, are on a non-interference basis to authorized

non-Government operations and shall not hinder the implementation of any non-Government operations. However, Government operations authorized as of

March 22, 1995 at 14 sites identified below will be continued on a fully protected basis until January 1, 2004.

Sites	Lat/Long	Radius (km)	Sites	Lat/Long	Radius (km)
Patuxent River, MD	38°17'N/076°25'W	70	Mountain Home AFB, ID	43°01'N/115°50'W	160
NAS Oceana, VA	36°49'N/076°02'W	100	NAS Fallon, NV	39°24'N/118°43'W	100
MCAS Cherry Point, NC	34°54'N/076°52'W	100	Nellis AFB, NV	36°14'N/115°02'W	100
Beaufort MCAS, SC	32°26'N/080°40'W	160	NAS Lemoore, CA	36°18'N/119°47'W	120
NAS Cecil Field, FL	30°13'N/081°52'W	160	Yuma MCAS, AZ	32°39'N/114°35'W	160
NAS Whidbey IS., WA	48°19'N/122°24'W	70	China Lake, CA	35°29'N/117°16'W	80
Yakima Firing Ctr AAF, WA	46°40'N/120°15'W	70	MCAS Twenty Nine Palms, CA ...	34°15'N/116°03'W	80

* * * * *

G27 In the bands 225–328.6, 335.4–399.9, and 1350–1395 MHz, the fixed and mobile services are limited to the military services.

G30 In the bands 138–144, 148–149.9, 150.05–150.8, 1427–1429, and 1432–1435 MHz, the fixed and mobile services are limited primarily to operations by the military services.

* * * * *

G114 In the band 1350–1395 MHz, the frequency 1381.05 MHz with emissions limited to ±12 MHz is also allocated to fixed and mobile satellite services (space-to-earth) for the relay of nuclear burst data.

* * * * *

5. Section 2.1093 is amended by revising paragraph (c) to read as follows:

§2.1093 Radiofrequency radiation exposure evaluation: portable devices.

* * * * *

(c) Portable devices that operate in the Cellular Radiotelephone Service, the Personal Communications Service (PCS), the Satellite Communications Services, the General Wireless Communications Service, the Wireless Communications Service, the Maritime Services, the Specialized Mobile Radio Service, the Wireless Medical Telemetry Service (WMTS) and the Medical Implant Communications Service (MICS), authorized under subpart H of part 22 of this chapter, part 24 of this chapter, part 25 of this chapter, part 26 of this chapter, part 27 of this chapter, part 80 of this chapter (ship earth station devices only), part 90 of this chapter, subparts H and I of part 95, and unlicensed personal communication service, unlicensed NII devices and

millimeter wave devices authorized under subparts D and E, § 15.253 and § 15.255 of part 15 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use. All other portable transmitting devices are categorically excluded from routine environmental evaluation for RF exposure prior to equipment authorization or use, except as specified in §§ 1.1307(c) and 1.1307(d) of this chapter. Applications for equipment authorization of portable transmitting devices subject to routine environmental evaluation must contain a statement confirming compliance with the limits specified in paragraph (d) of this section as part of their application. Technical information showing the basis for this statement must be

submitted to the Commission upon request.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

6. The authority citation for Part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

7. Section 15.37 is amended by adding a new paragraph (i).

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(i) Effective October 16, 2002, an equipment approval may no longer be obtained for medical telemetry equipment operating under the provisions of § 15.241 or § 15.242. The requirements for obtaining an approval for medical telemetry equipment after this date are found in Subpart H of Part 95 of this chapter.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

8. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

9. Section 90.203 is amended by revising paragraph (a)(1) to read as follows:

§ 90.203 Certification required.

(a) * * *

(1) Effective October 16, 2002, an equipment approval may no longer be obtained for in-hospital medical telemetry equipment operating under the provisions of this part. The requirements for obtaining an approval for medical telemetry equipment after this date are found in Subpart H of Part 95 of this chapter.

PART 95—PERSONAL RADIO SERVICES

10. The authority citation for Part 95 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

11. Section 95.401 is amended by adding a new paragraph (d) to read as follows:

§ 95.401 (CB Rule 1) What are the Citizens Band Radio Services?

* * * * *

(d) The Wireless Medical Telemetry Service (WMTS)—a private, short distance data communication service for

the transmission of patient medical information to a central monitoring location in a hospital or other medical facility. Voice and video communications are prohibited. Waveforms such as electrocardiograms (ECGs) are not considered video. The rules for this service are contained in subpart H of this part.

