

PART 300—[AMENDED]

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

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); 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 “MN Dakhue Sanitary Landfill, Cannon Falls”.

[FR Doc. 95–18115 Filed 7–21–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION
47 CFR Parts 2 and 87

[GEN Docket No. 90–56; FCC 95–267]

Mobile-Satellite Service and Aeronautical Telemetry

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this *Second Report and Order (Second R&O)* the Commission reallocates the 1525–1530 MHz band to the mobile-satellite service (MSS) on a primary basis for space-to-Earth (downlink) transmissions. This action will increase the efficiency of MSS operations in the previously allocated 1530–1544 MHz band (downlink) and the 1626.5–1645.5 MHz band (Earth-to-space, or uplink) by equalizing the amount of spectrum available in each segment. This action implements a 1992 World Administrative Radio Conference (WARC–92) spectrum allocation and facilitates international coordination for use of this spectrum.

EFFECTIVE DATE: August 23, 1995.

FOR FURTHER INFORMATION CONTACT:

Tom Mooring, Office of Engineering and Technology, (202) 776–1620.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second R&O* in GEN Docket No. 90–56, adopted June 26, 1995, and released July 6, 1995. The complete *Second R&O* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

Summary of Second R&O

1. In the *First Report and Order*, 58 FR 34920 (June 30, 1993), the Commission allocated 14 megahertz of downlink spectrum at 1530–1544 MHz and 19 megahertz of uplink spectrum at 1626.5–1645.5 MHz to the MSS on a co-primary basis with the Maritime Mobile-Satellite Service (MMSS). The Commission also provided that MMSS distress and safety communications have priority access with real-time preemptive capability throughout the subject bands.

2. In the *Further Notice of Proposed Rule Making*, 58 FR 34404 (June 25, 1993), the Commission proposed to allocate five megahertz of spectrum at 1525–1530 MHz for MSS downlink use on a primary basis. The Commission indicated that this allocation would permit enhanced efficiency of future MSS operations in the 1.5/1.6 GHz spectrum range (L-band) by equalizing the amount of spectrum in the uplink and downlink bands available for MSS communications. Currently this spectrum is part of the 1435–1530 MHz band that is allocated to the mobile service on a primary basis for aeronautical telemetry. The Commission tentatively concluded that it does not appear to be technically feasible for aeronautical telemetry and MSS to operate in the 1525–1530 MHz band on a co-primary basis, and therefore proposed to reallocate this band on a primary basis to the MSS only. The Commission also proposed to permit aeronautical telemetry in the band on a secondary basis, with no grandfathering of existing aeronautical telemetry users.

3. All parties submitting comments in response to the *Further Notice of Proposed Rule Making* support the proposal to reallocate the 1525–1530 MHz band for MSS operations. In addition, the issue of whether MMSS distress and safety communications in the 1525–1530 MHz band should have priority access with real-time capability was raised.

4. The Commission finds that the reallocation of the 1525–1530 MHz band to the MSS on a primary basis would enhance the efficiency of satellite operations in the L-band by equalizing the amount of spectrum in the uplink and downlink band segments available for MMSS communications. The Commission disagrees with the argument that the 1525–1530 MHz band should be subject to the priority access and immediate availability requirements for MMSS distress and safety communications. The Commission is unable to identify any domestic need for additional global MMSS distress and

safety spectrum. The Commission currently requires that MSS systems monitor nearby MMSS systems so that MMSS distress and safety communications receive priority access with real-time preemption in the 1626.5–1631.5 MHz and other bands. However, since the Commission is not licensing MMSS systems in the 1525–1530 MHz band, it is not necessary to extend this requirement to include the 1525–1530 MHz band.

5. The Commission also finds that the existing primary allocation for aeronautical telemetry in the 1525–1530 MHz band should be downgraded to a secondary service so as not to inhibit MSS operations. Since an MSS system would serve essentially all of the nation and aeronautical telemetry operations tend to affect relatively large geographic areas, the Commission believes that it would not be practical for those services to share the band on a co-primary basis. Accordingly, the 1525–1530 MHz band is allocated on a primary basis to the MSS and on a secondary basis to the mobile service for aeronautical telemetry, and footnote US78 is modified as set forth in the amendatory text. Finally, the Commission expects that the band will be in use by MSS systems by the end of 1995. Therefore, aeronautical telemetry users of the band should be aware that they may have to protect or receive interference from such operations.

