expected to shed new light on Watkins contributions to art and scientific history.

Discussion: Example 3 addresses the issue of whether the Federal Council will indemnify an exhibition even where the U.S. objects outnumber the foreign works. In determining whether to indemnify the entire exhibition, the Federal Council will evaluate the exhibition as a whole and the relationship of the foreign loans to the educational, cultural, historical and scientific significance of the exhibition. In this example, the exhibition promises to make import ant contributions not only to the history of art but also to the history of science. While there is only a single foreign work of art, it is clearly an essential component of the exhibition as a whole. The case for indemnification of the entire exhibition is further strengthened by the fact that a foreign masterpiece, which is closely related to the preparatory drawings and anatomical illustrations and drawings owned by American institutions, will be made available to the American public. Thus, the mere fact that the U.S. loans outnumber the foreign works will not in itself disqualify the entire exhibition for indemnification.

[FR Doc. 95–16548 Filed 7–5–95; 8:45 am]

BILLING CODE 7536–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15

[DA 95–1415]

Request for Supplemental Comments

AGENCY: Federal Communications Commission.

ACTION: Supplemental proposed rule.

SUMMARY: The FCC has proposed, in ET Docket No. 94–124 (59 FR 61304, November 30, 1994), that certain frequency bands above 40 GHz be opened for commercial development and use. The Commission is seeking comments on the desirability and feasibility of harmonizing the FCC's proposal in ET Docket No. 94–124 and the European frequency allocation table. This action follows recent international meetings and is taken in order to obtain additional information for the record of ET Docket No. 94–124.

DATES: Comments may be filed on or before July 28, 1995. Replies may be filed on or before August 18, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Engelman, Office of Engineering and Technology, (202) 776–1626.

SUPPLEMENTARY INFORMATION: A copy of the European frequency allocation table for frequencies above 40 GHz has been placed in the record of ET Docket No. 94–124. Copies of the information filed in ET Docket No. 94–124 are available from the FCC's copy contractor: International Transcription Service, Inc., (202) 857–3800. Copies of ERC Report 25, which contains the complete European frequency allocation table from 960 MHz to 105 GHz, may be obtained from the ERC's permanent European Radiocommunications Office, Holsteinsgade 63, DK–2100 Copenhagen, Denmark (telephone +45 35 43 24 42, fax +45 35 43 35 14). In addition, comments on the European frequency allocation table may be filed with the European Radiocommunications Office. A copy of a presentation from the Japanese government also has been inserted in the record of ET Docket 94–124. Parties interested in the Japanese standards may contact RCR at Bansui Bldg., 1–5–16, Toranomon, Minato-ku, Tokyo 105, Japan (telephone +81 3 3592 1101, fax +81 3 3592 1103).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–16070 Filed 7–5–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 25 and 87

[IB Docket No. 95–91; GEN Docket No. 90–357; PP–24; PP–85; PP–87; FCC 95–229]

Digital Audio Radio Service in the 2310–2360 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has proposed rules and policies to establish service and licensing rules for the Digital Audio Radio Service in the 2310–2360 MHz frequency bands. We request comment on issues that include how many licenses should be awarded; how much spectrum each licensee should be assigned; how licensees should be selected if mutually exclusive applications are filed; whether applications already pending before the Commission should receive special consideration; how those licensees should be classified; whether licensees should be permitted to use some of their spectrum for non-DARS services; how satellite DARS will impact terrestrial radio broadcasting; and what rules should govern the operation of DARS transmissions to ensure service to the public and to prevent interference to competitors and other services.

DATES: Comments are due by September 15, 1995; reply comments are due by October 13, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara, International Bureau, Satellite and Radiocommunication Division, Satellite Policy Branch, (202) 739–0730, or Ron Repasi, International Bureau, Satellite and Radiocommunication Division, Satellite Engineering Branch, (202) 739–0749.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making* in IB Docket No. 95–91; FCC 95–229, adopted June 14, 1995 and released June 15, 1995. The complete text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

In 1990, Satellite CD Radio (CD Radio) filed a Petition for Rulemaking to allocate spectrum for a Digital Audio Radio Service (DARS). In February 1992, the World Administrative Radio Conference (WARC 92) adopted international frequency allocations for satellite digital audio broadcasting. Domestic allocations were proposed in 1992 (*see* Notice of Proposed Rulemaking and Further Notice of Inquiry, 57 FR 57049 (Dec. 2, 1992)) and adopted in 1995 (*see* Amendment of the Commission's Rules with Regard to the Establishment and Regulation of New Digital Audio Radio Services, 60 FR 8309 (Feb. 14, 1995) (*Allocation Order*)).

