H. Where Are the Revised Virginia Rules Different From the Federal Rules?

Virginia's hazardous waste program contains several provisions which are more stringent than the RCRA program as codified in the July 1, 2001 edition of title 40 of the Code of Federal Regulations (CFR). These more stringent provisions are part of the Federally-authorized program and are, therefore, Federally-enforceable. The specific more stringent provisions are noted in Section G.3.

I. Who Handles Permits After This Authorization Takes Effect?

After authorization, Virginia will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which it issued prior to the effective date of this authorization. Until such time as formal transfer of EPA permit responsibility to Virginia occurs and EPA terminates its permit, EPA and Virginia agree to coordinate the administration of permits in order to maintain consistency. EPA will not issue any additional new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Virginia is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Virginia?

Virginia is not seeking authority to operate its program on Indian lands, since there are no Federally-recognized Indian Lands in Virginia.

K. What Is Codification and Is EPA Codifying Virginia's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR part 272, subpart VV, for this authorization of Virginia's program changes until a later date.

L. Statutory and Executive Order Reviews

Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law (*see* **SUPPLEMENTARY INFORMATION**, Section A. Why are Revisions to State Programs Necessary?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order (EO) 12866.

2. Paperwork Reduction Act

This rule does not impose an information collection burden under the Paperwork Reduction Act.

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act.

5. Executive Order 13132: Federalism

EO 13132 does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government).

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

EO 13175 does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

7. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks

This rule is not subject to EO 13045 because it is not economically significant and it is not based on health or safety risks.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866.

9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, Section 12(d) of the National Technology Transfer and Advance Act does not apply to this rule.

10. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective on May 12, 2003.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 5, 2003.

Thomas Voltaggio,

Acting Regional Administrator, EPA Region III.

[FR Doc. 03–6109 Filed 3–12–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[ET Docket No. 00–258 and IB Docket No. 99–81; FCC 03–16]

Advanced Wireless Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallocate portions of the frequency band currently used by the Mobile-Satellite Service (MSS) to provide additional spectrum for Fixed and Mobile Services, and deny Cellular Telecommunications and Internet Association's petition for reconsideration. This action furthers the Commission's efforts to identify and reallocate spectrum that can be used to promote the development and deployment of advanced wireless services, including those commonly associated with ''3G'' wireless applications.

DATES: Effective April 14, 2003.

FOR FURTHER INFORMATION CONTACT: Jamison Prime, Office of Engineering and Technology, (202) 418–7474.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Report and Order and Memorandum Opinion and Order,* ET Docket No. 00–258 and IB Docket No. 99–81, FCC 03–16, adopted January 29, 2003, and released February 10, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of the Third Report and Order and Memorandum Opinion and Order

1. In the *Third Report and Order,* the Commission reallocated 30 megahertz of spectrum in the 2 GHz MSS band for Fixed and Mobile services on a primary basis and preserved the remaining 40 megahertz of spectrum for Mobile-Satellite Service (MSS) at this time. The Commission reallocated 15 megahertz from the MSS uplink band, specifically the 1990–2000 MHz and 2020–2025 MHz band segments, and 15 megahertz from the MSS downlink band, specifically the 2165–2180 MHz band segment. We modified the Table of Allocations to provide for Fixed and Mobile services in these bands on a co-primary basis. In addition, we also modified footnotes NG 156 and NG 168 of the U.S. Table of Frequency Allocations, concerning Fixed and Mobile service status in bands shared with MSS, to reflect the revised MSS bands. The Commission created two new non-Federal Government footnotes that make incumbent BAS and cable television relay service operations that are secondary to MSS also secondary to new Fixed and Mobile services after prescribed cut-off dates. Finally, we conclude that some abandoned 2 GHz spectrum recently recaptured as a result of the initial MSS milestone review will be reassigned to the authorized MSS operators that remain when we complete the initial milestone review.