6. Several of the commenting parties address issues of eligibility that were not raised in the *Further Notice of Proposed Rule Making*. The Commission is not addressing these issues herein, as they are outside the scope of this proceeding. Licensing issues, including eligibility standards and operating rules, will be the subject of a new proceeding that the Commission intends to initiate in the near future.

7. Accordingly, It Is Ordered; That Parts 2 and 87 of the Commission's Rules Are Amended as specified below, effective August 23, 1995. It Is Further Ordered; That the Request for Clarification filed by Loral Qualcomm Satellite Services, Inc. Is Granted to the extent discussed above and Is Denied in all other respects. This action is taken pursuant to Sections 4(i), 7(a), 302, 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), 302, 303(c), 303(f), 303(g), and 303(r).

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 87

Communications equipment, Radio
Federal Communications Commission.

William F. Caton,
Acting Secretary.

Amendatory Text

Parts 2 and 87 of Title 47 of the Code of Federal Regulations are amended as follows:

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

1. The authority citation for Part 2 continues to read:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. In columns (4) through (7) of the 1435–1530 MHz band, divide the 1435–1530 MHz band into two new smaller bands, the 1435–1525 MHz band and the 1525–1530 MHz band, to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1-allocation MHz	Region 2-allocation MHz	Region 3-allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
			1435–1525	1435–1525	
			MOBILE (aeronautical telemetry).	MOBILE (aeronautical telemetry).	AVIATION (87)	
			722 US78	722 US78	
1525–1530	1525–1530	1525–1530	1525–1530	1525–1530	SATELLITE COMMUNICATION (25).	
SPACE OPERATION (space-to-Earth).	SPACE OPERATION (space-to-Earth).	SPACE OPERATION (space-to-Earth).	MOBILE-SATELLITE (space-to-Earth).	MOBILE-SATELLITE (space-to-Earth).	Aviation (87).	
FIXED	MOBILE-SATELLITE (space-to-Earth).	FIXED	Mobile (aeronautical telemetry).	Mobile (aeronautical telemetry).		
MARITIME MOBILE-SATELLITE (space-to-Earth).	Earth Exploration-Satellite.	MOBILE-SATELLITE (space-to-Earth).				
Land Mobile-Satellite (space-to-Earth) 726B.	Fixed	Earth Exploration-Satellite.				
Earth Exploration-Satellite.	Mobile 723	Mobile 723 724 ...				
Mobile except aeronautical mobile 724.						
722 723B 725 726A 726D.	722 723A 726A 726D.	722 726A 726D ...	722 726A US78 ...	722 726A US78.		
*	*	*	*	*	*	*

b. Footnote US78 is revised to read as follows:

United States (US) Footnotes

* * * * *

US78 In the mobile service, the frequencies between 1435 and 1535 MHz will be assigned for aeronautical telemetry and associated telecommand operations for flight testing of manned or unmanned aircraft and missiles, or their major components. Permissible usage includes telemetry associated with launching and reentry into the earth's atmosphere as well as any incidental orbiting prior to reentry of manned objects undergoing flight tests. The following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1535.5 and 1525.5 MHz.

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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. Section 87.187(p) is revised to read as follows:

§ 87.187 Frequencies

* * * * *

(p) The frequency band 1435.1525 MHz is available on a primary basis and the 1525–1535 MHz is available on a secondary basis for telemetry and telecommand associated with the flight testing of aircraft, missiles, or related major components. This includes launching into space, reentry into the

earth's atmosphere and incidental orbiting prior to reentry. The following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5 and 1525.5 MHz. See § 87.303(d).

Note: Aeronautical telemetry operations must protect mobile-satellite operations in the 1525–2535 MHz band and maritime mobile-satellite operations in the 1530–1535 MHz band.

* * * * *

3. Paragraphs (d)(1) and (d)(2) of § 87.303 are revised to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1525 MHz and 2310–2390 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 band 1525–1535 MHz is 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 2310–2390 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: 2312.5, 2332.5, 2352.5, 2364.5, 2370.5 and 2382.5 MHz. In 2310–2390 MHz band, all other telemetry and telecommand uses are secondary.

Note: Aeronautical telemetry operations must protect mobile-satellite operations in the 1525–1535 MHz band and maritime mobile-satellite operations in the 1530–1535 MHz band.

