responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.''' Policies that have federalism implications'' is defined in the Executive order to include regulations that have'' 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801*et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 31, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.469 is amended by revising the table in paragraph (a) to read as follows:

§ 180.469 N,N-diallyl dichloroacetamide; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Corn, field, forage	0.05	12/31/05
Corn, field, grain	0.05	12/31/05
Corn, field, stover	0.05	12/31/05
Corn, pop, grain	0.05	12/31/05
Corn, pop, stover	0.05	12/31/05

* * * * *

[FR Doc. 02–19801 Filed 8–6–02; 8:45am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket 96–132; FCC 02–24]

Upper and Lower L-Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes licensing policies governing mobile-satellite service (''MSS'') in certain portions of the L-band. It assigns lower L-band frequencies to Motient Services, Inc. (''Motient'') in lieu of upper L-band frequencies that have been assigned to Motient, and that the United States has been unable to coordinate internationally for use by a U.S. licensee. Any coordinated lower L-band spectrum not required to secure Motient an aggregate of 20 megahertz of L-band spectrum will be made available for other MSS applicants that may wish to apply for assignment of the frequencies. This document also adopts and incorporates into part 25 of the Commission's service rules specific operational parameters and technical requirements to ensure that the integrity of maritime distress and safety communications service will not be compromised by MSS operation in the lower L-band.

DATES: Effective September 6, 2002.

FOR FURTHER INFORMATION CONTACT: Terrence E. Reideler, Attorney Advisor, Satellite Division, International Bureau at 202–418–2165.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O) in IB Docket No. 96–132, FCC 02–24, adopted January 28, 2002 and released February 7, 2002. The complete text of this R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898 or via email *qualexint@aol.com*. It is also available on the Commission's website at *http://www.fcc.gov*.

1. In the Notice of Proposed Rulemaking (NPRM), FCC 96–259 published at 61 FR 40772, August 6, 1996 preceding this R&O, the Commission asked for comment on the possibility of assigning up to a maximum of 28 megahertz of internationally coordinated upper and lower L-band spectrum to Motient. Additionally, the Commission asked for comment on whether any spectrum coordinated for U.S. use above 28 megahertz should be made available to future MSS applicants. The Commission also proposed a series of technical and operational standards designed to prevent new MSS operations from interfering with maritime distress and safety communications in the lower L-band.

2. To support providing Motient with spectrum in the lower L-band, the Commission explained that Motient was originally authorized to use 28 megahertz of spectrum in the upper L-band for MSS service. In the original Licensing Order the Commission required 12 applicants to form a single MSS operating consortium. The Commission based this requirement on the twelve applicants before it and the Commission's finding that there was only sufficient spectrum available to support one system. Subsequently, however, during on-going yearly international coordination meetings, the Commission has been unable to secure sufficient spectrum to support Motient's authorized system in the upper L-band. In the NPRM, the Commission also noted that the on-going international coordination in the lower L-band was similarly difficult.

3. Based on the inability to coordinate sufficient spectrum, the Commission tentatively concluded that Motient should be authorized to operate across the upper and lower L-band frequencies in order to support its authorized MSS system. Thus, it proposed that Motient be assigned up to 28 megahertz from the entire L-band. That amount of spectrum represented the optimum system that Motient hoped to operate.

4. In 1985, the Commission had estimated that an MSS system would likely require a minimum of 20 megahertz of spectrum to be viable. In the NPRM the Commission asked whether its estimate was still valid. The Commission tentatively concluded that there would be sufficient L-band spectrum available to support only one U.S. MSS system. Accordingly, the Commission proposed to assign the lower L-band frequencies it was able to coordinate for use by U.S. licensed space stations to Motient by modifying its existing license, pursuant to section 316 of the Communications Act (''the Act''), enabling Motient to use these frequencies in lieu of those from the upper portion of the L-band that the U.S. was unable to coordinate for domestic use. The Commission also tentatively concluded that reassignment is within the authority invested in the Commission by sections 303 and 4(i) of the Act to adopt regulations to carry out its spectrum management obligations.