2. The 30 megahertz of spectrum that was reallocated from MSS comes from two sources: 14 megahertz of spectrum that was not assigned to any of the MSS licensees and 16 megahertz of spectrum (of the 21 megahertz) that had been abandoned at the time the *Third R&O* was adopted, as a result of MSS licensees not meeting initial milestones. The International Bureau has cancelled three MSS authorizations, thereby recapturing 21 megahertz of spectrum. Sixteen megahertz of this recaptured spectrum, as well as the 14 megahertz of unassigned spectrum, will be reallocated immediately for Fixed and Mobile services. Relying on unassigned and abandoned spectrum as the basis for the reallocation is least disruptive to the MSS licensees. Further, the initial MSS milestone review, which is not yet completed, has already made available an additional 5 megahertz of abandoned spectrum that we are not reallocating for new services. We note that the MSS entities have asserted the need for access to more than 3.5 megahertz of spectrum in each band for their Selected Assignments. We thus conclude that the public interest would be served by redistributing abandoned 2 GHz spectrum recently recaptured as a result of the initial MSS milestone review, above the 16 megahertz being reallocated, to the authorized MSS operators that remain when we complete the initial milestone review. Thus, it is possible that more than 5 megahertz of abandoned spectrum may be available for redistribution when the initial MSS milestone review is completed. We further note that the MSS milestone review is an ongoing process that spans several years, and it is possible that not all currently authorized MSS networks will be deployed. As we previously stated in *2 GHz MSS R&O,* 65 FR 59140, Oct. 4, 2000, we have not established nor do we do so here any policy or rule regarding the use of additional abandoned spectrum that may result after future MSS milestone reviews are completed. Instead, we will evaluate whether to redistribute such spectrum or make it available to new entrants after achievement of each of our system implementation milestones.

3. Because we are revising the allocated spectrum for MSS and modifying the amount of spectrum that will constitute a Selected Assignment, we have also modified how Selected Assignments are to be located in the revised MSS bandwidth. In the *2 GHz MSS R&O,* we have determined that the MSS band plan would be divided into equal segments based on the number of licensed MSS systems. This incremental spacing approach allows MSS licensees to identify Selected Assignments working from either the bottom or the top of the band without requiring assignments to be selected in sequential order. In order to maintain this flexibility, the plan for each band will be based on dividing the revised MSS allocation in each band by the number of MSS licensees remaining when we complete the initial MSS milestone review. Thus, MSS licensees will choose Selected Assignments as an integer multiple of this amount from either band edge. We have modified, pursuant to section 316 of the Communications Act, 47 U.S.C. 316, and consistent with our decisions here, the 2 GHz MSS authorizations to increase the amount of spectrum for Selected Assignments, to require that a Selected Assignment be located within the revised MSS allocation, and to require that a Selected Assignment be chosen such that the band edge of the assignment is an integer multiple of the revised value from the band edge. We have also delegated authority to the International Bureau to issue revised authorizations, consistent with the decisions in this *Third Report and Order,* when the initial milestone review is completed. When the authorizations are modified, the MSS entities, can follow current procedures for notifying the Commission of their Selected Assignments and their selections will be put on public notice.

4. In deciding which segments of the MSS spectrum should be reallocated for Fixed and Mobile services, we recognize that the record is split on whether we should reallocate spectrum that overlaps the global MSS allocation, which consists of paired 30 megahertz bands at 1980–2110 MHz and 2170–2200 MHz. The U.S. MSS allocation, which consists of two paired 35 megahertz bands, overlaps 20 megahertz of the international allocation in the lower uplink band (1990–2010 MHz) and all of the 30 megahertz of the international allocation in the upper downlink band (2170–2200 MHz). After careful

consideration of the record, we conclude that, on balance, the benefits to the public of providing additional spectrum for Fixed and Mobile services that overlaps the international 2 GHz MSS band outweigh the impact on MSS. Our decision is to reallocate MSS spectrum in a way that will allow new entrants to take advantage of economies of scale in developing and deploying new services while maintaining sufficient international MSS spectrum.

