

opportunity for comment on the interim rule.

Mariners opting for the Radar-Operation courses in lieu of radar-observer courses approved by the Coast Guard may renew or upgrade their licenses (to be issued before June 1, 1995) before completing Radar-Operation courses. Upon completion of such courses they must hold the courses' certificates with their licenses.

### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule relieves a potential regulatory burden by providing additional time for persons subject to the rule to obtain required training. It does not significantly change the regulatory evaluation contained in the interim rule published October 26, 1994 (59 FR 53754).

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

This rule relieves a potential regulatory burden by providing additional time for persons subject to the rule to obtain required training, and should have no economic impact on small entities. As discussed in the interim rule, the Coast Guard expects that the burdens of complying with the interim rule will fall on individuals, rather than on small entities. This change may provide any affected small entities with additional flexibility in scheduling required training and result in some economic benefit. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If,

however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

### Collection of Information

This rule contains no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. This rule is an administrative matter involving personnel training and licensing and clearly has no environmental impact. A "Categorical Exclusion Determination" is available in the docket for inspection or copying here indicated under ADDRESSES.

### List of Subjects in 46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons set forth in the preamble, the Coast Guard amends 46 CFR part 15 as follows:

### PART 15—MANNING REQUIREMENTS

1. The citation of authority for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3703, 8502; 49 CFR 1.45, 1.46.

#### § 15.815 [Amended]

2. In § 15.815, paragraph (c) is revised to read as follows:

\* \* \* \* \*

(c) On or after June 1, 1995, each person having to be licensed under 46 U.S.C. 8904(a) for employment or service as master, mate, or operator on board an uninspected towing vessel of 8 meters (approximately 26 feet) or more in length shall, if the vessel is equipped with radar, hold—

(1) A valid endorsement as radar observer; or,

(2) If the person holds a valid license dated before June 1, 1995, a valid certificate from a Radar-Operation course.

Dated: February 2, 1995.

**J.C. Card,**

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[GEN Docket No. 90-357; FCC 95-17]

### New Digital Audio Radio Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** By this action the Commission amends its rules regarding frequency allocation to allocate spectrum in the 2310-2360 MHz band for new satellite digital audio radio services (DARS). This action will bring about a new service, which will provide enhanced quality of reception and increased program diversity to all markets nationwide.

**EFFECTIVE DATE:** March 16, 1995.

**FOR FURTHER INFORMATION CONTACT:** Lynn L. Remly, Office of Engineering and Technology, at (202) 776-1623.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* in GEN Docket No. 90-357, adopted January 12, 1995 and released January 18, 1995. By this action, the Commission amends its Rules with regard to the establishment and regulation of new satellite digital audio radio services. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554. The full text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street N.W., Washington, D.C. 20037.

### Summary of Order

1. In 1990, three parties requested the Commission to allocate spectrum or otherwise authorize the provision of digital audio radio services. On May 18, 1990, Satellite CD Radio, Inc. (SCDR) filed a Petition for Rule Making in which it requested spectrum to offer a compact disk quality digital audio radio

service to be delivered by satellites and complementary radio transmitters. On May 22, 1990, Radio Satellite Corporation filed a Request for Authorization to build and operate an earth station that would provide DARS and other mobile satellite services over a system planned to be built by the American Mobile Satellite Corporation in the 1.6/2.4 GHz bands. Finally, on July 27, 1990, Strother Communications, Inc. filed a Petition for Rule Making requesting that the Commission allocate spectrum and adopt rules for terrestrial digital audio broadcasting services.

2. In August 1990, the Commission issued a *Notice of Inquiry (NOI)*, 55 FR 34940 (August 27, 1990), soliciting information necessary to identify spectrum and develop technical rules and regulatory policies for DARS in the United States. In the *NOI*, we noted international interest in the development of digital sound broadcasting and expressed concern that the United States would be disadvantaged if it did not participate in this new technology. In a parallel effort, by a series of inquiries between 1989 and 1991, the Commission solicited comment on appropriate U.S. positions to be taken at the 1992 World Administrative Radio Conference (WARC-92). We sought comment on possible spectrum to be used for the provision of high-quality audio programming by the broadcasting satellite service (BSS Sound). Based on the inquiries, and in coordination with the National Telecommunications Information Administration (NTIA), the Commission supported a U.S. position seeking an allocation for satellite and complementary terrestrial DARS at 2310-2360 MHz.

3. At WARC-92, three different BSS (Sound) allocations were adopted. International Radio Regulation RR750B allocated the 2310-2360 MHz band in the United States for digital audio satellite broadcasting (BSS Sound). This allocation, like those adopted for other areas of the world, was limited to audio broadcasting by digital modulation. In November 1992 the Commission released the *Notice of Proposed Rule Making and Further Notice of Inquiry (NPRM)*, 57 FR 57049 (December 2, 1992), in which we proposed to adopt the WARC-92 allocation of 2310-2360 MHz for satellite DARS; proposed to accommodate aeronautical telemetry services now operating in the 2310-2390 MHz band at 2360-2390 MHz; and solicited comment on regulatory and technical aspects of satellite DARS. Also in 1992, we accepted for comment SCDR's license application and invited competing applications. Digital Satellite

Broadcasting Company, Primosphere Limited Partnership, and American Mobile Radio Corporation each submitted applications. As a result, there are currently four pending satellite DARS license applications.

