

were exceeded in these compliance wells, EPA and UDEQ could institute a pump and treat system for the groundwater at these boundaries to prevent off-site migration of groundwater contamination.

EPA and UDEQ have determined that no pump and treat action is necessary for the groundwater component of the remedy given seven years of monitoring data. Data collected from the Jordan River (which borders the western boundary of OU1) does not indicate measurable increases in arsenic levels. Also, only one of fifteen compliance wells has exceeded the arsenic action level of 190 ug/L (along the western boundary) on a consistent basis.

Additional investigations of the well have shown that the source of arsenic contamination is not the Sharon Steel tailings pile, but the Bingham Creek tailings. The well is completed in the old Bingham Creek channel which contains tailings washed down from the Kennecott Site. The Bingham Creek tailings will be addressed under the separate cleanup of the Kennecott Site. The investigations also indicated that a pump and treat system would not be technically feasible nor cost effective given the hydro-geological characteristics of the area of the well.

OU2. The RA for OU2 has met all RA objectives as defined in the OU2 ROD and OU2 ESDs dated June 23, 1994 and December 1998 (later confirmed in July 2003). The RA has eliminated the exposure to contaminated soil in residential and commercial properties with the removal of soil with contaminant concentrations exceeding health-based action levels for lead (500 mg/kg) and arsenic (70 mg/kg) and replacement of the soil with clean fill.

Operation and Maintenance (O&M)

All O&M activities pertain to OU1. OU2 does not require O&M. O&M activities are required at the Site to maintain and monitor the performance and protectiveness of the implemented remedy. The objectives of O&M for OU1 are to: (1) Maintain the engineered cover and vegetation; (2) maintain the drainage systems and erosion protection features; (3) monitor the groundwater on an annual basis; (4) prevent the Jordan River from invading the Site and eroding the cap and/or tailings; (5) control future development and groundwater use at the Site; and (6) provide reports to document conditions at the Site including problems, repairs and development activities.

O&M activities are currently being conducted by UDEQ pursuant to a cooperative agreement with EPA and in accordance with the Operation,

Maintenance, and Monitoring Manual for Sharon Steel Superfund Site, Operable Unit 1 (BÖR, October 2001). Groundwater is being monitored annually and no pump and treatment is currently needed at the Site. The Site is inspected quarterly to monitor the remedy and detect maintenance needs. There are currently no structures over the composite cap and the remedy is functioning as intended.

Future redevelopment of the Site will modify the scope, but not the objectives of O&M. Accordingly, specific changes to current O&M activities and roles/responsibilities will be addressed in the Operation, Maintenance, and Monitoring Manual.

Five-Year Reviews

Pursuant to CERCLA section 121(c), 42 U.S.C. 9621(c), five-year reviews are required at sites with remaining hazardous substances, pollutants, or contaminants above levels that allow for unlimited use and unrestricted exposure. Hazardous substances above health-based levels were left on-site and, therefore, five-year reviews are required at this Site. The first Five-Year Review Report was completed on February 26, 1999. The next five-year review is due in 2004.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket, which EPA relied on for recommendation of the deletion from the NPL, are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence from the State of Utah through UDEQ, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than five-year reviews and operation & maintenance, are necessary. Therefore, EPA is taking this action to delete the Site from the NPL.

Because EPA considers this action to be noncontroversial, this action is being taken without prior publication of a notice of intent to delete. This action will be effective September 24, 2004 unless EPA receives adverse comments on or before September 8, 2004. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take

effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment on this deletion process.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution, Water supply.

Dated: July 28, 2004.

Robert E. Roberts,

Regional Administrator, Region 8.

■ For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended by removing the site “Sharon Steel Corp. (Midvale Tailings), Midvale, UT.”

[FR Doc. 04–17875 Filed 8–6–04; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 25, 74, 90, and 101

[**IB Docket No. 02–364; ET Docket No. 00–258; FCC 04–134**]

Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands; Allocation of Spectrum Below 3 GHz for Mobile and Fixed Services To Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission (Commission) adopts a spectrum sharing plan in the Big LEO bands to promote more efficient use of spectrum without causing harmful interference operators in those bands.

DATES: Effective September 8, 2004.