In 1990, CD Radio filed an application to provide a digital audio radio service by satellite. Following the *Allocation NPRM*, the Commission established a December 15, 1992 cut-off date for applications proposing satellite DARS to be considered in conjunction with CD Radio's application. There remains a pool of four applicants consisting CD Radio, Primosphere Limited Partnership, Digital Satellite Broadcasting Corporation, and American Mobile Radio Corporation.

In the *Allocation Order*, we indicated that this rulemaking would be initiated to address the implementation of satellite DARS. We have, therefore, proposed rules and policies to establish service and licensing rules for the Digital Audio Radio Service in the 2310–2360 MHz frequency bands. We request comment on issues that include how many licenses should be awarded;

how much spectrum each licensee should be assigned; how licensees should be selected if mutually exclusive applications are filed; whether applications already pending before the Commission should receive special consideration; how those licensees should be classified; whether licensees should be permitted to use some of their spectrum for non-DARS services; how this service would impact terrestrial radio broadcasting; and what rules should govern the operation of DARS transmissions to ensure service to the public and to prevent interference to competitors and other services. We also request comment on the pioneer's preference requests filed by three of the current applicants.

In addition to the rule changes being proposed for Part 25, we are proposing to modify Section 87.303(d)(1) concerning frequency use in Aviation Services. We seek comment on this proposal and on any additional modifications to Part 87 that may be necessary.

We conclude that the proposals set forth in this NPRM will facilitate the implementation of DARS in the United States. We seek comment on all aspects of these service rules and anticipate an extensive record on which to base decisions on final regulations.

Ordering Clauses

Accordingly, it is ordered that, pursuant to sections 1, 4(i), 4(j), 7, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and 154(j), 157, and 309(j), notice is hereby given of the proposed amendments to Parts 25 and 87 of the Commission's Rules, 47 CFR Parts 25 and 87, in accordance with the proposals in this Notice of Proposed Rulemaking, and the comment is sought regarding such proposals.

It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq* (1981).

Administrative Matters

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See generally* 47 CFR §§ 1.1202, 1.1203, and 1.1206(a). The individual satellite DARS applications and pioneer's preference proceedings are restricted proceedings, to the extent that any party has formally opposed an application or pioneer's preference request. *Ex parte* presentations concerning any formally opposed application or request are prohibited. *See* 47 CFR § 1.1208.

Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before *September 15, 1995* and reply comments on or before *October 13, 1995*. To file formally in this proceeding, parties must file an original and five copies of all comments, reply comments, and supporting comments. If parties want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Parties should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, room 239. For further information contact Rosalee Chiara or Ron Repasi at (202) 739–0735. Parties filing comments on the pioneer's preferences requests must file comments separate from those on the rules proposed in this notice and reference both the file numbers and the General Docket No. 90–357. For further information on pioneer's preference requests contact Rodney Small at (202) 776–1622.

Initial Regulatory Flexibility Act Statement

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix III. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Analysis.

List of Subjects

47 CFR Part 25

Satellites.

47 CFR Part 87

Air transportation.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rules

Parts 25 and 87 of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: Sections. 101–404, 76 Stat. 419–427; 47 U.S.C. 701–744, Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303.

2. Section 25.114 is amended by revising paragraph (c)(18), or read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(18) Detailed information demonstrating the financial qualifications of the applicant to construct and launch the proposed satellites. Applications for domestic fixed-satellite systems and mobile-satellite systems shall provide the financial information required by § 25.140(b) through (e), § 25.142(a)(4), or § 25.143(b)(3), as appropriate.

Applciations for satellite DARS systems shall comply with the requirements of § 25.144(b)(3). Applications for international satellite systems authorized pursuant to Establishing of Satellite Systems Providing International Communications, 50 FR 42266 (October 18, 1985), 101 FCC 2d 1046 (1985), *recon*, 61 RR 2d 649 (1986), *further recon*. FCC Rcd 439 (1986), shall provide the information required by that decision.

* * * * *

3. A new § 25.144 is added to read as follows:

§ 25.144 Licensing provisions for the 2.3 GHz satellite digital audio radio service.

(a) Definitions:

(1) *System*. The term *System* refers to the constellation of one or more satellite DARS space stations, the feeder link earth station(s), and the mobile, fixed and/or portable receivers.

(2) *Allocated bandwidth*. The term *allcoated bandwidth* refers to the entry in the Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radiocommunciation services or the radio astronomy service under

specified conditions. This term shall be applied to the 2310–2360 MHz band for satellite DARS.

(3) *Frequency Assignment.* The term *frequency assignment* refers to the authorization given by the Commission for a radio station to use a radio frequency or radio frequency channel under specified conditions.