5. In the 1990–2025 MHz band, we have reallocated from the current MSS allocation a 10 megahertz block at 1990–2000 MHz, which is contiguous with the existing Broadband PCS allocation at 1930–1990 MHz, and a 5 megahertz block at 2020–2025 MHz. Because the 10 megahertz block is contiguous with the Broadband PCS band, this spectrum could provide needed growth spectrum for PCS providers, as well as facilitate new AWS equipment development and deployment. This reallocation will reduce by 10 megahertz the current 20 megahertz available for the international MSS uplink allocation. While we recognize that globally harmonized spectrum is an important resource, we share Cellular Telecommunications and Internet Association's concerns regarding potential interference to existing PCS operations at 1930–1990 MHz. We believe that in this instance, these interference concerns outweigh the benefits of increased global harmonized spectrum. We find that we can accommodate the international needs of 2 GHz MSS licensees in the remaining 10 megahertz (uplink) + 20 megahertz (downlink) of overlapping international spectrum. Not all of the eight authorized MSS networks will be deployed, not all of the proposed MSS networks will be providing global service, and most MSS licensees propose to operate throughout the currently allocated band (2000–2020 MHz). The remaining MSS entities will be able to adapt their frequency use within the U.S. to the remaining allocated spectrum (2000–2020 MHz), and use any spectrum within the international allocation (1980–2010 MHz) outside the U.S. Any newly authorized MSS networks could be built to accommodate the revised MSS allocation, assuming that sharing with incumbent MSS licensees is possible. We conclude that our decision to reduce the amount of globally harmonized MSS spectrum that will be available in the United States is appropriate at this time and consistent with the current spectrum requirements for the global portion of the 2 GHz MSS industry. Despite this action, we remain cognizant and supportive of the benefits of global spectrum harmonization, when appropriate.

6. In the 2165–2200 MHz band, we balanced the MSS and terrestrial services needs by reallocating a 15 megahertz block at 2165–2180 MHz. This reallocation will minimize the impact on MSS, as all of the remaining 20 megahertz domestic allocation will overlap with the current international MSS downlink allocation—and, thus, 30 of the 40 megahertz of remaining MSS spectrum will overlap with the global allocation. We believe that MSS licensees should not be significantly impaired in providing satellite services in this band. We note that, as a result of our previous decision in this docket, 45 megahertz of contiguous spectrum, from 2110–2155 MHz, will be available for AWS. We also have proposed to make the adjacent bands at 2155–2160 and 2160–2165 MHz available for AWS. We note that our decision here to reallocate the adjacent MSS spectrum at 2165–2180 MHz is consistent with the majority of the AWS proponents who favor reallocating MSS spectrum adjacent to the 2110–2165 MHz band. Contiguous spectrum would make it easier to accommodate multiple licensees using larger spectrum blocks throughout this band. Further, a flexible allocation at 2110–2165 MHz would overlap to a large extent the international allocation for a terrestrial component of advanced services at 2110–2170 MHz and thus will promote the timely introduction of new equipment and services in this spectrum.

7. As a consequence of our decision to reallocate the 1990–2000/2020–2025/2165–2180 MHz bands, we note that coordination of satellite and terrestrial use with Canada and Mexico will be necessary. Finally, we are not reaching decisions here on several other issues raised in the *Further Notice,* 66 FR 47618, September 13, 2001, such as the consolidation of MSS assignments and BAS and FS relocation issues. We will address those issues in further proceedings. We note, for example, that relocating incumbent BAS operations in the 1990–2025 MHz band will be further complicated by our decision here. As we stated in the *Further Notice* when discussing possible reallocation of spectrum in the 1990–2025 MHz band, the relocation of BAS from any portion of the band would be shared between new MSS entrants and other new entrants in the band. Although we conclude that this principle would apply as a consequence of our reallocation decision, we will address fully BAS relocation issues in a future separate proceeding. We intend to address the relocation issues well in advance of the September 6, 2003, expiration of the initial two-year mandatory negotiation period for Phase 1 of the relocation plan between MSS and BAS.