FOR FURTHER INFORMATION CONTACT: Jennifer Gorny, Howard Griboff, or James Ball, Policy Division, International Bureau, (202) 418-1460.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order and Fourth Report and Order*, adopted on June 10, 2004, and released on July 16, 2004 (FCC 04-134). The full text of this document is available for inspection and copying during normal business hours in the Commission Reference Center, 445 12th Street, SW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Commission Reference Center. The document is also available for download over the Internet at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-134A1.doc. The complete text may also be purchased from the Commission's copy contractor, Best Copy and Printing, in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at Commission@bcpiweb.com.

Summary of the Report and Order and Fourth Report and Order

On January 29, 2003, the Commission adopted a *Notice of Proposed Rulemaking* in IB Docket No. 02-364 (*Big LEO Spectrum Sharing NPRM*) (68 FR 33666-01, June 5, 2003) to obtain comment on relevant proposals for spectrum use at 1610-1626.5 MHz (L-band) and 2483.5-2500 MHz (S-band) (collectively referred to as Big LEO bands or Big LEO spectrum) and prompted interested parties to provide detailed information regarding the operations of existing mobile-satellite service (MSS) providers and future spectrum requirements for each system. The Commission also adopted a *Third Notice of Proposed Rulemaking* in ET Docket No. 00-258 (*Third Notice*) (68 FR 12015-03, March 13, 2003) seeking comment on the location and amount of spectrum needed to relocate multipoint distribution service (MDS) operations at 2150-2160/62 MHz. On June 10, 2004, the Commission adopted this *Report and Order, Fourth Report and Order and Further Notice of Proposed Rulemaking*. The *Further Notice of Proposed Rulemaking* relating to this proceeding is published elsewhere in this issue of the **Federal Register**. The *Report and Order and Fourth Report and Order* set forth a spectrum sharing plan in the Big LEO bands. Under this spectrum sharing plan, code division

multiple access (CDMA) MSS operators will share certain portions of Big LEO spectrum with time division multiple access (TDMA) MSS operators in the L-band, and fixed and mobile terrestrial wireless operators in the S-band. In particular, we: (1) Allow TDMA MSS operators to share the 1618.25-1621.35 MHz band with CDMA MSS operators; and (2) allocate the 2495-2500 MHz band for fixed and mobile except aeronautical mobile services on a primary basis, which will share this band with CDMA MSS operators providing MSS service. Current and future CDMA MSS operators must accept any interference from the terrestrial services in that portion of the S-band. In addition, we find that the hearing requirements of sections 316 and 312 of the Communications Act of 1934, as amended, do not apply to this proceeding. We also move ancillary terrestrial component (ATC) operations from 2492.5-2498 MHz to 2487.5-2493 MHz in the S-band due to fixed and mobile terrestrial wireless operators having access to the upper portion of that band. We decline, however, to increase the amount of Big LEO spectrum available for ATC operations. In addition, we find that the Big LEO spectrum sharing band plan complies with relevant International Telecommunication Union radio regulations. Finally, we adopt this *Report and Order and Fourth Report and Order* concurrently with another order in which we: (1) Incorporate the spectrum at 2495-2500 MHz into the 2500-2690 MHz band currently used for MDS and instructional television fixed service (ITFS) operators; (2) restructure the services occupying 2495-2690 MHz into a new Broadband Radio Service (BRS)/ Educational Broadband Service (EBS) band plan; (3) provide spectrum to accommodate MDS operators currently located at 2150-2162 MHz within the new 2495-2690 MHz band; and (4) adopt the licensing and service rules for those operators in that band.

In our decision today, we make changes to the Big LEO band plan in an effort to promote spectral efficiency while ensuring that operators in the Big LEO bands can provide service without causing or experiencing harmful interference. When the Commission initially adopted the Big LEO band plan, it licensed five companies to provide MSS in the Big LEO bands. Two Big LEO systems were implemented and are now providing MSS—one TDMA system and one CDMA system. In this proceeding, we consider how this development impacts usage of Big LEO spectrum and, as a result, make changes

to the existing band sharing plan. We believe that the new band plan promotes more efficient use of the spectrum than the existing band plan by requiring MSS providers to share certain portions of the spectrum in the L-band, and by allowing non-MSS operators to share a portion of spectrum in the S-band.

