

Dated: December 28, 1999.

**Nancy-Ann DeParle,**  
Administrator, Health Care Financing  
Administration.

Dated: March 28, 2000.

**Donna E. Shalala,**  
Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 87

[ET Docket No. 98-197; FCC 00-353]

### Radionavigation Service at 31.8-32.3 GHz

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Commission's Rules to delete the unused radionavigation service allocation from the band 31.8-32.3 GHz in the Non-Federal Government Table of Frequency Allocations and removes this band from the list of available frequencies set forth in the rules for the Aviation Services. This action will obviate concerns for interference to the reception of deep space radiocommunications in the band 31.8-32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future.

**DATES:** Effective November 9, 2000.

**FOR FURTHER INFORMATION CONTACT:** Tom Mooring, Office of Engineering and Technology, (202) 418-2450.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, ET Docket No. 98-197, FCC 00-353, adopted September 22, 2000, and released September 26, 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. This Report and Order amends part 2 of the Commission's Rules to delete

the unused radionavigation service allocation from the band 31.8-32.3 GHz in the Non-Federal Government Table of Frequency Allocations. Consequently, we also amend part 87 to remove this sub-band from the list of available frequencies set forth in the rules for the Aviation Services. We take this action in response to a request from the National Telecommunications and Information Administration. This action will obviate concerns for interference to the reception of deep space radiocommunications in the band 31.8-32.3 GHz from co-channel, non-Federal Government radionavigation transmissions that could otherwise occur in the future. This action will also provide adequate spectrum for future applications of the non-Federal Government radionavigation service in the remaining 1.1 gigahertz at 32.3-33.4 GHz.

2. We adopt our proposal (63 FR 65726, November 30, 1998) to delete the non-Federal Government radionavigation service allocation from the band 31.8-32.3 GHz. This action reduces the amount of spectrum available to the non-Federal Government radionavigation service in this frequency range by approximately 30%. By limiting future non-Federal Government radionavigation services to the band 32.3-33.4 GHz, NASA's deep space operations in the band 31.8-32.3 GHz will be protected and sufficient spectrum will be available to accommodate such commercial and private radionavigation services as may develop in the future. As a consequence of this action, we also will delete the band 31.8-32.3 GHz from the list of frequencies that are available for use by the aeronautical radionavigation service under § 87.173 of the rules for the Aviation Services. Since the band 32.3-33.4 GHz has previously been added to the § 87.173, we are adding a rule part cross-reference to part 87 in the Table of Frequency Allocations.

3. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act ("RFA")<sup>1</sup> requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small

organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA").

4. In the *Notice of Proposed Rulemaking*, we concluded that the proposed rules "[would] not have a significant economic impact on a substantial number of small entities." Although no separate comments were received concerning this certification, the only commenter to the proceeding, Mr. Lyman C. Welch, did express concern that this rule change would prohibit commercial use. In this *Report and Order*, we have clarified that commercial entities may continue to make use of the Federal Government's facility at Goldstone, and we therefore find that no small entities will be impacted by the rule change. Accordingly, we hereby certify that the deletion of the non-Federal Government radionavigation allocation at 31.8-32.3 GHz will not have a significant economic impact on a substantial number of small entities.

5. *Report to Congress:* The Commission will send a copy of this *Report and Order*, including this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the *Report and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 605(b).

6. Pursuant to the authority contained in Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r), parts 2 and 87 of the Commission's Rules are amended; effective November 9, 2000.

### List of Subjects

#### 47 CFR Part 2

Communications equipment, Radio.

#### 47 CFR Part 87

Air transportation, Communications equipment, Radio.

<sup>1</sup> 5 U.S.C. 601 et seq. The RFA 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").

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

**Rule Changes**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 87 as follows:

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

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

**Authority:** 47 U.S.C. Sections 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.1(c) is amended by revising the definition for the “Inter-Satellite Service” as follows:

**§ 2.1 Terms and definitions.**

\* \* \* \* \*

(c) \* \* \*

*Inter-Satellite Service.* A radiocommunication service providing links between artificial satellites. (RR)

\* \* \* \* \*

3. Section 2.106 is amended as follows:

a. Pages 74 and 75 of the Table of Frequency Allocations are revised.

b. Footnote US262 is revised.

The revision reads as follows:

**§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

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<p>30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth)</p>	<p>30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth)</p>	<p>30-31 Standard frequency and time signal-satellite (space-to-Earth)</p>
<p>S5.542</p>	<p>G117</p>	<p>Fixed Microwave (101)</p>
<p>31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth)</p>	<p>31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth)</p>	<p>31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth)</p>
<p>S5.149</p>	<p>S5.149 US211</p>	<p>S5.149 US211</p>
<p>31-31.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive)</p>	<p>31-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)</p>	<p>31-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)</p>
<p>S5.340</p>	<p>S5.149 US211</p>	<p>S5.149 US211</p>
<p>31-5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile</p>	<p>31-5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile</p>	<p>31-5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile</p>
<p>S5.149 S5.546</p>	<p>S5.340</p>	<p>S5.149</p>
<p>31-8-32 FIXED S5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth)</p>	<p>31-8-32 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262</p>	<p>31-8-32 SPACE RESEARCH (deep space) (space-to-Earth) US262</p>
<p>S5.547 S5.547B S5.548</p>	<p>S5.548 US211</p>	<p>S5.548 US211</p>