8. This *Second Memorandum Opinion and Order* addresses a petition for rule making filed by CTIA on May 18, 2001, requesting that the 2 GHz MSS bands be reallocated for other uses (such as terrestrial wireless services) and also asking that the Commission withhold grant of 2 GHz MSS licenses. In the *Further Notice,* we granted the petition insofar as we proposed to reallocate 10–14 megahertz of spectrum for AWS, and denied it insofar as it requested reallocation of the entire 2 GHz MSS band and delaying of the licensing of MSS systems in the band. We stated that our actions in the *Further Notice* would better serve the public with respect to these issues and was consistent with the International Bureau's granting of the MSS licenses on July 17, 2001. In its petition for reconsideration, CTIA claims we made an error by acting on its petition without first placing it on public notice, and asks that we vacate our decision to reject its petition for rulemaking, place the petition on public notice, and consider it *ab initio.* CTIA also claims that we failed to articulate a reasoned decision for rejecting its request and, further, that we could not reasonably rely on the grant of the MSS licenses because that action prejudged our consideration of CTIA's petition.

9. Although we did not place CTIA's petition on public notice, our decision in that regard did not prejudice CTIA. We note that various parties filed responsive comments addressing reallocation of the entire 2 MSS GHz band in IB Docket No. 99–81, which demonstrates that the public was provided the opportunity to submit comment on the reallocation question raised by CTIA's petition, and did so. Moreover, the Commission has already raised and duly considered this reallocation question. The same day the Commission adopted the *Further Notice* that considered the reallocation of some MSS spectrum, it initiated a separate proceeding to explore whether MSS licensees should be afforded additional flexibility. Together, these proceedings explored the larger issue of MSS use that is also reflected in CTIA's petition. The *Third R&O* we adopted concludes that a portion of the MSS spectrum should be reallocated to support AWS, but rejects a complete reallocation of the band. Accordingly, CTIA's original petition for rule making is now moot,

and we deny its petition for reconsideration.

Final Regulatory Flexibility Analysis

10. As required by the Regulatory Flexibility Act (RFA) [1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking and Order* (NPRM),[2] as well as the *Memorandum Opinion and Order and Further Notice of Proposed Rule Making* (Further NPRM).[3] The Commission sought written public comments on the proposals in the NPRM and Further NPRM, including comment on each IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[4]

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

11. The *Third Report and Order (Third R&O)* continues our efforts to allocate spectrum that can be used for the provision of advanced wireless services (AWS) to the public, which in turn supports our obligations under Section 706 of the 1996 Telecommunication Act [5] and, more generally, serves the public interest by promoting rapid and efficient radio communication facilities.

12. The *Third R&O* discusses the need for spectrum allocations of sufficient size and with particular characteristics so as to allow for the provision of AWS. Specifically, it evaluates spectrum that was formerly allocated to the Mobile-Satellite Service (MSS). The Commission previously concluded that 2 GHz MSS licensees could operate using a smaller amount of spectrum than that which had previously been allocated. The *Third R&O* allocates spectrum for fixed and mobile services (which could be made available for AWS) in the 1990–2000 MHz, 2020–2025 MHz, and 2165–2180 MHz bands.

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

13. 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

14. 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.[6] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [7] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[8] 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).[9]

15. A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [10] Nationwide, as of 1992, there were approximately 275,801 small organizations.[11] ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' [12] As of 1992, there were approximately 85,006 governmental entities in the United States.[13] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96%, have populations of fewer then 50,000.[14] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96%) are small entities.

Radiotelephone Operators. The Commission has not developed service rules for AWS spectrum, nor has it attempted to categorize potential licensees for this spectrum. However, because many of the comments we received in support of our efforts to allocate spectrum for AWS were submitted by commercial radiotelephone operators and because licensees of AWS-like bands in other countries include incumbent commercial radiotelephone operators, we believe that there is a high likelihood that the class of AWS licensees may ultimately consist of one or more radiotelephone operator. Therefore, we examine this category in greater depth. The SBA has developed a small business size standard for small businesses in the category ''Cellular and Other Wireless Telecommunications.'' [15] Under that SBA category, a business is small if it has 1,500 or fewer employees.[16] According to the Bureau of the Census, only twelve firms from a total of 1238 cellular and other wireless telecommunications firms operating during 1997 had 1,000 or more employees.[17] Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1807 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends in Telephone Service* data, 858 carriers reported that they were engaged in the provision of either cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio telephony services, which are placed together in that data. We have estimated that 291 of these are small under the SBA small business size standard.[18] Accordingly, based on this data, we estimate that not more than 291 radiotelephone operators