5. To address issues pertaining to maritime distress and safety in the lower L-band, the Commission noted that the L-band is allocated for generic MSS. That is, aeronautical mobile-satellite service (''AMSS''), land mobile-satellite service (''LMSS''), and maritime mobile-satellite service (''MMSS'') are allowed to share portions of the L-band for non-safety related communication on an equal basis. Operation within the Global Maritime Distress and Safety System (''GMDSS''), however, has priority access with real-time preemptive capability over all other mobile-satellite communications operating in the 1530–1544 MHz and the 1626.5–1645.5 MHz portions of the lower L-band. Therefore, to protect and maintain the integrity of safety and distress maritime communications, both internationally and domestically, the Commission proposed to establish and codify priority access and preemption standards and policies for MSS systems operating in these portions of the lower L-band. The Commission also proposed to allow mobile earth terminal data message transmissions to be half-duplex, rather than requiring full-duplex, and sought comment as to the maximum amount of time that transmissions should be permitted. The Commission tentatively concluded that adopting a maximum time limit on data message transmissions and proposed priority access and real-time preemption standards for distress and safety communication would provide sufficient priority to comply with the requirements of U.S. Footnote 315 of the U.S. Table of Frequency Allocations.

6. Nine parties filed initial comments in response to the NPRM. Five of these parties also filed reply comments. Nearly all of the comments address the proposals related to the assignment of lower L-band frequencies to Motient. Only Motient and the U.S. Coast Guard commented on the proposals concerning maritime safety and distress priority and preemptive access.

7. One of the concerns giving rise to the NPRM was that international coordination difficulties precluded securing sufficient spectrum in the upper L-band to support Motient's authorized system. Moreover, at the time of the NPRM, based on on-going international coordination meetings, the Commission believed the likelihood of securing more than 20 megahertz from the entire L-band (both upper and lower) for U.S. use was remote. Two parties, Celsat and LQL have taken issue with this assumption, contending that subsequent events have altered the L-band assignment process. They point out that shortly after the release of the NPRM the Commission issued a news release announcing that Inmarsat, Canada, Mexico, the Russian Federation, and the United States, the operators currently coordinating spectrum for a variety of MSS systems in the vicinity of North America, had signed a Memorandum of Understanding (''MOU'') in Mexico City. The news release stated, in part, that the MOU specified that ''[s]pectrum allocations to individual operators will be reviewed annually on the basis of actual usage and short-term projections of future need.'' LQL interprets the news release as providing the United States with what LQL characterizes as a ''dynamic allocation'' across the upper and lower L-band as determined by actual traffic.

8. We believe that the coordination process established in Mexico City has worked well to ensure equitable sharing of the L-band spectrum. It has not, however, altered the fact that the L-band is in high demand. All five MSS operators have claimed to need more spectrum than is currently assigned to them and some seek amounts that exceed availability. Consequently, the international coordination difficulties remain in negotiating sufficient spectrum to enable Motient to establish and operate a viable MSS system.

9. In the NPRM, the Commission gave three bases to support its proposal to modify Motient's license to allow it to operate over frequencies in the lower and upper L-band. First, MSS is well suited to serve areas that are too remote or sparsely populated to receive service from terrestrial land mobile systems. Second, since launching its first satellite in 1995, Motient was in the best position to provide MSS in the U.S. in the shortest amount of time. Third, and most importantly, a license issued by the Commission must include a reasonable expectation that spectrum will be available to enable the licensee to implement the system that it has proposed and has been authorized to operate. Each of these justifications has generated comments.

10. No commenter disagreed with the Commission's assertion that MSS systems are particularly well suited for providing mobile communication services to areas that are not being adequately served by terrestrial radio facilities. Commenters left undisputed the fact that despite the growth of terrestrial radio services such as cellular radio and Personal Communications Services (''PCS''), large areas of the nation remain without basic telecommunications services. Commenters agree that MSS provides the technical capability to meet the needs of people in remote areas for public safety, business and personal communications and that MSS operations should be supported in the L-band.