Final Regulatory Flexibility Certification—Report and Order

The Regulatory Flexibility Act of 1980, as amended (RFA), 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 the term “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) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the U.S. Small Business Administration (SBA). The SBA has developed a small business size standard for Satellite

Telecommunications, which consists of all such companies having \$12.5 million or less in annual revenue.

Pursuant to the RFA, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the *Big LEO Spectrum Sharing NPRM*. We received no comments in response to the IRFA. For the reasons described below, we now certify that the policies and rules adopted in the present *Report and Order* will not have a significant economic impact on a substantial number of small entities.

In this *Report and Order* the Commission adopts a spectrum sharing plan that allows TDMA MSS operators to share the L-band at 1618.25-1621.35 MHz with CDMA MSS operators. The Commission also allocates spectrum in the S-band at 2495-2500 MHz for fixed and mobile except aeronautical mobile services on a primary basis, which will share this band with CDMA MSS operators providing MSS services. We believe that the spectrum sharing plan in the Big LEO bands will improve spectral efficiency by increasing the number of providers and consumer users without harming current MSS operations. We find that our action will not affect a substantial number of small

entities because only MSS operators in the Big LEO L- and S-bands will be affected. In particular, two Big LEO MSS licensees currently are authorized to provide MSS in the United States. We find that neither of these licensees are small businesses. Small businesses often do not have the financial ability to become MSS system operators due to high implementation costs associated with launching and operating satellite systems and services. Therefore, we certify that the requirements of this *Report and Order* will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Report and Order* including a copy of this Final Regulatory Flexibility 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, this *Report and Order* and this Final Regulatory Flexibility Certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. See 5 U.S.C. 605(b).

Final Regulatory Flexibility Analysis—Fourth Report and Order

As required by the RFA, an IRFA was incorporated in the *Third Notice*. The Commission sought written public comments on the proposals in the *Third Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Fourth Report and Order

This *Fourth Report and Order* continues our efforts to promote the provision of advanced wireless services (AWS) to the public, which in turn supports our obligations under section 706 of the Communications Act of 1934, as amended and, more generally, serves the public interest by promoting rapid and efficient radio communication facilities. Adding a fixed and mobile except aeronautical mobile allocation to the 2495–2500 MHz band potentially provides suitable spectrum for relocation of MDS licensees in the 2150–2160/62 MHz band. Also, adopting this allocation has the potential to help free up the entire 2150–2160/62 MHz band for the provision of AWS, the 2150–2155 MHz portion of which has already been reallocated for AWS, and the 2155–2160/62 MHz portion of which has been tentatively identified as suitable for AWS. In addition, an MDS relocation to the 2495–2500 MHz band could provide an opportunity to integrate the spectrum

at 2495–2500 MHz into a larger 2495–2690 MHz band plan and establish the new BRS.

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

There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

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 rules adopted herein. The RFA generally defines the term “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) Is 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).

Fixed Microwave Services. Fixed microwave services include common carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category “Cellular and Other Telecommunications,” which is 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA’s small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies proposed herein. We note, however, that the common carrier

microwave fixed licensee category includes some large entities.

Broadcast Auxiliary Service (BAS). BAS involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the stations). The Commission has not developed a definition of small entities specific to broadcast auxiliary licensees. The SBA has developed small business size standards, as follows: (1) For TV BAS, we will use the small business size standard for Television Broadcasting, which consists of all such companies having annual receipts of no more than \$12 million; (2) for Aural BAS, we will use the small business size standard for Radio Stations, which consists of all such companies having annual receipts of no more than \$6 million; (3) for Remote Pickup BAS, we will use the small business size standard for Television Broadcasting when used by a TV station and the small business size standard for Radio Stations when used by a radio station.

According to Commission staff review of BIA Publications, Inc. Master Access Television Analyzer Database, as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States had revenues of \$12 million or less. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. There are also 2,127 low power television stations (LPTV). Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA size standard. According to Commission staff review of BIA Publications, Inc., Master Access Radio Analyzer Database, as of May 16, 2003, about 10,427 of the 10,945 commercial radio stations in the United States had revenue of \$6 million or less. We note, however, that many radio stations are affiliated with much larger corporations with much higher revenue, and, that in assessing whether a business concern qualifies as small under the above definition, such business (control) affiliations are included. Our estimate, therefore, likely overstates the number of small businesses that might be affected by our action.