12. Section 95.601 is amended by revising the last sentence of the introductory text to read as follows:

§ 95.601 Basis and purpose.

* * * The Personal Radio Services are the GMRS (General Mobile Radio Service)-subpart A, the Family Radio Service (FRS)-subpart B, the R/C (Radio Control Radio Service)-subpart C, the CB (Citizens Band Radio Service)-subpart D, the Low Power Radio Service (LPRS)-subpart G, the Wireless Medical Telemetry Service (WMTS)-subpart H, and the Medical Implants Communication Service (MICS)-subpart I.

13. Section 95.630 is added to read as follows:

§ 95.630 WMTS transmitter frequencies.

WMTS transmitters may operate in the frequency bands specified below:
608–614 MHz
1395–1400 MHz
1429–1432 MHz

14. Section 95.631 is amended by adding a new paragraph (h) to read as follows:

§ 95.631 Emission types.

* * * * *

(h) A WMTS station may transmit any emission type appropriate for communications in this service, except for video and voice. Waveforms such as electrocardiograms (ECGs) are not considered video.

15. Section 95.639 is amended by adding a new paragraph (f) to read as follows:

§ 95.639 Maximum transmitter power.

* * * * *

(f) The maximum field strength authorized for WMTS stations in the 608–614 MHz band is 200 mV/m, measured at 3 meters. For stations in the 1395–1400 MHz and 1429–1432 MHz bands, the maximum field strength is 740 mV/m, measured at 3 meters.

16. Section 95.649 is revised to read as follows:

§ 95.649 Power capability.

No CB, R/C, LPRS, FRS, MICS or WMTS unit shall incorporate provisions for increasing its transmitter power to any level in excess of the limits specified in § 95.639.

17. Section 95.651 is revised to read as follows:

§ 95.651 Crystal control required.

All transmitters used in the Personal Radio Services must be crystal controlled, except an R/C station that transmits in the 26–27 MHz frequency band, a FRS unit, a LPRS unit, a MICS transmitter, or a WMTS unit.

18. Appendix 1 to Subpart E to Part 95—Glossary of Terms is revised to add the term “WMTS. Wireless Medical Telemetry Service.” at the end of the list.

19. A new Subpart H is added to Part 95 to read as follows:

Subpart H—Wireless Medical Telemetry Service (WMTS)

General Provisions

Sec.

- 95.1101 Scope.
- 95.1103 Definitions.
- 95.1105 Eligibility.
- 95.1107 Authorized locations.
- 95.1109 Equipment authorization requirement.
- 95.1111 Frequency coordination.
- 95.1113 Frequency coordinator.
- 95.1115 General technical requirements.
- 95.1117 Types of communications.
- 95.1119 Specific requirements for wireless medical telemetry devices operating in the 608–614 MHz band.
- 95.1121 Specific requirements for wireless medical telemetry devices operating in the 1395–1400 MHz and 1429–1432 MHz bands.
- 95.1123 Protection of medical equipment.
- 95.1125 RF Safety.
- 95.1127 Station identification.
- 95.1129 Station inspection.

* * * * *

Subpart H—Wireless Medical Telemetry Service (WMTS)

General Provisions

§ 95.1101 Scope.

This part sets out the regulations governing the operation of Wireless Medical Telemetry Devices in the 608–614 MHz, 1395–1400 MHz and 1429–1432 MHz frequency bands.

§ 95.1103 Definitions.

(a) Authorized health care provider. A physician or other individual authorized under state or federal law to provide health care services, or any other health care facility operated by or employing individuals authorized under state or federal law to provide health care services, or any trained technician operating under the supervision and control of an individual or health care facility authorized under state or federal law to provide health care services.

(b) Health care facility. A health care facility includes hospitals and other establishments that offer services, facilities and beds for use beyond a 24 hour period in rendering medical treatment, and institutions and organizations regularly engaged in providing medical services through clinics, public health facilities, and similar establishments, including government entities and agencies such as Veterans Administration hospitals; except the term health care facility does not include an ambulance or other moving vehicle.

(c) Wireless medical telemetry. The measurement and recording of physiological parameters and other patient-related information via radiated bi-or unidirectional electromagnetic signals in the 608–614 MHz, 1395–1400 MHz, and 1429–1432 MHz frequency bands.

§ 95.1105 Eligibility.

Authorized health care providers are authorized by rule to operate transmitters in the Wireless Medical Telemetry Service without an individual license issued by the Commission provided the coordination requirements in § 95.1111 have been met. Manufacturers of wireless medical telemetry devices and their representatives are authorized to operate wireless medical telemetry transmitters in this service solely for the purpose of demonstrating such equipment to, or installing and maintaining such equipment for, duly authorized health care providers. No entity that is a foreign government or which is active in the capacity as a representative of a foreign government is eligible to operate a WMTS transmitter.