[1] *See* 5 U.S.C. 603. The RFA (codified at 5 U.S.C. 601–612) has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

[2] Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00–258, Notice of Proposed Rulemaking and Order, 16 FCC Rcd 596 (2001), 66 FR 18740, April 11, 2001.

[3] Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00–258, ET Docket No. 95–18, and IB Docket No. 99–81, Memorandum Opinion and Order, 66 FR 47518, September 13, 2001, and Further Notice of Proposed Rule Making, 16 FCC Rcd 16043 (2001), 66 FR 47618, September 13, 2001.

[4] *See* 5 U.S.C. 604.

[5] Section 706 of the Communications Act of 1934, as amended, codified at 47 U.S.C. 157.

[6] 5 U.S.C. 604(a)(3).

[7] 5 U.S.C. 601(6).

[8] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[9] 15 U.S.C. 632.

[10] 5 U.S.C. 601(4).

[11] Department of Commerce, U.S. Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[12] 5 U.S.C. 601(5).

[13] U.S. Dept. of Commerce, Bureau of the Census, ''1992 Census of Governments.''

[14] *Id.*

[15] 13 CFR 121.201, North American Industry Classification System (NAICS) code 513322.

[16] *Id.*

[17] U.S. Department of Commerce, U.S. Census Bureau, 1997 Economic Census, Information—Subject Series, Establishment and Firm Size, Table 5—Employment Size of Firms Subject to Federal Income Tax at 64, NAICS code 513322 (October 2000).

[18] See Trends in Telephone Service, Industry Analysis and Technology Division, Wireline Communications Bureau, Table 5.3, page 5–5 (May 2002).

would be affected by a decision to make additional spectrum available for AWS.

Geostationary, Non-Geostationary Orbit, Fixed Satellite, or Mobile Satellite Service Operators (including 2 GHz MSS systems). The Commission has not developed a definition of small entities applicable to geostationary or non-geostationary orbit, fixed-satellite or mobile-satellite service operators. The SBA has developed a small business size standard for Satellite Telecommunications Carriers, which consists of all such companies having $12.5 million or less in annual receipts.[19] In addition, a second SBA size standard for Other Telecommunications includes ''facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems,'' [20] and also has a size standard of annual receipts of $12.5 million or less. According to Census Bureau data for 1997, there were 324 firms in the category Satellite Telecommunications, total, that operated for the entire year.[21] Of this total, 273 firms had annual receipts of $5 million to $9,999,999 and an additional 24 firms had annual receipts of $10 million to $24,999,990.[22] Thus, under this size standard, the majority of firms can be considered small. In addition, according to Census Bureau data for 1997, there were 439 firms in the category Satellite Telecommunications, total, that operated for the entire year.[23] Of this total, 424 firms had annual receipts of $5 million to $9,999,999 and an additional 6 firms had annual receipts of $10 million to $24,999,990.[24] Thus, under this second size standard, the majority of firms can be considered small.

[19] 13 CFR 121.201, North American Industry Classification System (NAICS) code 517410 (formerly 513340).

[20] *Id.* NAICS code 517910 (formerly 513390).

[21] U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, ''Receipt Size of Firms Subject to Federal Income Tax: 1997,'' Table 4, NAICS code 517410 (issued Oct. 2000).

[22] *Id.*

[23] U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, ''Receipt Size of Firms Subject to Federal Income Tax: 1997,'' Table 4, NAICS code 517910 (issued Oct. 2000).

[24] *Id.*

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

16. The *Third R&O* addresses the possible use of frequency bands below 3 GHz to support the introduction of new AWS, but does not propose service rules. Thus, the item contains no new reporting, recordkeeping, or other compliance requirements.