MDS, Multichannel Multipoint Distribution Service. Multichannel

Multipoint Distribution Service (MMDS) systems, often referred to as “wireless cable,” transmit video programming to subscribers using the microwave frequencies of MDS and ITFS. In connection with the 1996 MDS auction, the Commission defined “small business” as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years. The SBA has approved of this standard. The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 claimed status as a small business. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than \$40 million and are thus considered small entities.

In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating \$12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under \$10 million, and an additional 52 firms had receipts of \$10 million or more but less than \$25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the proposed rules and policies.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

Although the *Fourth Report and Order* imposes no compliance requirements, future Commission decisions may impose some requirements.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that

it has considered in developing its approach, which may include the following four alternatives (among others): “(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.”

The *Fourth Report and Order* recognizes that there are grandfathered stations in the BAS and private radio services that may need to be relocated to accommodate the addition of a fixed and mobile except aeronautical mobile allocation in the 2495–2500 MHz band, and the potential use of this band by the BRS. But because the BAS and private radio services have been sharing use of the 2495–2500 MHz band on an interference-free basis for some time, the addition of a fixed and mobile except aeronautical mobile allocation to this band may not cause interference to these operations. A specific relocation plan for the remaining grandfathered incumbents in the 2495–2500 MHz band, including BAS and private radio service operators, will be provided, if necessary, when the remaining issues concerning AWS relocation are addressed.

Finally, no significant alternatives were suggested by commenters and nor do we think there are any other alternatives that would have a lesser impact on small businesses.

Report to Congress

The Commission will send a copy of the *Fourth Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Fourth Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Fourth Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Ordering Clauses

Pursuant to sections 4(i), 7, 302(a), 303(c), 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157, 302(a), 303(c), 303(e), 303(f) and 303(r), the *Report and Order*, *Fourth Report and Order*, and *Further Notice of Proposed Rulemaking* are adopted and that parts 2, 25, 74, 90 and 101 of the Commission’s Rules are amended, as specified in the Final Rules, effective September 8, 2004.

The Commission’s Consumer Information Bureau, Reference Information Center, shall send a copy of this *Report and Order*, *Fourth Report and Order*, and *Further Notice of Proposed Rulemaking*, including the Final Regulatory Flexibility Analysis, Final Regulatory Flexibility Certification, and the Initial Regulatory Flexibility Certification to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 2 and 25, 74, 90, and 101.

Land Mobile Radio Services, Radio, Satellites, Telecommunications, Television.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 25, 74, 90, and 101 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. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.106 is amended as by revising page 52 of the Table of Frequency Allocations, adding a new footnote U.S. 391, and revising footnote NG 147 to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712-01-P

2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A Radiolocation	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION Radiodetermination-satellite (space-to-Earth) 5.398	2483.5-2500 MOBILE-SATELLITE (space-to-Earth) US319 US380 RADIOETERMINATION- SATELLITE (space-to- Earth) 5.398	2483.5-2495 MOBILE-SATELLITE (space-to-Earth) US319 US380 RADIOETERMINATION- SATELLITE (space-to- Earth) 5.398 5.150 5.402 US41 NG147 2495-2500 FIXED MOBILE except aeronautical mobile MOBILE-SATELLITE (space-to-Earth) US319 US380 RADIOETERMINATION- SATELLITE (space-to- Earth) 5.398 5.150 5.402 US41 US391 NG147	ISM Equipment (18) Satellite Communications (25) Private Land Mobile (90) Fixed Microwave (101)
5.150 5.371 5.397 5.398 5.399 5.400 5.402	5.150 5.400 5.402	5.150 5.402 US41	5.150 5.402 US41 2500-2655	Domestic Public Fixed (21) Instructional TV Fixed (74)
2500-2520 FIXED 5.409 5.411 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space- to-Earth) 5.403 5.351A 5.404 5.407 5.414 5.415A	2500-2520 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space-to-Earth) 5.403 5.351A			
2520-2655 FIXED 5.409 5.411 MOBILE except aeronautical mobile 5.384A BROADCASTING- SATELLITE 5.413 5.416	2520-2535 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING- SATELLITE 5.413 5.416 5.403 5.415A			
5.339 5.403 5.405 5.412 5.418 5.418B 5.418C	5.339 5.403 5.418B 5.418C	5.339 US205	5.339	

* * * * *
United States (US) Footnotes
* * * * *

US391 In the band 2495–2500 MHz, the mobile-satellite service (space-to-Earth) shall not receive protection from non-Federal Government stations in the fixed and mobile except aeronautical mobile services operating in that band.