11. In the NPRM, the Commission concluded that Motient was best suited to provide expeditious service to the public because one of its three

authorized satellites is in operation. Our experience has been that it normally takes licensees three years to construct, launch and begin operations of a geostationary satellite. Motient concurs with this assessment. Motorola/Iridium disagrees. Motorola/Iridium contends that Motient is the only operational MSS system because the Commission has refused to accept other MSS applications. Motorola/Iridium submits that this action has been prejudicial to it and to other potential MSS applicants. What Motorola/Iridium fails to address in its argument, however, is that the Commission chose not to invite a new processing round because there was not sufficient spectrum to accommodate the existing licensed systems. Moreover, in this particular coordination process, where spectrum allocation is based on actual usage and short-term projections of future need, an operating system is essential. Without such a system, the available spectrum would have been allocated to non-U.S. systems and none would be available. Thus, under these circumstances, Motorola/Iridium's argument is not persuasive.

12. LQL, on the other hand, contends that the Commission has not adequately established a connection between expediting service and adding frequencies to Motient's system. It points out that Motient has failed to meet the deadlines for launching its other two satellites. LQL therefore argues that there are no rational grounds for concluding that Motient would use the additional spectrum that we propose to assign to it before another licensed system could be placed in operation. We disagree. Given that Motient has proposed an MSS system designed to use 28 megahertz of spectrum, requiring it to fully construct this system when the spectrum for which it was designed is not available would not advance the public interest. Moreover, given the lack of available spectrum, there is no indication that the expense of constructing, launching and operating these satellites would improve the services that Motient is currently providing. And, as pointed out above, waiting for another system to be placed in operation would have resulted in no frequencies being available. Thus, LQL's comments have not altered our conclusion that Motient is best suited to serve the U.S. MSS market using this portion of the L-band.

13. The Commission's proposal to allow Motient to have initial access to the lower L-band spectrum was based on our conclusion that, unless modified for overriding public interest reasons, licensees should be entitled to a reasonable expectation that adequate spectrum will be made available to support their authorized systems. Motient supports this determination. Other commenters, however, argue that satellite authorizations are conditioned upon, and subject to, international coordination. These commenters argue that there is no basis for providing Motient spectrum outside of what it has been able to coordinate though the normal coordination process in the upper L-band.

14. The Commission also stated in the NPRM that the Commission can, and shall, take reasonable and appropriate steps to ensure that licensees have a fair opportunity to compete. The commenters all agreed that the Commission is entrusted with this responsibility. In order for an MSS licensee to compete, it must have sufficient spectrum to provide acceptable service at a reasonable price. Previously, the Commission estimated that a minimum of 20 megahertz of L-band spectrum is necessary for an economically viable domestic MSS system in this frequency band. The NPRM sought comment on whether this amount is still needed to enable an MSS licensee to establish and operate a competitive system.

15. Commenters contend that based on the development of satellite and mobile radio technology, it is now possible to operate a profitable MSS system using less than 20 megahertz of spectrum. Commenters state that new MSS systems using state-of-the-art technology are dramatically more efficient than Motient's system and provide a higher level of satellite services, including service to hand-held mobile terminals. RSC, for instance, points out that there are three competing geostationary L-band systems under construction in Asia, and two other systems that are planned for service in the Middle East and nearby regions. In this regard, Lockheed Martin indicates that it is the prime contractor for the Asia Cellular Satellite (''ACeS'') system, which is one of the systems identified by RSC. ACeS is a satellite-based, hand-held, digital mobile telecommunications system that is designed to provide service to subscribers in the Asia-Pacific region. Lockheed Martin maintains that use of the latest technological developments in its design of the ACeS satellite and associated ground equipment for the ACeS system enables it to achieve new levels of spectral efficiency and circuit capability. In fact, Lockheed Martin professes that the ACeS system may be up to 20 times more spectrum efficient than Motient's first generation MSS system because of its extensive reliance on frequency reuse. Accordingly, Lockheed Martin declares that as little as five megahertz of spectrum can now simultaneously support up to 16,000 MSS simplex circuits and ten megahertz of spectrum can support the same number of full duplex circuits. Both Motorola/Iridium and RSC support Lockheed Martin's assessments. Motient concedes that a multiple-beam satellite, such as the one Lockheed Martin has designed for the ACeS MSS system, would probably be three times more spectrum efficient than Motient's existing satellite, and that efficiency gains that the ACeS system achieves through the employment of newer voice coding and compression algorithms (''vocoders'') are likely to result in a 20 percent reduction in Motient's spectrum usage.

