available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. The Commission continues the development of a regulatory structure conducive to the rapid and successful deployment of the global mobile satellite service systems known as ''Big LEOs,'' or low earth orbit Mobile Satellite Service systems in the 1.6/2.4 GHz frequency bands. These systems have a wide range of potentially revolutionary applications, including: (1) providing a comparatively low-cost means of connecting to the world-wide public telephone network, particularly in areas too remote or underpopulated to receive service through wires; (2) allowing global ''roaming'' by users of mobile phones, including hand-held phones; (3) providing ''fill-in'' service for areas not reached by terrestrial ''wireless'' services such as cellular telephones; and (4) providing for global competition in telephone and data services, both satellite and terrestrially based. In *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610–1626.5/2483.5–2500 MHz Frequency Band*, 59 FR 53294 (October 21, 1994), 9 FCC Rcd 5936 (1994) (''*Big LEO Report*''), the Commission adopted rules and policies for the Big LEO service. This order addresses requests for reconsideration of that decision, and makes minor changes and clarifications to the rules and policies adopted.

2. The particular changes adopted here address concerns raised by the Big LEO licensees and applicants. We decline to adopt a number of other changes proposed by the applicants and licensees. We leave intact the protections to radio astronomy—protections developed in negotiations between Big LEO and radio astronomy interests. We decline at this time to adopt certain technical rules concerning interference between the competing Big LEO systems in order not to preempt prematurely private negotiations. We also decline to modify our construction milestone requirements or system replacement procedures.

3. Accordingly, it is ordered, that the ''Petition for Reconsideration'' filed by AMSC Subsidiary Corp. on November 21, 1994, the ''Petition for Reconsideration,'' filed by Constellation Communications, Inc. on November 21, 1994, the ''Petition for Clarification and Partial Reconsideration,'' filed by Loral/Qualcomm Partnership, L.P., on November 21, 1994, the ''Petition for Clarification and Partial Reconsideration,'' filed by Motorola Satellite Communications, Inc., on November 21, 1994, and the ''Petition for Partial Reconsideration and Clarification,'' filed by TRW Inc. on November 21, 1994, are granted to the extent indicated in this *Memorandum Opinion and Order,* and are otherwise denied.

4. It is further ordered that the Rule Changes set forth below shall be effective April 11, 1996.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 25 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: Sections. 101–404, 76 Stat. 419–427; 47 U.S.C. 701–744, Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303.

§ 25.114 [Amended]

2. Section 25.114 is amended by removing paragraph (c)(6)(iii).

3. Section 25.136(b) is revised to read as follows:

§ 25.136 Operating provisions for earth station networks in the 1.6/2.4 GHz mobile-satellite service.

* * * * *

(b) User transceiver units in this service are authorized to communicate with and through U.S. authorized space stations only. No person shall transmit to a space station unless the user transceiver is first authorized by the space station licensee or by a service vendor authorized by that licensee, and the specific transmission is conducted in accordance with the operating protocol specified by the system operator.

* * * * *

4. Section 25.143 is amended by adding a new paragraph (h) to read as follows:

§ 25.143 Licensing provisions for the 1.6/2.4 GHz Mobile-Satellite Service.

* * * * *

(h) *Prohibition of certain agreements.* No license shall be granted to any applicant for a space station in the mobile satellite service operating at 1610–1626.5/2483.5–2500 MHz if that applicant, or any persons or companies controlling or controlled by the applicant, shall acquire or enjoy any right, for the purpose of handling traffic to or from the United States, its territories or possession, to construct or operate space segment or earth stations, or to interchange traffic, which is denied to any other United States company by reason of any concession, contract, understanding, or working arrangement to which the Licensee or any persons or companies controlling or controlled by the Licensee are parties.

5. Section 25.203 is amended by revising paragraphs (j) and (k) to read as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(j) Applicants for non-geostationary 1.6/2.4 GHz Mobile-Satellite Service/Radiodetermination satellite service feeder links in the bands 17.7–20.2 GHz and 27.5–30.0 GHz shall indicate the frequencies and spacecraft antenna gain contours towards each feeder-link earth station location and will coordinate with licensees of other fixed-satellite service and terrestrial-service systems sharing the band to determine geographic protection areas around each non-geostationary mobile-satellite service/radiodetermination satellite service feeder-link earth station.

(k) An applicant for an earth station that will operate with a geostationary satellite or non-geostationary satellite in a shared frequency band in which the non-geostationary system is (or is proposed to be) licensed for feeder links, shall demonstrate in its applications that its proposed earth station will not cause unacceptable interference to any other satellite network that is authorized to operate in the same frequency band, or certify that the operations of its earth station shall conform to established coordination agreements between the operator(s) of the space station(s) with which the earth station is to communicate and the operator(s) of any other space station licensed to use the band.

§ 25.213 [Amended]

6. Section 25.213 is amended by removing paragraphs (c) and (d).

[FR Doc. 96–5765 Filed 3–11–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 25

[IB Docket No. 95–41; FCC 96–14]

Satellite Licensing

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is hereby adopting rules that eliminate the regulatory distinctions between U.S.-licensed domestic satellites and separate international satellite systems, resulting in uniform treatment of all U.S.-licensed geostationary fixed-satellites. Our action is in response to comments received in response to our Notice of Proposed Rulemaking in this proceeding. Permitting U.S. operators to provide the widest range of service offerings technically feasible will allow them to use their satellites more efficiently and to provide innovative and customer-tailored services.

EFFECTIVE DATE: April 11, 1996.

FOR FURTHER INFORMATION CONTACT: John M. Coles, Attorney, Satellite Policy Branch, International Bureau (202) 418–0771.