(2) The authorized bandwidths for stations operating in the bands 1435.0–1525.0 MHz, 1525.0–1535.0 MHz and 2310.0–2390.0 MHz are normally 1, 3 or 5 MHz. Applications for greater bandwidths will be considered in accordance with the provisions of § 87.135. Each assignment will be centered on a frequency between 1435.5 MHz and 1534.5 MHz or between 2310.5 MHz and 2389.5 MHz, with 1 MHz channel spacing.

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[FR Doc. 95–17509 Filed 7–21–95; 8:45 am]

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47 CFR Part 76

[MM Docket No. 92–264, FCC 95–21]

Cable Television

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission amends the cable television rules by permitting cable television operators to acquire satellite master antenna television (SMATV) systems within the cable television operator's service area so long as any SMATV system owned by a cable television operator within the operator's cable franchise area is operated in

accordance with the terms and conditions of the local cable franchise agreement governing the cable television system. The Commission found that the prior rule which prohibited such acquisitions was inconsistent with the statutory provisions of section 11 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act). The Commission also affirms the regulatory framework implementing section 13 of the 1992 Cable Act that established a three-year holding requirement for cable systems and concludes, based on its experience with requests for waiver of the holding period, that such waiver requests generally will be looked on favorably unless the request raises serious concerns on its face or any objections to grant of the waiver provide evidence of other public interest bases for concern.

EFFECTIVE DATE: August 23, 1995.

FOR FURTHER INFORMATION CONTACT: Rebecca Dorch, Cable Services Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION: In the Memorandum Opinion and Order on Reconsideration of the First Report and Order (MO&O) in MM Docket No. 92–264, adopted January 12, 1995 and released January 30, 1995, the Commission acts on petitions for reconsideration of the First Report and Order (FR&O) in MM Docket No. 92–264, Implementation of Sections 11 and 13 of the 1992 Cable Act (Horizontal and Vertical Ownership Limits, Cross-Ownership & Anti-Trafficking Provision), 8 FCC Rcd 6828 (1993), 58 FR 42013, August 6, 1993. All significant comments in the petitions for reconsideration are considered and analyzed in light of the Commission's statutory directives. The Commission adopts revisions to the rules which, to the extent possible, minimize the regulatory burdens placed on entities covered by the ownership and anti-trafficking provisions of the 1992 Cable Act and which aim to reduce unnecessary regulatory restrictions and promote competition within the multichannel video distribution marketplace.

The complete text of the MO&O is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Regulatory Flexibility Act: No significant impact.

Synopsis of the Memorandum Opinion and Order on Reconsideration of the First Report and Order

1. In this MO&O the Commission addresses petitions for reconsideration of the FR&O in this proceeding, 58 FR 42013, August 6, 1993, in which it adopted rules implementing the cross-ownership and anti-trafficking provisions of Sections 11 and 13 of the 1992 Cable Act. In the FR&O, the Commission adopted a rule that prohibited cable system operators from acquiring satellite master antenna television ("SMATV") systems within their actual service areas. On reconsideration, the Commission finds that such a prohibition is inconsistent with the statutory provision upon which it was based. Consequently, the Commission revises that part of the rules that govern cable operators' ownership of SMATV systems within their franchise areas. The Commission believes its analysis and determination to revise the ownership rules adopted in the FR&O more accurately reflects the intent of Congress and comports with the meaning of Section 613(a)(2) of the Communications Act of 1934, as amended by the 1992 Cable Act (the "Communications Act"). The Commission further affirms its decision in the FR&O to adopt a regulatory framework implementing the anti-trafficking provision of Section 13 of the 1992 Cable Act, finding that the rules fulfill Congress' mandate and are consistent with the goal of promoting competition in the multichannel video marketplace. The Commission takes the opportunity, however, to clarify the manner in which those rules apply to various transactions.

2. Section 11(a) of the 1992 Cable Act amended the Communications Act by adding an ownership provision restricting multichannel multipoint distribution service ("MMDS") and SMATV ownership interests by cable operators. That provision, now Section 613(a)(2) of the Communications Act, prohibits a cable operator from holding a license for MMDS, or from offering SMATV service that is separate and apart from any franchised cable service, in any portion of the franchise area served by that cable operator's cable system. It grandfathered all such service in existence as of the date of enactment of the 1992 Cable Act, and authorizes the Commission to waive the requirements of the provision to the extent necessary to ensure that all significant portions of a franchise area are able to obtain video programming.

3. Section 13 of the 1992 Cable Act amended the Communications Act by