* * * * *
Non-Federal Government (NG) Footnotes
* * * * *

NG147 In the band 2483.5–2500 MHz, stations in the fixed and mobile services that are licensed under part 74 (Television Broadcast Auxiliary Stations), part 90 (Private Land Mobile Radio Services), or part 101 (Fixed Microwave Services) of the Commission’s Rules, which were licensed as of July 25, 1985, and those whose initial applications were filed on or before July 25, 1985, may continue to operate on a primary basis with the mobile-satellite and radiodetermination-satellite services, and in the segment 2495–2500 MHz, these grandfathered stations may also continue to operate on a primary basis with stations in the fixed and mobile except aeronautical mobile services that are licensed under part 27 (Miscellaneous Wireless Communication Services) of the Commission’s Rules.

PART 25—SATELLITE COMMUNICATIONS

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

Authority: 47 U.S.C. 701–744. Interprets or applies sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 4. Section 25.149 is amended by revising paragraph (a)(2)(iii) to read as follows:

§ 25.149 Application requirements for ancillary terrestrial components in the mobile-satellite service networks operating in the 1.5/1.6 GHz, 1.6/2.4 GHz and 2 GHz mobile-satellite service.

- (a) * * *
(2) * * *
(iii) In the 1610–1626.5 MHz/2483.5–2500 MHz bands (Big LEO bands), ATC operations are limited to the 1610–1615.5 MHz, 1621.35–1626.5 MHz, and 2487.5–2493.0 MHz bands and to the specific frequencies authorized for use by the MSS licensee that seeks ATC authority.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 5. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f), 336(h), 554.

■ 6. Section 74.602 is amended by adding paragraph (a)(2) to read as follows:

§ 74.602 Frequency assignment.

- (a) * * *
(2) In the band 2483.5–2500 MHz, no applications for new stations or modification to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, and licensees whose initial applications were filed on or before July 25, 1985, are grandfathered and their operations are on a co-primary basis with the mobile-satellite and radiodetermination-satellite services, and in the segment 2495–2500 MHz, their operations are also on a co-primary basis with part 27 fixed and mobile except aeronautical mobile service operations.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 7. The authority citation for part 90 continues to read as follows:

Authority: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 8. Section 90.20 is amended by revising paragraph (d)(73) to read as follows:

§ 90.20 Public Safety Pool.

- (d) * * *
(73) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices. In the band 2483.5–2500 MHz, no applications for new stations or modification to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, and licensees whose initial applications were filed on or before July 25, 1985, are grandfathered and their operations are on a co-primary basis with the mobile-satellite and radiodetermination-satellite services, and in the segment 2495–2500 MHz, their operations are also on a co-primary basis with part 27 fixed and mobile except aeronautical mobile service operations.

* * * * *

■ 9. Section 90.35 is amended by revising paragraph (c)(74) to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(c) * * *

(74) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices. In the band 2483.5–2500 MHz, no applications for new stations or modification to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, and licensees whose initial applications were filed on or before July 25, 1985, are grandfathered and their operations are on a co-primary basis with the mobile-satellite and radiodetermination-satellite services, and in the segment 2495–2500 MHz, their operations are also on a co-primary basis with part 27 fixed and mobile except aeronautical mobile service operations.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

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

Authority: 47 U.S.C. 154, 303.

■ 11. Section 101.147 is amended by revising paragraph (f)(2) to read as follows:

§ 101.147 Frequency assignments.

* * * * *

(f) * * *

(2) Stations licensed in this band under this part prior to March 1, 1996, are grandfathered and may continue their authorized operations. Stations licensed in the 2483.5–2500 MHz portion of the band as of July 25, 1985, and licensees whose initial applications were filed on or before July 25, 1985, are grandfathered, and may continue operations, subject only to license renewal, on a co-primary basis with the mobile-satellite and radiodetermination-satellite services, and in the segment 2495–2500 MHz, their operations are also on a co-primary basis with part 27 fixed and mobile except aeronautical mobile service operations.

* * * * *

[FR Doc. 04–18148 Filed 8–6–04; 8:45 am]

BILLING CODE 6712–01–P