16. We recognize that technical strides have been made since 1987, when MSS was first authorized in the L-band. The Commission then determined that there was insufficient spectrum to support the applications it had on file for this service. With this in mind, the Commission required the applicants to form a consortium. The consortium was the only licensee in the upper L-band. In the 1996 NPRM, the Commission concluded that Motient would need up to the first 28 megahertz of available L-band spectrum to operate an optimum MSS system. It also concluded that an economically viable MSS system designed to the technical specifications on file must have a minimum of 20 megahertz of spectrum. Based on the minimum spectrum estimation and ongoing international coordination meetings, the Commission concluded that opening the lower L-band for competing applications was unlikely. At the time the NPRM was adopted, the Commission did not believe that there would be sufficient spectrum to accommodate more than Motient's system in the entire L-band. Thus, it tentatively concluded that in the lower L-band Motient should be authorized to use the balance of the available 28 megahertz for which it is authorized.

Legal Authority

17. Section 316 of the Act provides the Commission with authority to modify an existing license when necessary. LQL challenges the Commission's authority to use Section 316 of the Act to modify Motient's current license to enable it to use lower L-band frequencies due to our unsuccessful attempts to coordinate sufficient upper L-band spectrum to support the system the Commission authorized Motient to operate. According to LQL, Section 316 does not

apply to Motient's situation. LQL claims that the application of Section 316 is limited to those cases in which the Commission's action has the effect of modifying an ''unconditional right'' in a license. According to LQL, that has not been done in the case before us. LQL argues that Motient's authorization does not encompass an unconditional right to operate in the lower L-band. LQL concludes that since we are not modifying Motient's existing license, Section 316 is not applicable. We disagree. As Motient correctly points out, we are modifying its assignment of specific frequencies in the upper L-band.

18. The language of section 316 is clear and unequivocal: ''[A]ny station license * * * may be modified by the Commission * * * if in the judgment of the Commission such action will promote the public interest, convenience, and necessity.'' The original license authorized Motient to use the upper L-band frequencies. Now, because many of these frequencies are not available because of international coordination, we intend to modify Motient's license. If and when the spectrum becomes available, we will realign frequencies that are unavailable in the upper L-band and include frequencies in the lower L-band, up to the 20 megahertz that we intend to authorize to Motient. This action allows Motient to aggregate up to 20 megahertz of L-band spectrum in which to operate its current MSS system and promotes the public interest, convenience and necessity by providing Motient sufficient spectrum to provide service to many of the nation's rual and remote areas.

19. Because we are adopting the NPRM proposal to modify Motient's license pursuant to section 316 of the Act, we will dismiss its 1993 application in which Motient requests authority to use spectrum in the lower L-band. Accordingly, the concerns regarding the acceptance of Motient's 1993 application are now moot. New applications for L-band spectrum, however, may be filed once Motient has acquired the 20 megahertz that we are now authorizing.

20. We continue to believe, therefore, that the Commission has ample authority to modify Motient's license as discussed above and that this action best serves the public interest. MSS provides service to areas in the United States that would otherwise go unserved. Motient is the U.S. company in the best position in the L-band to provide this service and it is entitled to a reasonable expectation that enough spectrum will be coordinated to support its authorized system. Commenters have not persuasively demonstrated that a different outcome is warranted. Thus Motient will be granted use of the first 20 megahertz of internationally coordinated spectrum in the L-band.