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

17. 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.'' [25]

18. Providing spectrum to support the introduction of new advanced mobile and fixed terrestrial wireless services is critical to the continuation of technological advancement. First and foremost, the Commission believes that providing for expanded use of the frequency bands identified in the *Third R&O* in order to allow for a wide range of voice, data, and broadband services over a variety of mobile and fixed networks will provide substantial new opportunities for small entities, including (but not limited to) small entities that are radiotelephone operators.

19. In prior decisions, we determined that MSS operations could exist within a 40 megahertz allocation, and this spectrum is not at issue in the current proceeding. Instead, the *Third R&O* addresses the use of 30 megahertz of abandoned MSS spectrum (*i.e.* spectrum available for reallocation because licensees either failed to satisfy Commission rules pertaining to system construction or because they voluntarily relinquished their authorizations). For this spectrum, we contrast the public benefits of the allocation of AWS and the potential that small entities will be involved in the provision of AWS with the likelihood that, at the time of MSS system implementation, no small businesses will be providing MSS. For this reason, we believe that the reallocation of spectrum from MSS in the *Third R&O* will actually provide small entities with opportunities that would have otherwise been unavailable.

[25] 5 U.S.C. 603(c)(1)–(c)(4).

Report to Congress

20. The Commission will send a copy of the Third Report and Order including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[26] In addition, the Commission will send a copy of the Third Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Third Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.[27]

List of Subjects

47 CFR Part 2

Communications equipment.

47 CFR Part 25

Communications equipment, Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 25 to read 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 follows:

a. Revise pages 48 and 49 of the Table.

b. In the list of non-Federal Government (NG) footnotes, revise footnotes NG156 and NG168 and add footnotes NG177 and NG178.

The revisions and additions read as follows:

BILLING CODE 6712–01–P

[26] *See* 5 U.S.C. 801(a)(1)(A).

[27] *See* 5 U.S.C. 604(b).

§ 2.106 Table of Frequency Allocations.

			1755-1850 FIXED MOBILE G42	1755-1850	
5.149 5.341 5.385 5.386 5.387 5.388			1850-2025	1850-2000 FIXED MOBILE NG177	RF Devices (15) Personal Communications (24) Fixed Microwave (101)
1930-1970 FIXED MOBILE 5.388A 5.388	1930-1970 FIXED MOBILE 5.388A Mobile-satellite (Earth-to-space) 5.388	1930-1970 FIXED MOBILE 5.388A 5.388			
1970-1980 FIXED MOBILE 5.388A 5.388				2000-2020 MOBILE-SATELLITE (Earth-to-space) NG156	Satellite Communications (25)
1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A 5.388 5.389A 5.389B 5.389F					
2010-2025 FIXED MOBILE 5.388A 5.388	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.388 5.389C 5.389D 5.389E 5.390	2010-2025 FIXED MOBILE 5.388A 5.388		2020-2025 FIXED MOBILE NG177	
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space) 5.392			2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) SPACE RESEARCH (Earth-to-space) (space-to-space) 5.391 5.392 US90 US222 US346 US347	2025-2110 FIXED NG23 NG118 MOBILE 5.391 5.392 US90 US222 US346 US347	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)

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International Table			United States Table		FCC Rule Part(s)
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2110-2120 FIXED MOBILE 5.388A SPACE RESEARCH (deep space) (Earth-to-space) 5.388			2110-2120 US252	2110-2155 FIXED NG23 MOBILE US252	Domestic Public Fixed (21) Public Mobile (22) Fixed Microwave (101)
2120-2160 FIXED MOBILE 5.388A 5.388	2120-2160 FIXED MOBILE 5.388A Mobile-satellite (space-to-Earth) 5.388	2120-2170 FIXED MOBILE 5.388A	2120-2200	2155-2160 FIXED NG23	Domestic Public Fixed (21) Fixed Microwave (101)
2160-2170 FIXED MOBILE 5.388A 5.388 5.392A	2160-2170 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.388 5.389C 5.389D 5.389E 5.390	5.388		2160-2180 FIXED NG23 NG153 MOBILE NG178	Domestic Public Fixed (21) Public Mobile (22) Fixed Microwave (101)
2170-2200 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A 5.388 5.389A 5.389F 5.392A				2180-2200 MOBILE-SATELLITE (space-to-Earth) NG23 NG168	Satellite Communications (25)
2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (space-to-Earth) (space-to-space)			2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space) FIXED (line-of-sight only)	2200-2290	

