Court of Appeals for the appropriate circuit by March 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 3, 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(144) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(144) On September 3, 1997, the Illinois Environmental Protection Agency submitted a temporary, site specific State Implementation Plan revision request for the D.B. Hess Company, Incorporated's (DB Hess) lithographic printing operations located in Woodstock (McHenry County), Illinois. This variance took the form of a March 20, 1997, Opinion and Order of the Illinois Pollution Control Board issued in PCB 96–194 (Variance—Air). The variance which will expire on March 30, 1999, grants DB Hess a variance from 35 Illinois Administrative Code Sections 218.407(a)(1)(C),(D),(E) and 218.411(b)(1), (2)and (3) for heatset web offset presses 3, 4, and 5 which are located at the Woodstock (McHenry County), Illinois facility.

(i) *Incorporation by reference.*

A March 20, 1997, Opinion and Order of the Illinois Pollution Control Board in PCB 96–194 (Variance—Air) which was effective on March 20, 1997 and expires on March 30, 1999.

(ii) The variance is subject to the following conditions (the dates specified indicate the latest start dates of compliance periods terminating on March 30, 1999, when presses 3, 4, and 5 must be replaced by complying presses or must be brought into compliance with the rules from which DB Hess seeks the variance):

(A) On or before March 20, 1997, the combined actual volatile organic material (VOM) emissions from all of the presses in the Woodstock plant shall not exceed 18 tons per year or 1.5 tons per month.

(B) On or before March 20, 1997, DB Hess shall use only cleaning solutions with VOM concentrations less than or equal to 30 percent by weight.

(C) On or before March 20, 1997, DB Hess shall use cleaning solutions on presses 3, 4, and 5 that have a VOM composite partial vapor pressure of less than 10 millimeters (mm) of Mercury (Hg) at 20 degrees Celsius. These cleaning solutions must comply with the requirements of 35 IAC 218.407(a)(4).

(D) On or before March 20, 1997, DB Hess shall store and dispose of all cleaning towels in closed containers.

(E) On or before May 5, 1997, DB Hess shall monitor presses 3, 4, and 5 pursuant to 35 IAC 218.410 (b), (c), and (e).

(F) On or before May 5, 1997, DB Hess shall use fountain solutions on presses 3, 4, and 5 that are less than 5 percent VOM by volume, as applied, and which contain no alcohol.

(G) On or before May 5, 1997, DB Hess shall prepare and maintain records pursuant to 35 IAC 218.411 (b), (c), and (d) for presses 3, 4, and 5 and must show compliance with the requirements of 35 IAC 218.407(a)(1) (C), (D), and (E) and with the requirements of 35 IAC 218.411(b) (1), (2), and (3) for these presses.

(H) On or before May 5, 1997, DB Hess shall submit quarterly reports to the Illinois Environmental Protection Agency's (IEPA's) Compliance and Systems Management Section demonstrating compliance with the terms of the Illinois Pollution Control Board Order.

(I) On or before March 30, 1998, DB Hess shall cease operation of press 3.

(J) On or before March 30, 1999, DB Hess shall either:

(*1*) Cease operation of presses 4 and 5, and notify the IEPA of such cessation; or

(*2*) Retrofit presses 4 and 5 or replace presses 4 and 5 in compliance with 35 IAC 218.407 (a)(1) (C), (D), and (E) and with 35 IAC 218.411(b) (1), (2), and(3). In this case:

(*i*) DB Hess must apply for and obtain necessary construction permits by March 30, 1998, or six months before retrofitting or replacing presses 4 and 5, whichever is earlier.

(*ii*) DB Hess must send monthly status reports, due the 15th day of each month, to the IEPA, covering the progress of the installation of the presses and control equipment and testing of the control equipment.

(K) On or before March 30, 1999, DB Hess shall cease operations at presses 3, 4, and 5 except for those presses for which it has obtained permits and installed controls, which have been tested and demonstrated to be in compliance with applicable rules.