Priority Access and Preemption

21. Footnote US315 to § 2.106 of the Commission's rules states that lower L-band MSS systems may not interfere with maritime mobile-satellite (MMSS) distress and safety communications that are also operating in these frequencies. Footnote US315 protects MMSS distress and safety communications, such as GMDSS, domestically by providing priority access and real-time preemptive capability for distress and safety communications. To ensure MSS compliance with the provisions of Footnote US315, the Commission proposed establishing priority access and preemption standards and policies for mobile-satellite service in the lower L-band and incorporating these standards into the Commission's rules. The proposed system and terminal requirements are delineated in Appendix B of the NPRM. The Commission sought comment on the proposed standards in Appendix B, and on the maximum number of seconds to which half-duplex data MET transmissions should be limited. The proposed requirements are derived from similar requirements that the Commission adopted in connection with the operation of aeronautical distress and safety-related communication in the upper L-band. These technical requirements were formulated in order to comply with the provisions of Footnote US308 for priority and preemptive access for aeronautical safety communications. The Commission also proposed in the NPRM to continue to allow U.S.-licensed MSS systems to operate half-duplex Inmarsat ''Standard C'' type or technically similar mobile earth terminals (''METs'') in the lower L-band. Additionally, the Commission proposed establishing a time limit for data messages transmitted in half-duplex from METs in order to protect the integrity of maritime safety and distress communications in the lower L-band. At the end of this period, the MES could be commanded to pause by the LES and the higher priority traffic could be placed ahead of any further transmissions. In cases where priority traffic is intended for the MES that is transmitting, it could be commanded to stop transmitting and receive the priority traffic.

22. The Commission stated that the proposal to allow U.S.-licensed MSS systems to operate in half-duplex with appropriate restraints could provide sufficient distress and safety communication priority to comply with the intent of Footnote US315. The NPRM explained that maritime distress and safety services in the lower L-band have been operational for years and are sufficiently dynamic and robust to accommodate the operation of half-duplex METs. In this regard, it also noted that Inmarsat and others operate in half-duplex ''Standard C'' or other technically similar data METs with no apparent harm to maritime safety and distress communications. Motient offers some suggestions regarding the proposed system and terminal requirements specified in Appendix B of the NPRM. Motient maintains that some of the provisions in Appendix B are ambiguous. Its principal concerns are with Requirements Nos. 2 and 8 for MES and Requirement No. 9 for LES. Specifically, Motient argues that these requirements obligate terminals to be capable of being automatically interrupted during a transmission to receive a higher priority incoming call. Motient says that a more reasonable approach to a busy signal will typically be to try again momentarily. It explains that automatic preemption works well in the case of packet data or data message communications systems. In those cases, Motient says, messages or packets from a ship may be queued, either in the MES or in other shipboard communications equipment. It adds that a high priority message or packet could then be placed at the head of the queue, and, if necessary preempt an ongoing outbound transmission. Motient also advises that its data services queue messages for processing, distribution, and transmission, so that those services have the capabilities specified in Appendix B of the NPRM.

23. It is apparent from the U.S. Coast Guard's comments that it believes that the maritime distress and safety services in the lower L-band are not as dynamic and robust as described in the NPRM. The fact that the U.S. Coast Guard alleges that use of half-duplex METs has resulted in significant delays in the communication of maritime safety messages, despite the fact that the number of ship-borne earth station terminals has been relatively small, is of note. Consequently, we are concerned that as more vessels install satellite equipment and begin using their terminals for longer periods the situation will become more severe. Although we do not know exactly how many vessels will ultimately be affected, the U.S. Coast Guard estimates that as

of February 1, 1999, between 35,000 and 50,000 ships engaged in international voyages were required to carry GMDSS equipment. The U.S. Coast Guard also states that there is a fleet of approximately 30,000 American commercial fishermen that carry this equipment. Finally, the U.S. Coast Guard predicts additional demand for maritime distress and safety communications as over one million radio-equipped recreational craft begin to install marine satellite devices.

24. In addition to our concern regarding an increase in maritime distress and safety traffic, we believe it is reasonable to expect that the generic use of mobile terminals by Motient, and possibly additional systems, will increase as well. It is reasonable to assume that as mobile terminal usage increases so will channel congestion and the reliability of maritime distress and safety communications will diminish. Because of the importance of safety-related communications, we will take the U.S. Coast Guard's recommendation and therefore we decline to waive the provisions of Footnote US315 for half-duplex METs in the lower L-band on a permanent basis.