§ 95.1107 Authorized locations.

The operation of a wireless medical telemetry transmitter under this part is authorized anywhere within a health care facility provided the facility is located anywhere a CB station operation is permitted under § 95.405. This authority does not extend to mobile vehicles, such as ambulances, even if those vehicles are associated with a health care facility.

§ 95.1109 Equipment authorization requirement.

(a) Wireless medical telemetry devices operating under this part must be authorized under the certification procedure prior to marketing or use in accordance with the provisions of Part 2, Subpart J of this chapter.

(b) Each device shall be labeled with the following statement:

Operation of this equipment requires the prior coordination with a frequency coordinator designated by the FCC for the Wireless Medical Telemetry Service.

§ 95.1111 Frequency coordination.

(a) Prior to operation, authorized health care providers who desire to use wireless medical telemetry devices must register all devices with a designated frequency coordinator. The registration must include the following information:

- (1) Specific frequencies or frequency range(s) used;
- (2) Modulation scheme used (including occupied bandwidth);
- (3) Effective radiated power;
- (4) Number of transmitters in use at the health care facility as of the date of registration including manufacturer name(s) and model numbers;
- (5) Legal name of the authorized health care provider;
- (6) Location of transmitter (coordinates, street address, building);
- (7) Point of contact for the authorized health care provider (name, title, office, phone number, fax number, e-mail address).

(b) An authorized health care provider shall notify the frequency coordinator whenever a medical telemetry device is permanently taken out of service, unless the device is replaced with another transmitter utilizing the same technical characteristics as those reported on the effective registration. An authorized health care provider shall maintain the information contained in each registration current in all material respects, and shall notify the frequency coordinator when any change is made in the location or operating parameters previously reported which is material.

§ 95.1113 Frequency coordinator.

(a) The Commission will designate a frequency coordinator(s) to manage the usage of the frequency bands for the operation of medical telemetry devices.

(b) The frequency coordinator shall

- (1) Review and process coordination requests submitted by authorized health care providers as required in § 95.1111;
- (2) maintain a database of WMTS use;
- (3) notify users of potential conflicts; and
- (4) coordinate WMTS operation with radio astronomy observatories and Federal Government radar systems as specified in §§ 95.1119 and 95.1121.

§ 95.1115 General technical requirements.

(a) *Field strength limits.* (1) In the 608–614 MHz band, the maximum allowable field strength is 200 mV/m, as measured at a distance of 3 meters, using measuring instrumentation with a CISPR quasi-peak detector.

(2) In the 1395–1400 MHz and 1429–1432 MHz bands, the maximum

allowable field strength is 740 mV/m, as measured at a distance of 3 meters, using measuring equipment with an averaging detector and a 1 MHz measurement bandwidth.

(b) *Undesired emissions.* (1) Out-of-band emissions below 960 MHz are limited to 200 μ m, as measured at a distance of 3 meters, using measuring instrumentation with a CISPR quasi-peak detector.

(2) Out-of-band emissions above 960 MHz are limited to 500 μ m as measured at a distance of 3 meters using measuring equipment with an averaging detector and a 1 MHz measurement bandwidth.

(c) *Emission types.* A wireless medical telemetry device may transmit any emission type appropriate for communications in this service, except for video and voice. Waveforms such as electrocardiograms (ECGs) are not considered video.

(d) *Channel use.* (1) In the 1395–1400 MHz and 1429–1432 MHz bands, no specific channels are specified. Wireless medical telemetry devices may operate on any channel within the bands authorized for wireless medical telemetry use in this part.

(2) In the 608–614 MHz band, wireless medical telemetry devices utilizing broadband technologies such as spread spectrum shall be capable of operating within one or more of the following channels of 1.5 MHz each, up to a maximum of 6 MHz, and shall operate on the minimum number of channels necessary to avoid harmful interference to any other wireless medical telemetry devices.

608.0–609.5 MHz
609.5–611.0 MHz
611.0–612.5 MHz
612.5–614.0 MHz

(3) Channel usage is on a co-primary shared basis only, and channels will not be assigned for the exclusive use of any entity.

(4) Authorized health care providers, in conjunction with the equipment manufacturers, must cooperate in the selection and use of frequencies in order to reduce the potential for interference with other wireless medical telemetry devices, or other co-primary users. Operations in the 608–614 MHz band (television channel 37) are not protected from adjacent band interference from broadcast television operating on channels 36 and 38.