[FR Doc. 99–1022 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL176–1a; FRL–6215–3]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 16, 1998, the State of Illinois submitted to EPA amendments to Volatile Organic Material (VOM) rules affecting Illinois' ozone attainment area (the area of the State not including the Chicago and Metro-East ozone nonattainment areas), as a requested revision to the ozone State Implementation Plan (SIP). VOM, as defined by the State of Illinois, is identical to ''Volatile Organic Compounds'' (VOC), as defined by EPA. The amendments contain various deletions of obsolete provisions, changes of some word usage to comport with other Illinois VOM regulations, and the addition of certain exemptions from VOM coating requirements. This rulemaking action approves, using the direct final process, the Illinois SIP revision request.

DATES: This rule is effective on March 16, 1999, unless EPA receives adverse written comments by February 16, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief,

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the revision request for this rulemaking action are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Illinois' SIP for ozone contains several regulations under 35 Illinois Administrative Code (Ill.Adm.Code) 215, which require VOM controls for stationary sources located in Illinois' attainment area (the area of the State not including the Chicago and Metro-East ozone nonattainment areas).[1] Part 215 originally contained VOM control rules applicable to sources within the entire State. However, as Clean Air Act (Act) requirements for VOM control became more stringent for ozone nonattainment areas, Illinois established Parts 218 and 219 to contain VOM regulations for the Chicago and Metro-East nonattainment areas, respectively. Part 215 remained by default to cover sources outside the nonattainment areas.

On October 28, 1997, the Illinois Environmental Protection Agency (IEPA) filed proposed ''clean-up'' amendments to Part 215 with the Illinois Pollution Control Board (Board). The amendments contain various deletions of obsolete provisions, changes of some word usage to comport Part 215 with other Illinois VOM regulations, and the addition of certain exemptions from VOM coating requirements. Public hearings were held on December 18, 1997, in Chicago, Illinois and on December 22, 1997, in Springfield, Illinois. An Economic Impact hearing was held on March 30, 1998, in Springfield, Illinois.

On June 4, 1998, the Board adopted a Final Opinion and Order for the Part 215 clean-up amendments. On July 6, 1998, the amended rules were published in the *Illinois Register.* The specific sections of Part 215 which have been amended are as follows:

Subpart A: General Provisions

215.104 Definitions
215.109 Monitoring for Negligibly-Reactive Compounds

Subpart F: Coating Operations

215.204 Emission Limitations for Manufacturing Plants
215.205 Alternative Emission Limitations
215.206 Exemptions from Emission Limitations
215.207 Compliance by Aggregation of Emissions Units
215.211 Compliance Dates and Geographical Areas
215.212 Compliance Plan
215.214 Roadmaster Emissions Limitations (Repealed)

Subpart Z: Dry Cleaners

215.601 Perchloroethylene Dry Cleaners (Repealed)
215.602 Exemptions (Repealed)
215.603 Leaks (Repealed)
215.604 Compliance Dates and Geographical areas (Repealed)
215.605 Compliance Plan (Repealed)
215.606 Exception to Compliance Plan (Repealed)

The amendments to the Part 215 rules are summarized as follows.

Definitions

Several definitions contained under Part 215 are identical to definitions contained in Part 211. Illinois has deleted these identical definitions from Part 215. Section 215.104 indicates that the definitions under Part 211 shall apply to Part 215. In addition, the definition of ''Reid Vapor Pressure'' under 215.104 is amended to include the correct abbreviation of pounds per square inch absolute.

Replacement of ''Source'' by ''Emission Unit''

''Emission unit'' has become the standard term of art used throughout federal and State VOM regulations. Therefore, references under Part 215 to ''source'' or ''emission source'' have been replaced by ''emission unit'' to reflect current usage.

2,500 gallon/year Coating Exemption

Part 215 provides for VOM content limitations for coating operations. Previous to these amendments, section 215.206 had allowed coating plants an exemption from coating emission limitations if a coating plant's emission of VOM is limited by operating permit to not exceed 22.7 megagrams/year (25 tons/year), in the absence of air pollution control equipment. The amendments expand the exemption to coating plants in which the total coating usage does not exceed 9,463 liters/year (2,500 gallons/year).