(b) *Qualification requirements.* (1) *General requirements.* Each application for a system authorization in the satellite digital audio radio service in the 2310–2360 MHz band shall describe in detail the proposed satellite digital audio radio system, setting forth all pertinent technical and operational aspects of the systems, and the technical, legal, and financial qualifications of the applicant. In particular, satellite DARS applicants must file information demonstrating compliance with § 25.114 and all of the requirements of this section.

(2) *Technical qualifications.* In addition to the information specified in paragraph (b)(1) of this section, each applicant shall:

(i) Identify the service link margin of its satellite DARS system and demonstrate that its system will, in a mobile environment under clear sky conditions, provide that service link margin to the geographical areas it intends to serve;

(ii) Demonstrate that its satellite DARS system is capable of remotely tuning its individual mobile, fixed, and/or portable receivers across the allocated bandwidth 2310–2360 MHz and demonstrate how it will implement the forward signalling command for its receivers to select and tune to any center frequency(ies) in the allocated bandwidth; and

(iii) Identify the coding scheme and coding rate it will use to transmit CD quality audio. If applicable, the applicant shall identify any other audio format(s) it will provide to its end users as well as their associated coding scheme and coding rates. If audio formats which are less than CD quality will be provided, it shall demonstrate that it is capable of transmitting those audio formats at variable data rates which are less than those necessary to produce CD quality audio.

(3) *Financial qualifications.* (i) Each applicant for a space station system authorization in the 2.3 GHz satellite digital audio radio service must demonstrate, on the basis of a detailed business plan, how it proposes to meet the estimated costs of the construction and launch of its proposed space station(s) and the estimated operating expenses for one year after the launch of its space station(s).

(ii) Within one year of license grant, licensees are required to demonstrate full financing of their systems in the form specified in § 25.140 (c) and (d). In addition, applicants relying on current assets or operating income must submit evidence of a management commitment to the proposed satellite system. Failure to make such a showing will result in the dismissal of the application.

(c) *Milestone requirements.* Each applicant for system authorization in the satellite digital audio radio service must demonstrate within 10 days after a required implementation milestone as specified in the system authorization, and on the basis of the documentation contained in its application, certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or persons with knowledge thereof) to demonstrate that the milestone has been met. This showing shall include all information described in § 25.140 (c), (d) and (e). The satellite DARS milestones are as follows, based on the date of authorization:

(1) One year: Complete contracting for construction of first space station or begin space station construction.

(2) Two years: If applied for, complete contracting for construction of second space station or begin second space station construction.

(3) Four years: In orbit operation of at least one space station.

(4) Six years: Full operation of the satellite system.

(d) *Reporting requirements.* All operators of satellite digital audio radio service systems, shall, on June 30 of each year, file a report with the International Bureau and the Commission's Laurel, Maryland field office containing the following information:

(1) Status of space station construction and anticipated launch date, including any major problems or delay encountered;

(2) A listing of any non-scheduled space station outages for more than thirty minutes and the cause(s) of such outages; and

(3) Identification of any space station(s) not available for service or otherwise not performing to specifications, the cause(s) of these difficulties, and the date any space station was taken out of service or the malfunction identified.

4. Section 25.201 is amended by adding the definition for Satellite Digital Audio Radio Service (DARS) in alphabetical order to read as follows:

§ 25.201 Definitions.

* * * * *

Satellite Digital Audio Radio Service (DARS). A radiocommunication service in which compact disc quality audio programming is digitally transmitted by one or more space stations directly to fixed, mobile, and/or portable stations.

* * * * *

5. Section 25.202 is amended by adding a new paragraph (a)(6), as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) * * *

(6) The following frequencies are available for use by the satellite digital audio radio service:

2310–2360 MHz: space-to-Earth (primary)

* * * * *

6. A new § 25.214 is added to read as follows:

§ 25.214 Technical requirements for space stations in the satellite digital audio radio service.

(a) Each system authorized under this section will be conditioned upon construction, launch and operation milestones as outlined in § 25.144(c). The failure to meet any of the milestones contained in an authorization will result in its cancellation, unless such failure is due to circumstances beyond the licensee's control or unless otherwise determined by the Commission upon proper showing by the licensee in any particular case.

(b) Frequency assignments will be made for each satellite DARS system as follows:

(1) All licensees are limited to the allocated bandwidth of 2310–2360 MHz.

(2) [Subject to Decision—Band Segments]

(3) [Subject to Decision—Frequency Assignments]

(4) Each satellite DARS licensee shall reduce its assigned bandwidth occupancy by 0.1 MHz to create two (2) 0.2 MHz assignments adjacent to the edge of the allocated bandwidth for location of telemetry beacons.