SUPPLEMENTARY INFORMATION: 1. This is a synopsis of the Commission's Report and Order in IB Docket No. 95–41; FCC 96–14, adopted January 19, 1996 and released January 22, 1996. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

I. Introduction

2. With this *Report and Order,* we adopt a policy that permits all U.S.-licensed fixed satellite service (''FSS'') systems, mobile satellite service (''MSS'') systems, and direct-broadcast satellite service (''DBS'') systems to offer both domestic and international services. This will remove outdated regulatory barriers to greater competition in satellite communications services.

3. We initiated this proceeding in April 1995 when we issued a *Notice of Proposed Rulemaking* (''*Notice*'') to amend the regulatory policies governing the provision of fixed satellite services over domestic satellites and separate international satellite systems.[1] We recognized that U.S.-licensed satellites providing international services have been regulated under two different polices: (1) The Transborder Policy, which permits U.S. domestic fixed satellites (''domsats'') to provide limited international services within the footprint of those satellites; and (2) the Separate Systems Policy, which permits U.S. ''separate systems'' to provide a much wider range of international services, but restricts their provision of domestic services.

4. After examining these policies in light of the trend towards a globalized economy, we concluded that changes were needed to satisfy the growing needs of customers for both domestic and international communications services. Consequently, we proposed to provide satellite operators and earth station operators with greater flexibility to serve different geographic markets while minimizing the regulatory delay associated with the satellite licensing process. Specifically, we proposed to eliminate the Transborder Policy in its entirety and regulate all U.S.-licensed fixed satellites under a modified version of the Separate Systems Policy. This would eliminate the distinction between U.S. domsats and separate systems and allow both space- and earth-segment operators to provide both domestic and international services. We proposed to apply a uniform financial showing to all U.S.-licensed satellites and provide all U.S.-licensed FSS operators a choice between common carrier and non-common carrier operators. We also asked whether we should extend this treatment to other services such as MSS and DBS, and whether, and under what conditions, we should permit non-U.S. satellite service providers, including those using Intelsat and Inmarsat, to serve the U.S. domestic market.

5. In response to the *Notice,* we received thirty-eight initial comments and sixteen reply comments from entities representing every sector of the communications industry. The comments overwhelmingly support the main thrust of our proposals. A small number of comments suggest a phased or ''transition'' approach to implementation of our proposal to ensure a competitive environment. Others suggest that our proposal does not go far enough in eliminating regulatory hurdles in connection with earth station licensing and they suggest alternatives.

6. By this *Report and Order,* we adopt the proposals set forth in the *Notice* for FSS, MSS and DBS satellites. We also conclude that these policies should be implemented without delay. We will address issues relating to the provision of domestic service by non-U.S. satellites in a forthcoming *Notice.* In that *Notice,* we will also address issues related to the receipt in the United States of signals originating in foreign countries, whether via U.S. or non-U.S. satellites.

II. Discussion

A. Modification of U.S. Satellite Policy

1. General Policy Change

7. The Transborder and Separate Systems policies were developed at different times and in response to different circumstances. Though the policies present different criteria for determining whether to authorize U.S.-licensed satellites to provide international service, the intent of both policies was to protect Intelsat from technical or significant economic harm pursuant to the Intelsat Agreements.

8. The Transborder Policy was developed in 1981, in response to requests from domsat operators to provide international public telecommunications services within the coverage areas of their satellites. Under this policy, we permit domsats to provide certain international public telecommunications services where: (1) Intelsat does not provide the service; or (2) it is clearly uneconomical or impractical to use Intelsat facilities for the service. These criteria required that international service would be primarily incidental to the domestic service (*i.e.*, involve extensions of existing domestic networks). The only exceptions to this policy involve services between the U.S. and Canada and the U.S. and Mexico. We permit more extensive two-way services between the U.S. and Canada and Mexico because Intelsat has not traditionally provided these services.

9. The Separate Systems Policy was adopted in 1985 and permitted the establishment of U.S. international satellite systems separate from Intelsat. To protect Intelsat's core revenue base of switched services, separate satellite systems were initially restricted to providing services through the sale or long-term lease of capacity for communications not interconnected with public switched networks (except for emergency restoration service). Before public switched service could be implemented, each system was required to gain approval from the foreign communications authority in each country to be served and to complete consultation procedures (in accordance with Article XIV(d) of the Intelsat

[1] Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems, *Notice of Proposed Rulemaking,* IB Docket No. 95–41, (''*Notice*''), 60 FR 24817 (May 10, 1995).

Agreement) to ensure technical compatibility and to avoid significant economic harm to Intelsat. Because the orbital locations requested by separate satellite system applicants were deemed a limited resource for the provision of international services, separate system operators were restricted to providing domestic services on an ''ancillary'' basis. Thus, separate satellite system licensees could use their systems only for domestic communications reasonably related to their use of the facilities for international communications.

10. In the *Notice*, we recognized that with the trend towards a globalized economy, users whose communications requirements were once wholly domestic now need international space segment capacity to satisfy private-line and other two-way service requirements. We concluded that current domsat operators might not be able to meet these needs under the Transborder Policy. Similarly, we recognized that separate system customers might be unable to meet the needs of their customers for domestic service because of the ''ancillary'' service restriction in our Separate Systems Policy. Thus, we concluded that the public interest would be best served by modifying our policy to reflect the global nature of the communications needs by eliminating the distinction between domsats and separate systems and permitting U.S.-licensed fixed-satellite systems to provide both domestic and international service under a modified Separate Systems Policy.

11. All of the commenters support our proposal to eliminate the Transborder Policy and to treat all U.S.-licensed FSS satellites under a single regulatory regime. The commenters also support eliminating the ''ancillary'' restriction on separate system operators. The commenters agree that the proposed changes will promote competition in both the domestic and international satellite services markets and will provide additional, much-needed C-band capacity in the domestic market. They also cite a need for flexibility to provide either domestic or international service, or both, as their own business judgments may necessitate, without the need to seek additional Commission authorization. Separate system licensees favor eliminating the distinction between domestic and international satellites as a means of creating additional competition in the U.S. domestic market.