IEPA knows of one source which would be affected by this exemption, Sundstrand Aerospace Division of Sundstrand Corporation (Sundstrand), in Rockford, Illinois. Sundstrand has two coating plants in which the majority of the VOM emissions come from degreasing rather than coating operations. Since the definition of ''Coating Plant'' at section 211.1250 includes the entire building in which the coating occurs, VOM emissions from all emission units housed in the same building as a coating unit would be included in determining whether the 25 tons/year exemption would apply to that coating unit. According to IEPA, the two Sundstrand plants have been meeting the 25 tons/year exemption, but cannot increase production without losing the exemption. Since degreasing operations are already subject to VOM emission control under Part 215, IEPA does not believe that a 2,500 gallon/year coating exemption for each coating plant would negatively impact air quality. Illinois knows of no other source besides Sundstrand which would be impacted by this new exemption.

Touch-up and Repair Coating Exemption

An exemption from VOM coating limitations has been added to section 215.206 for touch-up and repair coatings. The exemption provides that touch-up and repair coatings are exempt from emission limitations provided that the source-wide volume of such coatings does not exceed 0.95 liters (1 quart) per eight-hour period, or exceed 209 liters/year for any rolling twelve-month period. ''Touch-up and repair coating'' is defined as any coating used to cover minor scratches and nicks that occur during manufacturing or assembly processes. The exemption provision requires certain recordkeeping and reporting requirements to ensure that the exemption is properly used. This exemption is based on the touch-up and repair coating exemption which has been added to Parts 218 and 219 under section 218/219.208, and approved as revisions to the SIP on February 13, 1996 (see 61 FR 5511).

Roadmaster Site-Specific Rule Repealed

Section 215.214 contains a site-specific coating rule applicable to the Roadmaster Corporation's facility located in Olney, Illinois. Roadmaster has indicated to IEPA that it has shut down the coaters to which the site-

[1] The Chicago ozone nonattainment area includes Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County. The Metro-East nonattainment area includes Madison, Monroe, and St. Clair Counties. See 40 CFR 81.314.

specific rule applies, and that it wishes to have the site-specific rule withdrawn. The rule has therefore been repealed through these amendments.

Perchloroethylene Dry Cleaner Rule Repealed

The amendments delete all regulatory requirements pertaining to perchloroethylene dry cleaners found in part 215. Perchloroethylene was delisted as a VOM by the EPA on February 7, 1996 (see 61 FR 4588). On February 7, 1997, the Board adopted a final rulemaking delisting perchloroethylene as VOM under State regulations. The State has deleted the perchloroethylene dry cleaner requirements from Part 215 because the rules are no longer necessary given that perchloroethylene negligibly contributes to ozone formation, and that perchloroethylene dry cleaners are now regulated under National Emission Standards for Hazardous Air Pollutant (NESHAP) regulations promulgated September 22, 1993 (58 FR 49354).

II. EPA Review of SIP Revision

Section 110(l) of the Clean Air Act (Act) allows EPA to approve revisions to the SIP as long as the revision would not interfere with any applicable requirement concerning attainment and reasonable further progress and any other applicable requirement under the Act. Since the part 215 rules affect only the ozone attainment area, Reasonably Available Control Technology (RACT) or Rate-Of-Progress (ROP) requirements for VOM rules pursuant to section 182 of the Act do not apply. Rather, with this SIP revision, EPA needs to determine whether these rule amendments will interfere with maintenance of the ozone National Ambient Air Quality Standard (NAAQS) in the Illinois attainment area.

The part 215 revision relaxes the SIP in three areas: the 2,500 gallon coating exemption for coating plants; the touch-up and repair coating exemption; and the deletion of perchloroethylene dry cleaning rules.

The 2,500 gallon coating exemption is expected to affect only two coating plants in the Illinois attainment area, both controlled by Sundstrand Corporation. The IEPA has determined that the exemptions should not impact air quality due to the fact that no other sources are known to be affected besides Sundstrand, that the majority of Sundstrand's coating plant emissions are controlled under degreasing rules, and the general applicability threshold for permitting coating plants in the Illinois attainment area is 5,000 gallons. The EPA agrees that the 2,500 gallon coating exemption will not impact maintenance of the ozone NAAQS in the Illinois attainment area.