International Table		United States Table		FCC Rule Part(s)
Region 1	Region 2	Federal Government	Non-Federal Government	
Region 3				
32-32.3 FIXED S5.547A INTER-SATELLITE RADIATIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth)		32-32.3 INTER-SATELLITE US278 RADIATIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262	32-32.3 INTER-SATELLITE US278 SPACE RESEARCH (deep space) (space-to-Earth) US262	
S5.547 S5.547C S5.548		S5.548	S5.548	
32.3-33 FIXED S5.547A INTER-SATELLITE RADIATIONAVIGATION		32.3-33 INTER-SATELLITE US278 RADIATIONAVIGATION US69		Aviation (87)
S5.547 S5.547D S5.548		S5.548		
33-33.4 FIXED S5.547A RADIATIONAVIGATION		33-33.4 RADIATIONAVIGATION US69		
S5.547 S5.547E				
33.4-34.2 RADIOLOCATION		33.4-36 RADIOLOCATION US110 G34	33.4-36 Radiolocation US110	Private Land Mobile (90)
S5.549				
34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space)				
S5.549				
34.7-35.2 RADIOLOCATION Space research S5.550				
S5.549				
35.2-35.5 METEOROLOGICAL AIDS RADIOLOCATION				
S5.549				

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**United States (US) Footnotes**

\* \* \* \* \*

US262 The use of the band 31.8–32.3 GHz by the space research service (deep space) (space-to-Earth) is limited to Goldstone, California.

\* \* \* \* \*

**PART 87—AVIATION SERVICES**

4. The authority citation for part 87 continues to read as follows:

**Authority:** 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e) unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

5. Section 87.173(b) is amended by removing the entry for “31800–33400 MHz” in the frequency table and adding a new entry in numerical order to read as follows:

**§ 87.173 Frequencies.**

\* \* \* \* \*

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
32300–33400 MHz	F, Q	MA, RL	Aeronautical radionavigation.

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 20**

[CC Docket No. 94–54; FCC 00–307]

**Interconnection and Resale Obligations in the Commercial Mobile Radio Services**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** Through this document, the Commission denies a petition for reconsideration of previous Commission decisions in this proceeding. Petitioners request that we eliminate the exclusion of Commercial Mobile Radio Service (CMRS) from the Commission’s resale rule and extend the sunset of the resale rule at least one full year beyond the successful conclusion of wireless local number portability implementation. This document responds to this petition.

**FOR FURTHER INFORMATION CONTACT:** Jane Phillips, 202–418–1310.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Order on Reconsideration of the Memorandum Opinion and Order on Reconsideration in CC Docket No. 94–54 (Order) (FCC 00–307), adopted August 17, 2000, and released August 22, 2000. The complete text of this MO&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission’s copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

**Synopsis of the Order**

1. In this decision, the Commission denies a petition for reconsideration of decisions contained in the Memorandum Opinion and Order on Reconsideration, 64 FR 61022, November 9, 1999 (MO&O) in this proceeding. The wireless resale rule prohibits Commercial Mobile Radio Service (CMRS) providers from unreasonably restricting resale of their services.

2. The First Report and Order, 61 FR 38399, July 24, 1996 (First R&O) in this proceeding promulgated a rule prohibiting certain CMRS providers from restricting the resale of their services during a transitional period. The First R&O extended the resale rule, which previously had applied only to cellular providers, to providers of broadband personal communications services (PCS) and certain specialized mobile radio (SMR) services. Additionally, the First R&O sunset the resale rule five years after completion of its initial grant of broadband PCS licenses, *i.e.*, November 24, 2002.

3. The MO&O affirmed the 2002 sunset date, but modified the resale rule to exclude customer premises equipment (CPE) and CPE in bundled packages and to exclude from its scope certain C, D, E, and F block PCS licenses, as well as all CMRS providers of voice or data services that do not use in-network switching facilities.

4. MCI WorldCom filed a petition for further reconsideration requesting that the Commission eliminate the exclusion for CPE and extend the sunset at least one full year beyond the successful conclusion of wireless local number portability implementation.

5. As discussed in the full text of this Order, the Commission denies MCI WorldCom’s petition for reconsideration and reaffirms its determinations to exclude CPE from the scope of the CMRS resale rule and to sunset the rule on November 24, 2002. With respect to

the exclusion for certain C, D, E, and F block PCS licensees, the Order does not address what impact the Commission’s ultimate decision regarding eligibility to participate in the reauction of C and F block licensees may have on the scope of the resale rule.

**Regulatory Flexibility Analysis**

6. The Commission has not prepared an additional Final Regulatory Flexibility Analysis of the possible impact on small entities of the Commission’s decisions, as otherwise required by the Regulatory Flexibility Act, 5 U.S.C. 604, because no changes have been made in this Order to the Commission’s rules or policies.

**Authority**

7. This action is taken pursuant to sections 1, 4(i), 4(j), 10, 201, 202, 303(r), 309, 332, and 403 of the Communications Act, 47 U.S.C. 1, 4(i), 4(j), 160, 201, 202, 303(r), 309, 332, 403.

**Ordering Clauses**

Accordingly, the Petition for Reconsideration filed by MCI WorldCom is denied.

Federal Communications Commission.

**William F. Caton,**  
*Deputy Secretary.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 27**

[WT Docket No. 99–168]

**Service Rules for the 746–764 and 776–794 MHz Bands; Correction**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.