25. Accordingly, until a record on this issue is more fully developed, we decline to adopt a definite time limit for transmissions by half-duplex terminals. Parties may, of course, file a petition for rulemaking to address the imposition of a definite time limit if, and when there is sufficient evidence to demonstrate what the limit should be. Until that time, the Commission and the National Telecommunications and Information Administration (NTIA) will continue to review applications for half-duplex MES terminal operational authority (with requests for waiver of Footnote US315, as appropriate) on a case-by-case basis. NTIA indicated to the Commission, in its case-by-case review of recent applications to operate half-duplex MES terminals, that if a MES terminal is capable of, among other things, ceasing transmissions and inhibiting further transmissions within one second, that terminal would be considered to meet the real time preemption requirements. We anticipate that new licenses to operate half-duplex terminals will be similarly conditioned, or limited by waiver of Footnote US315 as in past practice, to ensure that GMDSS in the frequency band remain protected.

System Design

26. In the NPRM, the Commission specifically sought comment only on the proposed standards in Appendix B and on the maximum number of seconds to which half-duplex data MET transmissions should be limited in order to ensure the integrity of maritime distress and safety communications. Motient, however, has advanced several system design proposals for providing priority and preemptive access for maritime distress and safety communications. We believe that Motient's suggestions are beyond the scope of this proceeding. Matters such as how a licensee designs its system to comport with our rules are properly left to satellite system operators. Therefore, once Motient finalizes its system design, it can seek to amend its construction and operating authority.

Interference

27. Motorola/Iridium raises concerns about interference into its system from out-of-band emissions from Motient METs operating in the lower L-band. In the NPRM, however, the Commission explained that if the lower L-band spectrum coordinated for Motient's operation does not include spectrum at the lower band edge it expects that there will be no adjacent band interference. The Commission also noted that should an interference issue arise, it expects the parties to first attempt to resolve interference issues among themselves. We will address such interference issues only if the parties are unable to reach a solution. Finally, the Commission noted that Inmarsat, Australia, Mexico, Canada, and the Russian Federation are either now or will soon be using terminals having out-of-band emissions similar to the METs operated by Motient. Consequently, the Commission noted that Motorola/Iridium may need to coordinate, worldwide, with all the parties operating at band edge.

Inmarsat Use of Lower L-Band

28. The Commission also recently authorized several entities to operate mobile earth terminals and land earth stations via Inmarsat satellites to provide domestic and international mobile-satellite service in the L-band. The authorizations were granted pursuant to the ORBIT Act and our DISCO II decision. In the *Inmarsat Authorization Order*, the Commission stated that the permanent authority for the specified earth stations to communicate on frequencies in the lower L-band granted would not become effective until further action in this Lower L-Band proceeding. In the interim, the Commission granted applicants Special Temporary Authority to operate in the lower L-band subject to further action in the Lower L-band proceeding. It said that if the decision in the Lower L-Band Proceeding does not require modification of the authorizations granted for use of Inmarsat, the authorizations would become effective without further action by the applicants. Our decision in this proceeding requires modification only to the half-duplex terminal the authorizations granted to Comsat Corporation/Mobile Communications (Comsat) and Marinesat Communications Network d/b/s Stratos Communications (Stratos) for use of the Inmarsat system. Accordingly, the authorizations are now permanent. The authorizations recently granted to Comsat and Stratos for 1000 half-duplex terminals, each, are modified by this Order to be limited to a term of two years.

Final Regulatory Flexibility Certification

29. The Regulatory Flexibility Act of 1980, as amended (''RFA'') requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field or operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

30. The Report and Order adopts and incorporates into the Commission's service rules specific operational parameters and technical requirements to ensure that the integrity of maritime distress and safety will not be compromised by mobile satellite service operation in certain portions of the L-band. By this action the Commission is essentially codifying the same conditions that are placed on every mobile satellite service license for operation in these portions of the L-band. There are currently three entities, Motient Services, Inc., TMI Communications and Company, L.P., and the International Maritime Satellite Organization (''Inmarsat''), that are authorized to provide L-band mobile satellite service in the United States. None comes within the definition of small entity. We therefore certify that the adoption 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 certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Report and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register**.

Ordering Clauses

31. Pursuant to sections 1, 2, 4(i), 303(c), 303(f), 303(g), and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152,154(i), 303(c), 303(f), 303(g), 303(r), parts 2 and 25 of the Commission's rules *are amended* as specified in rule changes effective September 6, 2002.

List of Subjects in CFR Part 25

Satellites.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citations for part 25 continue to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies 47 U.S.C. sections 51, 152, 154, 302, 303, and 307, unless otherwise noted.