As for the touch-up coating and repair exemption, EPA has already approved a 0.95 liter (1 quart) per eight-hour/209 liter (55 gallons) per year exemption for touch up and repair coatings for the Illinois nonattainment areas, and such exemption is acceptable under EPA policy. The exemption has sufficient recordkeeping and reporting requirements to ensure enforceability. EPA finds that such exemption will not impact maintenance of the ozone NAAQS in the Illinois attainment area.

Finally, since EPA has found perchloroethylene emissions negligibly contribute to ozone formation, perchloroethylene dry cleaning rules are no longer necessary to maintain the ozone standard in the Illinois attainment area. As was noted in EPA's February 7, 1996, rulemaking which delisted perchloroethylene as a VOC, EPA believes that the control of perchloroethylene under NESHAP rules is the proper approach to controlling these emissions.

In summary, the exemptions as well as other changes made to the part 215 amendments are approvable under section 110(l) of the Act.

III. Final Rulemaking Action

In this rulemaking action, EPA approves the September 16, 1998, Illinois SIP revision submittal, which will make Part 215 VOM attainment area rule amendments federally enforceable. The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should specified adverse written comments be filed.

This action will be effective without further notice unless EPA receives relevant adverse written comment by February 16, 1999. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 16, 1999.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the

Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 21, 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(145) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(145) On September 16, 1998, the State of Illinois submitted amendments to Volatile Organic Material (VOM) rules affecting Illinois' ozone attainment area (the area of the State not including the Chicago and Metro-East ozone nonattainment areas). The amendments contain various deletions of obsolete provisions, changes of some word usage to comport Part 215 with other Illinois VOM regulations, and the addition of certain exemptions from VOM coating requirements.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 215: Organic Material Emission Standards and Limitations; Subpart A: General Provisions, 215.104 Definitions, 215.109 Monitoring for Negligibly-Reactive Compounds; Subpart F: Coating Operations, 215.204 Emission Limitations for Manufacturing Plants, 215.205 Alternative Emission Limitations, 215.206 Exemptions from Emission Limitations, 215.207 Compliance by Aggregation of Emissions Units, 215.211 Compliance Dates and Geographical Areas, 215.212 Compliance Plan, and 215.214 Roadmaster Emissions Limitations (Repealed); Subpart Z: Dry Cleaners, 215.601 Perchloroethylene Dry Cleaners

(Repealed), 215.602 Exemptions (Repealed), 215.603 Leaks (Repealed), 215.604 Compliance Dates and Geographical areas (Repealed), 215.605 Compliance Plan (Repealed), and 215.606 Exception to Compliance Plan (Repealed), amended at 22 Ill. Reg. 11427, effective June 19, 1998.

[FR Doc. 99–1018 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[IB Docket No. 97–95; FCC 98–336]

Allocation and Designation of Spectrum for Fixed-Satellite and Wireless Services in the 36.0–51.4 GHz Frequency Band, and Allocation of Spectrum in the 37.0–38.0 GHz and 40.0–40.5 GHz Band for Government Operations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Report and Order (''Order'') the Commission adopts a plan for non-Government operations in the 36.0–51.4 GHz band by providing separate primary designations for non-Government wireless and fixed-satellite services throughout the band. The Commission's goal is to provide an overall framework for commercial development of this band and to help such development to occur without the technical constraints that result from ubiquitous wireless and satellite services sharing the same spectrum on a co-primary basis. The rules adopted in this Order revise the U.S. Table of Frequency Allocations to accommodate the band plan and to address certain Federal Government operations in the band.

EFFECTIVE DATE: February 16, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Breig, Planning and Negotiation Division, International Bureau, (202) 418–2156 or via electronic mail: cbreig@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, (FCC 98–336), adopted December 17, 1998, and released December 23, 1998. The complete text of this Commission decision is available for inspection and copying during the weekday hours of 9 a.m. and 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M Street, N.W., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2131 M Street, N.W., Washington, DC 20036, phone (202) 857–3800. The complete text is also available under the file name fcc98336.txt or fcc98336.wp on the Commission's internet site at http://www.fcc.gov/Bureaus/International/Orders/1998.