12. Although they support the central thrust of our policy, two satellite operators—one domestic and one international—oppose eliminating the Transborder Policy at the same time the ''ancillary'' service restriction is removed from our separate system policy. According to GE, separate satellite systems have advantages in ''landing rights'' [2] and relationships with foreign authorities. Conversely, PanAmSat believes a ''transition'' period is needed during which domsat licensees who wish to use part or all of their satellite capacity for international services should apply to the Commission for explicit authorization. Without the ''transition'' period, PanAmSat argues that domestic licensees will quickly offer north-south international satellite services from their present orbital locations while separate system licensees could not offer effective domestic satellite service from their present orbital locations.

13. We do not believe the public interest would be served by delaying the benefits of our policy modifications out of concern for perceived advantages accruing to either domsats or separate satellites systems. Neither PanAmSat nor GE has persuasively shown that either domsats or separate systems will have an advantage in a competitive market. Given the manner in which their respective industries have been established, domsats and separate system operators can each identify certain advantages in the short term, and we recognized in the *Notice* that full competition between domsats and international systems in the near term would be constrained by their current antenna beam patterns. We anticipated, however, that operators would design next-generation systems to provide optimal coverage to those areas they wish to serve.

2. Effect on Domestic Satellite Capacity

14. Some commenters who generally support our proposal are concerned that current domsats may divert satellite capacity from the U.S. to foreign countries, resulting in insufficient domestic satellite capacity. To avoid this, Capital Cities/ABC, Inc., CBS, Inc., National Broadcasting Company, Inc., and Turner Broadcasting System, Inc. (the ''Networks'') believe the Commission should clarify that international services provided by U.S.-licensed fixed satellites must either originate or terminate in the U.S. HBO believes that we should require U.S.-licensed satellite operators using traditional domestic orbital locations to provide domestic service in lieu of international service when a shortage of domestic capacity occurs. In their reply comments, AT&T and Hughes oppose any requirement to serve the U.S. domestic market. AT&T believes that market forces will provide sufficient incentive for U.S. licensees to meet domestic needs. Hughes asserts that applicants in the current domsat processing round have proposed more than enough domsat capacity to meet domestic needs.

15. We believe that satellite operators should be permitted to use their facilities in the manner they deem most efficient, based on market forces, with no specific service requirements. This policy will actually increase the potential domestic capacity, since current separate systems will be able to supplement existing domsat capacity.

16. The Networks' suggestion that international service provided over U.S.-licensed fixed satellites must either originate or terminate in the U.S. is contrary to precedent regarding the use of domsats and separate systems. We have permitted both domestic and international U.S.-licensed satellite capacity to be used for service to locations that do not involve U.S. service.[3]

B. Changes to Other Space Station Rules

1. Financial Qualifications

17. In our *Notice,* we noted that domsat and separate systems are now subject to different financial qualification standards. The domsat standard requires evidence of full financing before a license is awarded. Although separate satellite system operators must ultimately demonstrate the same level of financial commitment, they are permitted to make their financial showing in two stages because of the unique circumstances applicable to separate systems. Separate satellite system operators providing public switched services must first obtain an agreement from a foreign country to operate with their systems and then complete the Intelsat Article XIV(d) consultation process. Thus, it may be difficult for a separate system applicant

[2] ''Landing rights'' involve one country granting permission for another country's satellite to provide service or ''land'' in its country. Landing rights may also involve completion of the Intelsat Article XIV(d) consultation process. Under Article XIV(d) of the Intelsat Agreement, a Party or Signatory that desires to use non-Intelsat space segment (*i.e.*, a ''separate system'') for the provision of public international telecommunications service must consult with Intelsat to determine if the use of non-Intelsat space segment will cause either technical or significant economic harm.

[3] *See* The Western Union Telegraph Company, File No. 823–DSS–ML–86, FCC 86–376 (released August 26, 1986) (transponders used for video services wholly outside of the U.S.). *See also* Pan American Satellite, 2 F.C.C.Rcd. 7011 (1987) (PanAmSat's use of four transponder to provide domestic service within Peru).

to get full financing before it knows whether and on what terms it will be able to provide service. Consequently, we issue separate system applicants a conditional grant upon, essentially, the submission of a detailed business plan. Once they complete the Intelsat consultation process, separate systems operators may apply for final authorization. At that time they must submit a showing of full financing.

18. Because our policy modifications would allow separate satellite systems to provide both domestic and international service, we proposed to eliminate the two-stage financial qualification showing applicable to separate system operators. We reasoned that all applicants should be able to obtain financial commitments based on the justified expectation of revenues from the provision of domestic service.

19. AT&T and Hughes urge us to apply the same financial qualification test to all competitors to guard against warehousing of scarce orbital spectrum. Separate satellite system operators oppose eliminating the two-stage financial showing, citing the limited amount of domestic service that can be provided from the orbital locations they occupy and uncertainties in the consultation process. Because of their orbital locations, they argue that they will still have to rely on international revenues and, therefore, will not be able to obtain financial commitments from lenders based on the expectation of revenues from domestic service.

20. In the traditional domsat arc, we have historically received more system applications than we can accommodate in orbit. The one-step financial showing therefore prevents those entities without the requisite financial resources from tying up scarce orbital resources and precluding qualified applicants from building their proposed systems. In eliminating the distinction between domestic and separate systems satellites, we anticipate increased demand for a wider range of orbit locations. This is because satellites operating from orbit locations over the ocean regions can still see large portions of the United States. Consequently, we believe general application of the one-step financial showing is needed to prevent warehousing and to allow the maximum number of qualified applicants to go forward.