2. Section 25.136 is amended by revising the section heading, the introductory text, and by adding paragraphs (d) and (e) to read as follows:

§ 25.136 Operating provisions for earth stations for each station network in the 1.6/2.4 GHz and 1.5/1.6 GHz mobile-satellite services.

In addition to the technical requirements specified in § 25.213, earth stations operating in the 1.6/2.4 GHz and 1.5/1.6 GHz Mobile Satellite Services are subject to the following operating conditions:

* * * * *

(d) Any mobile earth station (MES) associated with the Mobile Satellite Service operating in the 1530–1544 MHz and 1626.5–1645.5 MHz bands shall have the following minimum set of capabilities to ensure compliance with Footnote S5.353A and the priority and real-time preemption requirements imposed by Footnote US315.

(1) All MES transmissions shall have a priority assigned to them that preserves the priority and preemptive access given to maritime distress and safety communications sharing the band.

(2) Each MES with a requirement to handle maritime distress and safety data communications shall be capable of either:

(i) Recognizing message and call priority identification when transmitted from its associated Land Earth Station (LES) or

(ii) Accepting message and call priority identification embedded in the message or call when transmitted from its associated LES and passing the identification to shipboard data message processing equipment

(3) Each MES shall be assigned a unique terminal identification number that will be transmitted upon any attempt to gain access to a system.

(4) After an MES has gained access to a system, the mobile terminal shall be under control of a LES and shall obtain all channel assignments from it.

(5) All MESs that do not continuously monitor a separate signalling channel or signalling within the communications channel shall monitor the signalling channel at the end of each transmission.

(6) Each MES shall automatically inhibit its transmissions if it is not correctly receiving separate signalling channel or signalling within the communications channel from its associated LES.

(7) Each MES shall automatically inhibit its transmissions on any or all channels upon receiving a channel-shut-off command on a signalling or communications channel it is receiving from its associated LES.

(8) Each MES with a requirement to handle maritime distress and safety communications shall have the capability within the station to automatically preempt lower precedence traffic.

(e) Any Land Earth Station (LES) associated with the Mobile Satellite Service operating in the 1530–1544 MHz and 1626.5–1645.5 MHz bands shall have the following minimum set of capabilities to ensure that the MSS system complies with Footnote S5.353A and the priority and real-time preemption requirements imposed by Footnote US315. It should be noted that the LES operates in the Fixed-Satellite Service (''FSS'') as a feeder-link for the MSS (Radio Regulations 71) and that the following capabilities are to facilitate the priority and preemption requirements. The FSS feeder-link stations fulfilling these MSS requirements shall not have any additional priority with respect to FSS stations operating with other FSS systems.

(1) All LES transmissions to mobile earth stations (MESs) shall have a priority assigned to them that preserves the priority and preemptive access given to maritime distress and safety communications.

(2) The LES shall recognize the priority of calls to and from MES and make channel assignments taking into account the priority access that is given to maritime distress and safety communications.

(3) The LES shall be capable of receiving the MES identification number when transmitted and verifying that it is an authorized user of the system to prohibit unauthorized access.

(4) The LES shall be capable of transmitting channel assignment commands to the MESs.

(5) The communications channels used between the LES and the MES shall have provision for signalling within the voice/data channel, for an MES, which does not continuously monitor the LES signalling channel during the time of a call.

(6) The LES shall transmit periodic control signalling signals to MES, which do not continuously monitor the LES signalling channel.

(7) The LES shall automatically inhibit all transmissions to MESs to which it is not transmitting a signalling channel or signalling within the communications channel.

(8) The LES shall be capable of transmitting channel-shut-off commands to the MESs on signalling or communications channels.

(9) Each LES shall be capable of interrupting, and if necessary, preempting ongoing routine traffic from an MES in order to complete a maritime distress, urgency or safety call to that particular MES.

(10) Each LES shall be capable of automatically turning off one or more of its associated channels in order to complete a maritime distress, urgency or safety call.

[FR Doc. 02–19889 Filed 8–6–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 100

[IB Docket No. 98–21; FCC 02–110]

Policy and Rules for the Direct Broadcast Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.