(e) *Frequency stability.* Manufacturers of wireless medical telemetry devices are responsible for ensuring frequency stability such that an emission is maintained within the band of operation under all of the manufacturer's specified conditions.

§ 95.1117 Types of communications.

(a) All types of communications except voice and video are permitted, on both a unidirectional and bidirectional basis, provided that all such communications are related to the provision of medical care. Waveforms such as electrocardiograms (ECGs) are not considered video.

(b) Operations that comply with the requirements of this part may be conducted under manual or automatic control, and on a continuous basis.

§ 95.1119 Specific requirements for wireless medical telemetry devices operating in the 608–614 MHz band.

For a wireless medical telemetry device operating within the frequency range 608–614 MHz and that will be located near the radio astronomy observatories listed below, operation is not permitted until a WMTS frequency coordinator specified in § 95.1113 has coordinated with, and obtain the written concurrence of, the director of the affected radio astronomy observatory before the equipment can be installed or operated

(a) Within 80 kilometers of:

(1) National Astronomy and Ionosphere Center, Arecibo, Puerto Rico: 18°20'38.28" North Latitude, 66° 45'09.42" West Longitude.

(2) National Radio Astronomy Observatory, Socorro, New Mexico: 34° 04'43" North Latitude, 107°37'04" West Longitude.

(3) National Radio Astronomy Observatory, Green Bank, West Virginia: 38°26'08" North Latitude, 79°49'42" West Longitude.

(b) Within 32 kilometers of the National Radio Astronomy Observatory centered on:

Very long baseline array stations	Latitude (north)	Longitude (west)
Pie Town, NM	34° 18'	108° 07'
Kitt Peak, AZ	31° 57'	111° 37'
Los Alamos, NM	35° 47'	106° 15'
Fort Davis, TX	30° 38'	103° 57'
North Liberty, IA	41° 46'	91° 34'
Brewster, WA	48° 08'	119° 41'
Owens Valley, CA	37° 14'	118° 17'
Saint Croix, VI	17° 46'	64° 35'
Mauna Kea, HI	19° 49'	155° 28'
Hancock, NH	42° 56'	71° 59'

The National Science Foundation point of contact for coordination is: Spectrum Manager, Division of Astronomical Sciences, NSF Room 1045, 4201 Wilson Blvd., Arlington, VA 22230, telephone: 703–306–1823.

§ 95.1121 Specific requirements for wireless medical telemetry devices operating in the 1395–1400 MHz and 1429–1432 MHz bands.

Due to the critical nature of communications transmitted under this part, the frequency coordinator in consultation with the National Telecommunications and Information Administration shall determine whether there are any federal government radar systems whose operations could affect, or could be affected by, proposed wireless medical telemetry operations in the 1395–1400 MHz and 1429–1432 MHz bands. The locations of government radar systems in these bands are specified in footnotes US351 and US352 of § 2.106 of this chapter.

§ 95.1123 Protection of medical equipment.

The manufacturers, installers and users of WMTS equipment are cautioned that the operation of this equipment could result in harmful interference to other nearby medical devices.

§ 95.1125 RF safety.

Portable devices as defined in § 2.1093(b) of this chapter operating in the WMTS are subject to radio frequency radiation exposure requirements as specified in §§ 1.1307(b) and 2.1093 of this chapter. Applications for equipment authorization of WMTS devices must contain a statement confirming compliance with these requirements. Technical information showing the basis for this statement must be submitted to the Commission upon request.

§ 95.1127 Station identification.

A WMTS station is not required to transmit a station identification announcement.

§ 95.1129 Station inspection.

All WMTS transmitters must be available for inspection upon request by an authorized FCC representative.

[FR Doc. 00–17970 Filed 7–14–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1441; MM Docket No. 99–225; RM–9635]

Radio Broadcasting Services; Saint Regis, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 256C2 to Saint Regis, Montana, in response to a petition filed by the Battani Corporation. See 64 FR 34753, June 29, 1999. The coordinates for Channel 256C2 at Saint Regis are 47–15–56 NL and 114–51–29 WL. There is a site restriction 18.1 kilometers east of the community. Canadian concurrence has been received for the allotment of Channel 256C2 at Saint Regis. A filing window for Channel 256C2 at Saint Regis will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective August 14, 2000.

FOR FURTHER INFORMATION CONTACT:

Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–225, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Saint Regis, Channel 256C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18054 Filed 7–14–00; 8:45 am]

BILLING CODE 6712–01–P