21. Nevertheless, we cannot ignore the possibility that some separate satellite system operators will be limited in their domestic coverage due to more easterly or westerly orbital locations. Significantly, we generally do not receive as many competing applications for locations well outside the traditional domestic arc. Consequently, in these circumstances, allowing an applicant some additional time in which to obtain financing should not prevent financially able applicants from implementing systems, nor delay service to the public. We will therefore permit operators who apply for orbit locations in uncongested portions of the orbital arc to request a waiver of the one-step financial showing. All such requests should include the costs of construction, launch, and first-year operation of the particular satellite. In addition, the request should include specific information regarding attempts to obtain adequate financing and an explanation as to why such financing could not be obtained. Any applicant requesting a waiver will have the burden of demonstrating that the requested waiver will not foster the misuse of scarce orbital resources, and that the public interest would therefore not be served by the application of our one-step rule.

22. All pending separate system applications filed after the release date of the *Notice* have had notice of our proposed rule change and therefore we will require them to meet our one-step financial requirement. We will permit these applicants to file amendments within 30 days of the effective date of this *Report and Order* to bring their applications into compliance with the financial standard or to seek a waiver. Separate system applications filed prior to the release date of the *Notice* will not need to meet the one-step standard. Rather, they will be subject to the two-stage separate systems financial requirement applicable at that time.

2. Regulatory Classification

23. Under our current policy, domsat operators are permitted to sell or lease transponders on a non-common carrier basis if we find that doing so will not unduly reduce the number of transponders available on a common carrier basis. In determining whether a particular request should be granted, we have relied upon the analysis set forth in *NARUC I.*[4] Specifically, we may regulate an entity as a private carrier under *NARUC I* unless: (1) There is or should be any legal compulsion to serve the public indifferently; or (2) there are reasons implicit in the nature of the service to expect that the entity will in fact hold itself out indifferently to the eligible user public. This analysis was inapplicable to separate satellite systems since they were established for the provision of non-common carrier services.

24. We tentatively concluded in our *Notice* that there is no longer a need to require domsat licensees to provide capacity on a common carrier basis. With respect to the first prong of *NARUC I,* we concluded that sufficient competitive capacity is and will continue to be available to assure the U.S. public ample access to fixed-satellite services. With regard to the second prong of *NARUC I,* we found little likelihood that non-common carrier domsats will hold themselves out indifferently to serve the public and that stable, long-term contractual offerings to individual customers of technically and operationally distinct portions of a satellite fall short of the indiscriminate offerings contemplated in *NARUC I.* We also noted that restrictions on separate system offerings have been eroded and no longer limit separate system operators to providing customized services. We, therefore, proposed to permit but not require U.S. space station licensees providing international service to do so on a common carrier basis, if these offerings further their business plans. Accordingly, we proposed to allow all U.S. FSS licensees and applicants to elect whether to provide service on a common carrier or non-common carrier basis.

25. Domsat and separate system operators support this proposal and note that most domestic fixed satellite services are already offered on a non-common carrier basis. In contrast, GCI and the Networks are concerned that permitting satellite operators to choose their regulatory classification might endanger the amount of capacity available for domestic service requirements. The Networks oppose changing the current obligation of satellite operators to make available a sufficient amount of capacity on a common carrier basis.

26. We adopt our proposal to permit satellite operators to elect to operate on a common carrier or non-common carrier basis. As we stated in the *Notice,* no transponder sales application has been opposed in the last decade. Further, despite the near-routine approval of these requests, several operators have chosen to continue to offer space segment capacity on a common carrier basis. This suggests that market forces are sufficient to provide enough common carrier capacity. Neither the Networks nor GCI has presented any evidence to suggest that this will not continue.

27. While applicants will need to elect their regulatory classification in

[4] Nat'l Ass'n of Regulatory Utility Commissioners v. F.C.C., 525 F.2d 630 (D.C. Cir.), *cert. denied,* 425 U.S. 992 (1976).

their applications, this election will not be of decisional significance. Rather, the election will be for informational purposes only to enable us to apply Title II regulations to common carriers. Similarly, licensees wishing to change their regulatory classification should notify us in writing of such change, including the date on which they intend to do so. No prior approval from the Commission will be necessary. Commission staff will include the notification of a change in status as an informational listing in the Satellite and Radiocommunication Division's weekly Public Notice of actions taken. The staff will also place a copy of the notification in the station file.

C. Changes to Earth Station Rules.

28. Under our current licensing scheme, earth stations are classified as either domestic or international depending on the satellites that will be accessed. Domestic earth stations are typically licensed to communicate with all domestic satellites in the ''domestic'' portion of the arc, referred to for licensing purposes as ''ALSAT.'' International earth stations are licensed to communicate with specific U.S.-licensed separate systems and non-U.S. international satellites. Under this licensing scheme, domestic earth station licenses have to be modified to communicate with any satellites not included in the ''ALSAT'' designation and international earth station licenses have to be modified to communicate with any satellite not designated on the license.

29. In light of our proposal to eliminate the distinction between domestic and separate system satellites, we tentatively concluded in our *Notice* that there is no reason to retain any distinction between domestic and international earth stations using U.S.-licensed space segment. Accordingly, we proposed to retain the ''ALSAT'' designation, but broaden its meaning to include all U.S.-licensed satellites providing fixed-satellite service. We noted that expanding the ''ALSAT'' designation will reduce the number of license modification applications, while allowing operators to provide service immediately consistent with Intelsat Article XIV(d) consultations. We recognized, however, that our proposal could require additional coordination between earth stations operating in the C-band and terrestrial C-band facilities.

30. All of the comments support this proposal. The commenters agree that the proposed modifications will avoid the need for earth station license modification requests, result in substantial savings, lessen the burden on the Commission while allowing more rapid service to customers, and enhance competition by allowing FSS earth station operators a broader choice of satellites with which to communicate.