(5) Each licensee may employ cross polarization within its exclusive frequency assignment and/or may employ cross polarized transmissions in frequency assignments of other satellite DARS licensees under mutual agreement with those licensees. Licensees who come to mutual agreement to use cross-polarized transmissions shall apply to the

Commission for approval of the agreement before coordination is initiated with other administrations by the licensee of the exclusive frequency assignment.

PART 87—AVIATION SERVICES

1. The authority citation in part 87 continues to read:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. Paragraph (d)(1) of § 87.303 is revised to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1525 MHz and 2360–2390 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of manned or unmanned aircraft and missiles, or their major components. The bands 1525–1535 MHz and 2310–2360 MHz are also available for these purposes on a secondary basis. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the earth's atmosphere as well as any incidental orbiting prior to reentry of manned or unmanned objects undergoing flight tests. In the 1435–1530 MHz band, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5 and 1525.5 MHz. In the 2360–2390 MHz band, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles whether or not such operations involve flight testing: 2364.5, 2370.5 and 2382.5 MHz. In 2310–2390 MHz band, all other telemetry and telecommand uses are secondary.

* * * * *

[FR Doc. 95–16069 Filed 7–5–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–21, Notice 10]

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for reconsideration.

SUMMARY: This notice denies a petition for reconsideration submitted by Thomas Built Buses, Inc. (Thomas), requesting NHTSA to delay the effective date of certain provisions of the final rule of November 2, 1992. In that rule, NHTSA revised the minimum requirements for school bus emergency exits and specified improved access to school bus emergency doors, effective May 2, 1994.

Due to a misunderstanding within the industry about the term ''daylight opening'' in the 1992 rule, NHTSA published a final rule dated May 4, 1994 delaying implementation of the new requirements by four months, i.e., until September 1, 1994.

NHTSA has decided to deny Thomas' petition because the relief sought by the petitioner was, in effect, granted by a May 1995 final rule issued by the agency. That final rule replaced the new requirements with charts specifying the number of required school bus emergency exits based on seating capacity.

FOR FURTHER INFORMATION CONTACT: Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5320, Washington, DC 20590. Telephone (202) 366–0247.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 1992, NHTSA published a final rule adding several requirements to Federal Motor Vehicle Safety Standard (Standard) No. 217, *Bus emergency exits and window retention and release,* 57 FR 49413). The effective date of the new requirements was specified as May 2, 1994.

That final rule retained the requirement that all school buses have either a rear emergency door of specified dimensions or a left-side emergency door and a push-out rear window, at the option of the manufacturer. The rule added a requirement that, among other things, the total area in square centimeters of emergency exits on school buses must collectively amount to at least 432 times the number of designated seating positions on the bus. The rule also provided that the front service door area and the previously required emergency exits are to be counted toward meeting the total emergency exit area requirement. If those areas are insufficient to meet the total emergency exit area requirement, manufacturers must provide additional exits as specified in the rule.

The rule specified that each exit was to be credited with the amount of area equal to its ''daylight opening.'' That term was defined in the rule as ''the maximum unobstructed opening of an emergency exit when viewed from a direction perpendicular to the plane of the opening.'' The preamble to the final rule did not include a further discussion of what might constitute an obstruction.

On December 3, 1992 Blue Bird petitioned for reconsideration of the November 2, 1992 final rule, arguing that the final rule failed to make school bus emergency exit requirements equivalent to non-school bus emergency exit requirements. In response to that petition and an earlier (February 1992) Blue Bird petition for rulemaking concerning sliding exit windows and the use of windows instead of other types of exits, the agency issued a Notice of Proposed Rulemaking (NPRM) on December 1, 1993 (58 FR 63321). The notice proposed to permit the installation of emergency exit windows other than pushout windows, and to allow manufacturers the option of installing either two sliding emergency exit windows or a side emergency exit door as the first means of providing the additional emergency exits on school buses. In addition, the NPRM proposed two alternate means of determining the maximum amount of area that could be credited for all types of emergency exits on school buses, and that school bus additional emergency exit requirements be expressed in the form of tables.

On January 8, 1994, Wayne Wheeled Vehicles (Wayne) requested clarification of the terms ''daylight opening'' and ''unobstructed opening.'' On March 24, 1994, NHTSA replied, in pertinent part:

> [A]n obstruction in this context [daylight opening] would include any obstacle or object that would block, obscure, or interfere with, in any way, access to that exit when opened. In determining the maximum unobstructed opening of any emergency exit, we would subtract, from the total area of the opening, the area of any portions of the opening that cannot be used for exit purposes as a result of the obstruction.