Summary of the Report and Order

1. In the band plan the Commission: (1) designates a total of 4 gigahertz of spectrum for fixed-satellite services (''FSS'') use on a primary basis in the 37.6–38.6 GHz, 40.0–41.0 GHz and 48.2–50.2 GHz bands; (2) provides a total of 5.6 gigahertz of spectrum for wireless services use on a primary basis, by retaining the existing wireless designations in the 38.6–40.0 GHz and 47.2–48.2 GHz bands, and adding new wireless designations on a primary basis in the 37.0–37.6 GHz, 41.0–42.5 GHz, 46.9–47.0 GHz and 50.4–51.4 GHz bands; and (3) retains the existing designations for unlicensed commercial vehicular radar in the 46.7–46.9 GHz band and for amateur services in the 47.0–47.2 GHz band. The 36.0–37.0 GHz, 42.5–46.7 GHz, and 50.2–50.4 GHz bands remain undesignated.

2. This band plan is the same as that proposed in the Notice of Proposed Rulemaking (''NPRM'') in this proceeding, 62 FR 16129 (April 4, 1997), with three exceptions. First, while the NPRM proposed to designate the 37.5–37.6 GHz (100 megahertz) and 41.0–41.5 GHz (500 megahertz) bands for FSS, and the 38.5–38.6 GHz (100 megahertz) and 40.0–40.5 GHz (500 megahertz) bands for wireless services, in this Order the Commission reverses these service designations and instead designates the 37.5–37.6 GHz and 41.0–41.5 GHz bands for wireless services, and the 38.5–38.6 GHz and 40.0–40.5 GHz bands for FSS. Second, while the NPRM proposed to provide separate designations for Geostationary Orbit fixed-satellite service (''GSO/FSS'') and Non-Geostationary Orbit fixed-satellite service (''NGSO/FSS'') operations, in this Order the Commission does not make such additional designations at this time, because it is not known the extent to which GSO and NGSO operations will occupy the bands designated for FSS. Third, while the NPRM proposed to allow ''underlay'' licenses, *i.e.*, the licensing of a second service in the bands designated for FSS, in this Order the Commission finds that underlay licenses could make it more difficult to administer the various services and could increase the potential for interference between satellite and wireless services. Accordingly, underlay licensing is not adopted in this proceeding.

3. Further, the Order revises the non-Government column of the U.S. Table of Frequency Allocations to accommodate the band plan by adding primary allocations for FSS in the 37.6–38.6 GHz and 40.5–41.0 GHz bands to accommodate the new FSS designations in these bands. In addition, the Commission upgrades the fixed and mobile allocations in the 41.0–42.5 GHz band from secondary to primary status to accommodate the new wireless services designation in this band. The Commission also adds a primary allocation for fixed service to the existing mobile service allocation in the 46.9–47.0 GHz band, again to accommodate a new wireless services designation.

4. Finally, the Commission revises the U.S. Table of Allocations to address Government operations in the 36.0–51.4 GHz band. Specifically, at the request of the National Telecommunications and Information Administration (''NTIA''), the Order adds the following allocations to the Government column of the U.S. Table: (1) space research (space-to-Earth) on a primary basis in the 37.0–38.0 GHz band; (2) space research (Earth-to-space) and Earth exploration-satellite (''EES'') (Earth-to-space), both on a primary basis, in the 40.0–40.5 GHz band; and (3) EES (space-to-Earth) on a secondary basis in the 40.0–40.5 GHz band. These allocations will allow certain additional Government operations in the band. In addition, the Commission also reallocates the 42.5–43.5 GHz band for exclusive Government use, except for radio astronomy, and the 47.2–48.2 GHz band for exclusive non-Government use to better meet the needs of Government and commercial operators in this band.

5. In the NPRM the Commission proposed a band plan that would establish an overall framework for operations in the 36.0–51.4 GHz band. The Commission considered such a framework necessary because of the various competing proposals involving frequencies in this band, the two ongoing rulemaking proceedings, and the difficulties inherent in sharing between ubiquitous wireless and satellite services. The Commission stated that a band plan would clarify the relationship among the various ongoing proceedings, ensure that all proposed uses were given due consideration, and help to foster better business planning and expeditious development of this spectrum. In the NPRM, the Commission proposed to designate 4 gigahertz of spectrum for FSS on a primary basis and 5.6 gigahertz for wireless services on a primary basis out of a total of 15.4 gigahertz of spectrum