31. The comments also favor a simplified procedure for modifying existing earth station licenses to incorporate domestic and international transmissions to all U.S.-licensed satellites. Where no frequency coordination issues are presented, the comments suggest that the modification be automatic. If frequency coordination is required, Group W suggests that we permit access to a new satellite immediately upon certification or notification to the FCC that appropriate frequency coordination procedures have been completed. GCI believes that licensees operating earth stations in the C-band should be allowed to submit the additional frequency coordination studies and that such filings should not be placed on public notice. HBO proposes that the modification be made self-executing if no opposition is filed within 30 days after public notice of the filing of the appropriate coordination data.

32. We adopt our proposal to expand the ALSAT designation. We further agree that the proposal should be implemented with no unnecessary regulatory burden. We recognize, however, that earth station operators in the C-band that wish to communicate with an expanded number of satellites may need to complete additional frequency coordination with respect to terrestrial operators sharing the band. Consequently, we automatically modify all earth station licenses to allow the facilities to access all U.S.-licensed satellites, provided that the operator submits, when necessary, a frequency coordination analysis verifying that the expanded operations are fully coordinated with other primary users in the band under the Part 25 coordination requirements.

D. Other Services

33. In our *Notice,* we recognized that U.S.-licensed satellite systems providing services other than domestic fixed satellite services may be similarly constrained in the geographic reach of their services. We requested comment on whether licensees of geostationary systems that provide mobile and broadcast services should be permitted to provide both domestic and international service subject to U.S. international coordination obligations. In addition, we noted that there might be specific considerations for MSS and DBS that could dictate a different domestic/international policy. We asked, for instance, whether authorizing U.S.-licensed DBS providers to broadcast to customers in other countries would be inconsistent with the ''Plan'' that assigned DBS orbit locations internationally, adopted at the 1983 Regional Administrative Radio Conference (RARC–83). We also asked whether receipt in the U.S. of DBS programming transmitted from earth stations in foreign countries would be inconsistent with the provisions of International Telecommunications Union (ITU) Appendix 30A regarding feeder links for DBS. Finally, we requested comments on any other matters bearing on the issue of whether and to what extent U.S.-licensed geostationary satellite systems should be permitted to provide international broadcast and mobile services.

1. Direct Broadcast Satellite Service

a. Background

34. DBS, or Broadcast Satellite Service (''BSS'') as it is referred to internationally, is a direct-to-home service that uses geostationary satellites to transmit to small earth terminals. Because of the high power at which the satellites operate, the home dishes can be as small as 12 inches in diameter. DBS orbital locations and channels have been assigned to countries in Region 2—which includes North, Central, and South America—under a Plan adopted at RARC–83. The Plan allocates 32 channels at each of eight orbital locations to the United States from which to provide domestic DBS service. The Plan also specifies the technical parameters under which DBS systems must operate. Nevertheless, the Plan may be modified to permit non-standard satellites and operations, provided that they do not cause harmful interference to satellites operating in compliance with the Plan. Procedures for modifying the Plan are set forth in Appendices 30 and 30A of the ITU Regulations. Modifications to the regional BSS Plans to change, add, or cancel channel assignments require the consent of the countries affected by such modifications.

35. The commenters generally agree that it is possible for U.S. licensees to provide DBS service to foreign countries in a manner consistent with the Region 2 Plan. They also support a policy that would permit U.S. DBS operators to provide international service, although they disagree about the timing for implementation of this policy and the conditions under which international service should be authorized.

36. While agreeing that it would be beneficial to relax geographic

constraints on U.S.-licensed satellite communications systems, HBO urges us to maintain a policy where the orbital positions best suited to provide service in the United States are used primarily to meet domestic communications needs. Accordingly, HBO suggests that we approve proposals to provide international service from such orbital positions only upon a showing that doing so would not cause a domestic shortage. It also asks that we periodically assess domestic capacity and require service adjustments when necessary.

37. Separate from this proceeding, DBSC filed a Petition for Declaratory Ruling regarding the use of ''spare'' transponders to provide international DBS service. DBSC holds a construction permit for two eleven-channel DBS satellites at 61.5 degrees W.L. and 175 degrees W.L. DBSC states that it plans to design each satellite with 16 transponders. In its Petition, DBSC requests authority to use the five ''spare'' or ''extra'' transponders on each satellite for international service, subject to two conditions: (1) That there would be no consequent reduction in the use of its satellites for provision of domestic DBS, and (2) that full compliance with all relevant treaty obligations be ensured. DBSC submitted an engineering study with its Petition to demonstrate that compatible use is technically feasible.

38. Local-DBS, Inc., a DBS licensee, supports DBSC's Petition because it is consistent with ''the Clinton Administration's goal [of] opening the satellite marketplace to fair and effective competition.'' Canadian Satellite Communications, Inc. (''Cancom''), a corporation licensed by the Canadian Radio-television and Telecommunications Commission to distribute radio and television signals by satellite, opposes DBSC's petition. It contends that adoption of a general policy permitting U.S. licensees to provide international DBS service could undercut Canadian regulatory policies designed to preserve Canada's cultural identity.

b. Discussion

39. International DBS service from an orbital location assigned to the United States would require coordination with the administration in the receiving country and any other affected administration. However, we see no reason why the Commission should impose any barriers on a licensee willing to undertake the coordination processes in order to provide international DBS service from an orbital location allocated to the United States for DBS service.