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Non-Federal Government (NG) Footnotes

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NG156 The band 2000–2020 MHz is also allocated to the fixed and mobile services on a primary basis for facilities where the receipt date of the initial application was prior to June 27, 2000, and on a secondary basis for all other initial applications. Not later than September 6, 2010, the band 2000–2020 MHz is allocated to the fixed and mobile services on a secondary basis.

* * * * *

NG168 The band 2180–2200 MHz is also allocated to the fixed and mobile services on a primary basis for facilities where the receipt date of the initial application was prior to January 16, 1992, and on a secondary basis for all other initial applications. Not later than September 6, 2010, the band 2180–2200 MHz is allocated to the fixed and mobile services on a secondary basis.

* * * * *

NG177 In the bands 1990–2000 MHz and 2020–2025 MHz, where the initial filing date for facilities in the fixed and mobile services was prior to June 27, 2000, said facilities shall operate on a primary basis and all later-applied-for facilities shall operate on a secondary basis to Advanced Wireless Services. Not later than September 6, 2010, all such facilities in the bands 1990–2000 MHz and 2020–2025 MHz shall operate on a secondary basis to Advanced Wireless Services.

NG178 In the band 2165–2180 MHz, where the initial filing date for facilities in the fixed and mobile services was prior to January 16, 1992, said facilities shall operate on a primary basis and all later-applied-for facilities shall operate on a secondary basis to Advanced Wireless Services. Not later than September 6, 2010, all such facilities in the band 2165–2180 MHz shall operate on a secondary basis to Advanced Wireless Services.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

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

Authority: 47 U.S.C. 701–774. Interprets or applies sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

4. Section 25.201 is amended by revising the definition for ''2 GHz Mobile-Satellite Service'' to read as follows:

§ 25.201 Definitions.

* * * * *

2 GHz Mobile Satellite Service. A mobile-satellite service that operated in the 2000–2020 MHz and 2180–2200 MHz frequency bands, or in any portion thereof.

* * * * *

5. Section 25.202 is amended by revising paragraph (a)(4)(ii) to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) * * *

(4) * * *

(ii) The following frequencies are available for use by the 2 GHz Mobile-Satellite Service: 2000–2020 MHz: User-to-Satellite Link; 2180–2200 MHz: Satellite-to-User Link.

* * * * *

[FR Doc. 03–6039 Filed 3–12–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–587; MB Docket No. 02–127; RM–10449]

Radio Broadcasting Services; Roundup, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of William J. Edwards, allots Channel 248A at Roundup, Montana, as the community's first local FM service. Channel 248A can be allotted to Roundup, Montana, in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.08 km (0.6 miles) northeast of Roundup. The coordinates for Channel 248A at Roundup, Montana, are 46–26–58 North Latitude and 108–31–44 West Longitude. The Canadian government has concurred in this allotment. A filing window for Channel 248A at Roundup, MT, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

DATES: Effective April 18, 2003.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–127, adopted February 26, 2003, and released March 4, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Roundup, Channel 248A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–6095 Filed 3–12–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–586; MM Docket No. 01–227, RM–10255]

Radio Broadcasting Services; Reydon, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Katherine Pyeatt, allots Channel 264C2 to Reydon, Oklahoma, as the community's first local aural broadcast service. *See* 66 FR 48108, September 18, 2001. Channel 264C2 can be allotted to Reydon in compliance with the Commission's minimum distance separation requirements, provided there is a site restriction of 29.9 kilometers (18.6 miles) south of Reydon. The reference coordinates for Channel 264C2 at Reydon are 35–23–11