4. Further, two industry committees are presently considering DARS technical standards issues. The Electronics Industry Association (EIA) has formed a subcommittee to consider the development of standards for terrestrial and satellite DARS. Also, the National Radio Systems Committee (NRSC) has agreed to examine terrestrial DARS systems which would operate in the AM or FM broadcast bands, and EIA and NRSC are cooperating in testing such DARS technologies.

5. Comments to the *NPRM* comprised a wide variety of parties. Proponents of the allocation, including potential DARS providers, equipment manufacturers, and potential users, state that there will be major benefits from satellite DARS. These parties argued generally that a satellite-delivered system will meet the needs of unserved and underserved markets as well as provide enhanced quality of reception and increased audio program diversity. Further, they pointed out that a satellite DARS system that would provide enhanced quality of reception for all listeners is currently feasible. In addition, they asserted that the allocation would create economic opportunities in the United States for various segments of industry, especially manufactures of DARS-related equipment. Finally, proponents argued that a satellite DARS allocation will improve U.S. competitiveness in the world marketplace. Opponents, primarily existing broadcast entities, either rejected a satellite DARS allocation or recommended that an allocation not be until terrestrial DARS allocation options have been fully explored. Many of these commenters argued that satellite systems will adversely impact present AM/FM radio services by driving local stations out of business. This, they contended, will cause a loss of local service, which a satellite service by its nature cannot replace. This effect, these opponents argued, contravenes the intent of the Communications Act of 1934 that local needs be met by broadcast media. In addition, opponents argued that programming will become less, not more, diverse as a result of satellite DARS. Some commenters did not oppose a satellite DARS allocations, but recommended that the Commission allocate frequencies in the 1.4-1.5 GHz band in lieu of the proposed allocation.

6. In the *Report and Order* the Commission allocates spectrum in the 2310-2360 MHz band for new satellite DARS. This domestic allocation is in accordance with the international allocation made at WARC-92. We are making this allocation, rather than an alternative allocation in the 1.4-1.5 GHz band, because it was strongly favored by commenters and because this band was allocated for BSS (Sound) at WARC-92. Satellite DARS will provide continuous radio service of compact disk quality on a nationwide or regional basis, including areas which are presently unserved or underserved. In addition, this new service will provide opportunities for domestic economic development and will improve U.S. competitiveness in the world marketplace by promoting rapid technological development in various areas, such as satellite communications and audio compression. Furthermore, we continue to support efforts to implement terrestrial DARS technology. We believe that existing radio broadcasters can and should have the opportunity to profit from new digital radio technologies, and we anticipate that technical advances will soon permit both AM and FM broadcasters to offer improved digital sounds. These innovations will also help promote the future viability of our terrestrial broadcasting system, which provides local news and public affairs programming. Finally, we note that we are deferring licensing and service rules for satellite DARS until a further proceeding.

#### Ordering Clauses

Accordingly, it is ordered, that Part 2 of the Commission's Rules is amended as specified below, effective March 16, 1995. 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 in 47 CFR Part 2

Radio.  
Federal Communications Commission.  
**William F. Caton,**  
*Acting Secretary.*

#### Rule Changes

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

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

47 U.S.C. Sections 154, 154(i), 302, 303, 303(r), and 307, unless otherwise noted.

b. International footnotes No. 743A is removed and Nos. 750B, 751A, and 751B are added in numerical order.

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

**Authority:** Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended,

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

a. The entry for 2300–2450 MHz is removed and new entries for 2300–2450 MHz are added in numerical order.

c. United States (US) footnotes Nos. US327 and US328 are added in numerical order.

The additions 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)
*	*	*	*	*	*	*
2300–2450, FIXED, MOBILE, Amateur, Radio-location.	2300–2450, FIXED, MOBILE, RADIO-LOCATION, Amateur.	.....	2300–2310, RADIO-LOCATION, Fixed, Mobile, US253 G2.	2300–2310, Amateur, US253.	Amateur (97).	
			2310–2360, Mobile, Radio-location, Fixed, US276 US327 US328 G2 751B G120.	2310–2360, BROADCASTING-, SATELLITE, Mobile, US276 US327 US328 751B.	.....	Digital Audio Radio Services
			2360–2390, MOBILE, RADIO-LOCATION, Fixed US276 G2 G120.	2360–2390 MOBILE US276.		
			2390–2450 RADIO-LOCATION.	2390–2450 Amateur.	Amateur (97).	
664 751A 752 ...	664 750B 751 751B 752.	.....	664 752 G2 .....	664 752.		
*	*	*	*	*	*	*

**International Footnotes**

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 750B *Additional allocation:* In the United States of America and India, the band 2310–2360 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528.  
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751A In France, the use of the band 2310–2360 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

751B Space stations of the broadcasting-satellite service in the band 2310–2360 MHz operating in accordance with No. 750B that

may affect services to which this band is allocated in other countries shall be coordinated and notified in accordance with Resolution 33. Complementary terrestrial broadcasting stations shall be subject to bilateral coordination with neighboring countries prior to their bringing into use.  
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**United States (US) Footnotes**

\* \* \* \* \*  
 US327 The band 2310–2360 MHz is allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528.

US328 In the band 2310–2360 MHz, the mobile and radiolocation services are allocated on a primary basis until 1 January 1997 or until a broadcasting-satellite (sound) service has been brought into use in such a manner as to affect or be affected by the mobile and radiolocation services in those service areas, whichever is later. The broadcasting-satellite (sound) service during implementation should also take cognizance of the expendable and reusable launch vehicle frequencies 2312.5, 2332.5, and 2352.5 MHz, to minimize the impact on this mobile service use to the extent possible.  
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