40. On the contrary, we should encourage international DBS service since it would advance the public interest in a number of ways. First, permitting international service would expand the potential audience for American programming, and could stimulate economic growth. Second, importing uplinked foreign programming would enable operators to better satisfy the needs and desires of enhanced services to multi-lingual subscribers in the U.S. Third, operators would enjoy economies of scale for both themselves and their customers if non-English language programs could simultaneously serve same-language communities in the U.S. and in foreign markets. Finally, the possibility of providing international DBS services to Pacific Rim nations could make the western-most DBS orbital locations allocated to the United States—from which no permittee appears ready to operate in the near future—more attractive platforms, which could accelerate development of those locations and thereby accelerate the delivery of DBS service to Hawaii and Alaska. None of the commenters have presented any reason why we should delay these benefits to the public.

41. We disagree with HBO that we should monitor the industry to ensure that sufficient services are being made available to the United States. We believe market forces will determine the appropriate balance between international and domestic offerings. Further, we do not agree with those commenters who argue that revising our DBS policy compromises the rights of foreign administrations. Those administrations would retain all rights they now have to license the provision of international DBS service to their countries. The Commission's refusal to impose an additional layer of regulation upon those seeking to deliver international DBS service from U.S. orbital locations in no way diminishes those rights.

42. While we believe the public interest will be served by allowing DBS licensees to provide domestic or international service from their authorized channels, we believe there are significant obstacles to DBSC or any other DBS operator providing international DBS service using ''spare'' channels not assigned to it. At each of the orbital locations at which DBSC is assigned eleven channels, nearly all of the remaining 21 channels assigned to the United States have been, or soon will be, assigned to other DBS permittees for domestic DBS service. Thus, in this regard DBSC mischaracterizes these channels as ''spare'' channels. Instead, before it can provide international service, DBSC would have to obtain the consent of the permittees holding assignments for the channels on which it seeks to provide international service, and ensure that its international service will not cause harmful interference to other DBS permittees.

43. Therefore, we conclude that U.S. geostationary DBS satellite systems should be permitted to provide both domestic and international services from their authorized channels without additional approval from the Commission. Prior to commencing such service, licensees should ensure that (a) the technical and operational parameters of the channels have been successfully coordinated, consistent with U.S. treaty requirements; and (b) they comply with FCC service rules for DBS channels assigned for U.S. domestic use. Naturally, a foreign administration may impose other conditions before it permits a U.S. operator to do business there. The Commission cannot preempt such conditions, but neither will we give them independent enforcement under U.S. law.

2. The Mobile Satellite Service

a. Background

44. MSS provides seamless data or voice communications services to maritime land, and aeronautical mobile users anywhere. It can also serve FSS users. MSS encompasses a number of important services, including position location, search and rescue communication, disaster management communications, and messaging services. The Commission licensed the first U.S. commercial MSS system in 1989, when we granted American Mobile Satellite Corporation (''AMSC'') a license to construct and launch a geostationary MSS system to serve the United States. Last year, we authorized the first low-Earth orbit (''LEO'') MSS systems. Specifically, we authorized Motorola, LQSS, and TRW to construct and launch voice and data systems. We have authorized Orbcomm, VITA, and Starsys to construct and launch data-only systems. In granting these licenses, we emphasized that LEO systems, by virtue of their non-geostationary orbits, are inherently capable of providing global service. Indeed, we required the Big LEO systems to be designed to provide global coverage. In doing so, we noted the significant benefits in facilitating the creation of the global information infrastructure. We asked in

our *Notice* whether we should permit U.S. licensed geostationary MSS systems to provide both domestic and international services, as well.

45. Most commenters recommend that we defer, to a future proceeding, the issues concerning MSS. Two of these commenters—Loral/Qualcomm and Constellation—are licensees in the Big LEO Service and contend that there are characteristics unique to MSS that any change in the Commission's MSS policies should take into account. For example, they assert that AMSC's system has not been successfully coordinated internationally. In addition, they note that geostationary MSS technology generally does not permit more than one system to serve a geographic area using the same frequencies, resulting in far fewer MSS systems than FSS systems. Thus, they request that we defer any policy decision concerning geostationary systems to take into account the implications for U.S.-licensed LEO systems. In contrast, COMSAT supports eliminating geographic barriers for U.S. geostationary MSS systems provided that COMSAT is also permitted to provide domestic and international services.

b. Discussion

46. We conclude that it is in the public interest to permit U.S.-licensed geostationary MSS systems to provide both domestic and international service. As Comsat notes, customer demands for communication services are becoming increasingly global. In our Big LEO Rulemaking,[5] we addressed the many public benefits associated with global MSS systems and required the systems in that proceeding to be capable of providing global coverage. We conclude that permitting U.S.-licensed geostationary MSS systems to provide both domestic and international services will offer similar benefits, including promoting increased competition, increased consumer choices, and further development of the global information infrastructure. The Big LEO licensees have not provided any valid reason to delay these public interest benefits. The fact that there are fewer MSS systems than FSS systems or that spectrum coordination for the AMSC system has not yet been completed has little bearing on whether we should permit AMSC or other U.S. MSS licensees to extend its service offerings internationally. We conclude that the record is sufficiently developed to allow us to implement a policy that would permit geostationary MSS systems, as their counterpart LEO MSS systems and geostationary FSS and DBS systems, to provide international as well as domestic service. Before an MSS licensee can actually provide service in a foreign territory, it must complete its international coordination obligations and obtain any required approvals from the countries it wishes to serve.

[5] *See* In re Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610–1626.5/2483.5–2500 MHz Frequency Bands, 9 F.C.C.Rcd. 4936 (1994) (the ''Big LEO Order'').

III. Conclusion

47. In this *Report and Order,* we eliminate the outdated regulatory framework that distinguished domsats from separate systems and allow all U.S.-licensed satellites in the fixed satellite service to provide both domestic and international services. To effectuate this, we eliminate the Transborder Policy in its entirety and regulate all U.S.-licensed fixed satellites under a modified Separate Systems Policy. In doing so, we enhance the opportunity for the provision of innovative satellite service offerings without artificial regulatory barriers. In addition, we extend the benefits of this new policy to other services by permitting DBS satellites and geostationary MSS satellites to provide both domestic and international services.

IV. Ordering Clauses

48. Accordingly, it is ordered that Part 25 of the Commission's rules is amended as set forth below effective April 11, 1996.

49. It is further ordered that DBSC's petition to use transponders to provide international DBS service is granted.

50. This action is taken pursuant to Sections 4 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303(r), and Section 201(c) of the Communications Satellite Act of 1962, 47 U.S.C. 721(c).

List of Subjects in 47 CFR Part 25

Communications common carriers, Radio, Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Part 25 of Title 47 of the CFR is amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

2. Section 25.110 is amended by revising paragraph (b) to read as follows:

§ 25.110 Filing of applications, fees, and number of copies.

* * * * *

(b) Applications for satellite radio station authorizations governed by this part and requiring a fee shall be mailed or hand-delivered to the locations specified in part 1, subpart G of this chapter. All other applications shall be submitted to the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

* * * * *

3. Section 25.113 is amended by revising paragraphs (b) and (d) to read as follows:

§ 25.113 Construction permits.

* * * * *

(b) Construction permits are not required for satellite earth stations that operate with INTELSAT or INMARSAT space stations, or for earth stations that operate with U.S.-licensed space stations. Construction of such stations may commence prior to grant of a license at the applicant's own risk. Applicants must comply with the provisions of § 1.1312 of this chapter relating to environmental processing prior to commencing construction. A simultaneous application for a construction permit and station license may be made for all earth station and space station facilities governed by this part.

* * * * *

(d) In addition to the construction permit required by paragraph (a) of this section, a launch authorization must be applied for and granted before a space station may be launched and operated in orbit. Request for launch and operation authorization and station license may be included in the application for space station construction permit. A launch authorization and station license may also be requested at any time for a space station constructed as an on-ground spare satellite. However, an application for authority to launch and operate an on-ground spare satellite will be considered to be a newly filed application for cut-off purposes, except where the space station to be launched is determined to be an emergency replacement for a previously authorized space station which has been lost as a result of a launch failure or a catastrophic in-orbit failure.

* * * * *

4. Section 25.114 is amended by revising paragraph (c)(18) and removing

and reserving paragraphs (c)(23) and (c)(24) to read as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(c) * * *

(18) Detailed information demonstrating the financial qualifications of the applicant to construct and launch the proposed satellites. Applications shall provide the financial information required by § 25.140 (b) through (e) or § 25.142(a)(4).

* * * * *

5. Section 25.115 is amended by revising paragraph (c) introductory text to read as follows:

§ 25.115 Application for earth station authorizations.

* * * * *

(c) Large Networks of Small Antennas operating in the 12/14 GHz bands with U.S. satellites for domestic services. Applications to license small antenna network systems operating in the 12/14 GHz frequency band under blanket operating authority shall include the following:

* * * * *

6. Section 25.117 is amended by revising paragraph (a) to read as follows:

§ 25.117 Modification of station license.

(a) Except as provided, no modification of a radio station governed by this part which affects the parameters or terms and conditions of the station authorization shall be made except upon application to and grant of such application by the Commission. No license modification will be required if the licensee seeks to access another U.S.-licensed fixed satellite provided:

(1) Consultations pursuant to Article XIV(d) of the INTELSAT Agreement have been completed for the satellites, services and countries involved; and

(2) The operators of the U.S.-licensed systems have received specific authorization to provide the services to the proposed locations.

* * * * *

7. Section 25.130 is amended by revising paragraph (d) to read as follows:

§ 25.130 Filing requirements for transmitting earth stations.

* * * * *

(d) Transmission of signals or programming to non-U.S. satellites, or to foreign points by means of U.S.-licensed fixed satellites, may be subject to restrictions as a result of international agreements or treaties. The Commission will maintain public information on the status of any such agreements.

* * * * *

8. Section 25.131 is amended by revising paragraphs (b), (g) and (j) to read as follows:

§ 25.131 Filing requirements for receive-only earth stations.

* * * * *

(b) Except as provided in paragraph (j) of this section, receive-only earth stations may be registered with the Commission in order to protect them from interference from terrestrial microwave stations in bands shared co-equally with the fixed service in accordance with the procedures of § 25.203 and §§ 25.251 through 25.256.

* * * * *

(g) Reception of signals or programming from non-U.S. satellites may be subject to restrictions as a result of international agreements or treaties. The Commission will maintain public information on the status of any such agreements.

* * * * *

(j) Receive-only earth stations operating with INTELSAT space stations, or U.S.-licensed and non-U.S. space stations for reception of services from other countries, shall file an FCC Form 493 requesting a license for such station. Receive-only earth stations used to receive INTELNET I services from INTELSAT space stations need not file for licenses. *See* Deregulation of Receive-Only Satellite Earth Stations Operating with the INTELSAT Global Communications Satellite System, Declaratory Ruling, RM No. 4845, FCC 86–214 (released May 19, 1986).

9. Section 25.140 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 25.140 Qualifications of fixed-satellite space station licensees.

(a) New fixed-satellites shall comply with the requirements established in Report and Order in CC Docket No. 81–704. The requirements for radio station applications for new fixed-satellites are specified in Appendix B to the Commission's 1983 Processing Order (93 FCC2d 1260 (1983)). Applications must also meet the requirements in paragraphs (b) through (e) of this section. The Commission may require additional or different information in the case of any individual application. Applications will be unacceptable for filing and will be returned to the applicant if they do not meet the requirements referred to in this paragraph.

(b) Each applicant for a space station authorization in the fixed-satellite service must demonstrate, on the basis of the documentation contained in its application, that it is legally, financially, technically, and otherwise qualified to proceed expeditiously with the construction, launch and/or operation of each proposed space station facility immediately upon grant of the requested authorization. Each applicant must provide the following information:

* * * * *

10. Section 25.202 is amended by revising paragraph (c) to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

* * * * *

(c) Orbital locations assigned to space stations licensed under this part by the commission are subject to change by summary order of the Commission on 30 days notice. An authorization to construct and/or to launch a space station becomes null and void if the construction is not begun or is not completed, or if the space station is not launched and positioned at its assigned orbital location and operations commenced in accordance with the station authorization, by the respective date(s) specified in the authorization. Frequencies and orbital location assignments are subject to the policies set forth in the Report and Order, FCC 83–184, adopted April 27, 1983 in CC Docket No. 81–704 and the Report and Order, adopted July 25, 1985 in CC Docket No. 84–1299 as modified by the Report and Order, adopted January 19, 1996 in IB Docket No. 95–41.

* * * * *

11. Section 25.210 is amended by revising the introductory portions of paragraphs (e) and (j) and removing and reserving paragraph (f) to read as follows:

§ 25.210 Technical requirements for space stations in the Fixed-Satellite Service.

* * * * *

(e) For fixed-satellite space stations providing international service, full frequency re-use is defined as follows:

* * * * *

(j) All operators of space stations shall file a semi-annual report with the International Bureau and the Commission's Laurel, Maryland field office containing the following information:

* * * * *

12. Section 25.211 is amended by revising paragraph (b) to read as follows:

§ 25.211 Video Transmissions in the Domestic Fixed-Satellite Service.

* * * * *

(b) All 4/6 GHz analog video transmissions shall contain an energy

dispersal signal at all times with a minimum peak-to-peak bandwidth set at whatever value is necessary to meet the power flux density limits specified in § 25.208(a) and successfully coordinated internationally and accepted by adjacent U.S. satellite operators based on the use of state of the art space and earth station facilities. Further, all transmissions operating in frequency bands described in § 25.208(b) and (c) shall also contain an energy dispersal signal at all times with a minimum peak-to-peak bandwidth set at whatever value is necessary to meet the power flux density limits specified in § 25.208(b) and (c) and successfully coordinated internationally and accepted by adjacent U.S. satellite operators based on the use of state of the art space and earth station facilities. The transmission of an unmodulated carrier at a power level sufficient to saturate a transponder is prohibited, except by the space station licensee to determine transponder performance characteristics. All 12/14 GHz video transmissions for TV/FM shall identify the particular carrier frequencies for necessary coordination with adjacent U.S. satellite systems and affected satellite systems of other administrations.

* * * * *

13. Section 25.276 is amended by revising paragraph (c) to read as follows:

§ 25.276 Points of communication.

* * * * *

(c) Transmission to or from foreign points over space stations in the Fixed-Satellite Service, other than those operated by the International Telecommunications Satellite Organization and Inmarsat, are subject to the policies set forth in the Report and Order, adopted January 19, 1996 in IB Docket No. 95–41.

[FR Doc. 96–5822 Filed 3–11–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 97

[FCC 96–74]

Conforming Amateur Service Rules to the Provisions of the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the amateur service rules, consistent with the statutory mandate of the 1996 Telecommunications Act, to remove certain unnecessary and outdated regulations. It removes the conflict-of-interest provisions pertaining to the administration of amateur operator license examinations. It also eliminates the requirement that volunteer examiners (VEs) and volunteer-examiner coordinators (VECs) who administer and coordinate amateur operator examinations maintain records of out-of-pocket expenses and annually certify those expenses to the Commission. The effect of these rule amendments is to further the public interest because they eliminate unnecessary regulatory burdens.

EFFECTIVE DATE: April 11, 1996.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Washington, D. C. 20554, (202) 418–0690.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, adopted February 28, 1996, and released February 28, 1996. The complete text of this Commission action, including the rule amendments, is available for inspection and copying at the Federal Communications Commission, Room 246, 1919 M Street, N. W., Washington, D. C. The complete text of this *Order* may also be obtained from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D. C. 20037, telephone (202) 857–3800.

Summary of Order:

1. By this *Order,* we are revising the rules for the amateur service, consistent with the statutory mandate of the 1996 Telecommunications Act, to remove the conflict-of-interest provisions pertaining to the administration of amateur operator license examinations.

2. Also, to be consistent with the new statutory mandate, we are eliminating the requirement that volunteer examiners (VEs) and volunteer-examiner coordinators (VECs), who administer and coordinate amateur operator examinations, maintain records of out-of-pocket expenses, and, annually certify those expenses to the Commission.

3. These rule amendments are necessary in order to make our rules consistent with the requirements of the 1996 Telecommunications Act.

4. The amended rules are set forth below, effective April 11, 1996.

5. The rule amendments have been analyzed with respect to the Paperwork Reduction Act of 1990, 44 U.S.C. §§ 3501–3520, and are found to eliminate a paperwork burden imposed upon the public.

6. This *Order* and the rule amendments are issued under the authority of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (303)(r).

List of Subjects in 47 CFR Part 97

Examinations, Radio, Volunteers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

§ 97.509 [Amended]

2. Section 97.509 is amended by removing paragraph (b)(5).

§ 97.521 [Amended]

3. Section 97.521 is amended by removing paragraph (e).

§ 97.527 [Amended]

4. Section 97.527 is amended by removing paragraphs (c), (d), (e), and (f).

[FR Doc. 96–5764 Filed 3–11–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96–18, Notice 01]

RIN 2127–AG32

Federal Motor Vehicle Safety Standards; Brake Hoses

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This document updates several addresses and dates in Standard No. 106, ''Brake Hoses.'' These amendments reflect the new name of the office to which a person should write when filing a designation that it is a manufacturer of a brake hose or brake hose assembly.

EFFECTIVE DATE: This rule is effective April 11, 1996.