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**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Memorandum Opinion and Order* in ET Docket No. 98-206, FCC 03-24, adopted February 3, 2003, and released February 6, 2003. The complete text of this *Third Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898 or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

### Summary of the Third Memorandum Opinion and Order

1. In a December 2000 *Report and Order*, 66 FR 7607 (1/24/2001) the Federal Communications Commission adopted technical sharing rules to allow operation of non-geostationary satellite orbit, fixed satellite service (NGSO FSS) co-frequency with incumbent Ku-Band geostationary satellite orbit (GSO), fixed satellite service providers. Co-frequency operation of the two services is made possible by a set of limits on equivalent power flux density from NGSO FSS systems into GSO antennas. On reconsideration of that *Report and Order*, the Commission amends several sub-parts of its rules regarding demonstration that NGSO FSS systems can meet the power limits specified in Commission rules.

2. Licensees of geostationary satellite orbit fixed satellite service and broadcast satellite service systems may submit up to 10 earth station test points for in the demonstration that NGSO FSS applicants can meet operational equivalent power flux density limits. The same licensees may also submit up to 10 earth station test points for the comparable demonstration that NGSO FSS applicants can meet additional operational equivalent power flux density limits. If they choose to submit earth station test points, geostationary satellite orbit licensees must do so by January 1 of each year.

### Ordering Clauses

4. Pursuant to sections 4(i), 7(a), 301, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 301, 303(c), 303(f), 303(g), and 303(r), this *Third Memorandum Opinion and Order*

is adopted, and part 25 of the Commission's rules is amended.

5. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Third Memorandum Opinion and Order*, including the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A); and shall also send a copy of this *Third Memorandum Opinion and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 605(b).

### List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

### Rule Changes

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

### PART 25—SATELLITE COMMUNICATIONS

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

**Authority:** 47 U.S.C. 701-744. Interprets or applies sections 4, 301, 302, 303; 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 2. Section 25.146 is amended by revising paragraphs (a)(1)(iii), (a)(1)(v), (a)(2)(iii), (a)(2)(v), (b)(1)(v), (b)(2), (c), (f) to read as follows:

#### § 25.146 Licensing and operating authorizations provisions for the non-geostationary satellite orbit satellite service (NGSO FSS) in the bands 10.7 GHz to 14.5 GHz.

(a) \* \* \*

(1) \* \* \*

(iii) If a computer program that has been approved by the ITU for determining compliance with the single-entry EPFD<sub>down</sub> validation limits is not yet available, the applicant shall provide a computer program for the single-entry EPFD<sub>down</sub> validation computation, including both the source code and the executable file. This computer program shall be developed in accordance with the specification stipulated in Recommendation ITU-R S.1503 (2000). If the applicant uses the ITU approved software, the applicant

shall indicate the program name and the version used.

\* \* \* \* \*

(v) Provide the result, the cumulative probability distribution function of EPFD, of the execution of the computer program described in paragraph (a)(1)(iii) of this section by using only the input parameters contained in paragraphs (a)(1)(i) and (a)(1)(iv) of this section.

(2) \* \* \*

(iii) If a computer program that has been approved by the ITU for determining compliance with the single-entry EPFD<sub>up</sub> validation limits is not yet available, the applicant shall provide a computer program for the single-entry EPFD<sub>up</sub> validation computation, including both the source code and the executable file. This computer program shall be developed in accordance with the specification stipulated in Recommendation ITU-R S.1503 (2000). If the applicant uses the ITU approved software, the applicant shall indicate the program name and the version used.

\* \* \* \* \*

(v) Provide the result of the execution of the computer program described in paragraph (a)(2)(iii) of this section by using only the input parameters contained in paragraphs (a)(2)(i) and (a)(2)(iv) of this section.

(b) \* \* \*

(1) \* \* \*

(v) Provide the result, the cumulative probability distribution function of EPFD, of the execution of the verification computer program described in paragraph (b)(1)(iii) of this section by using only the input parameters contained in paragraphs (b)(1)(i) and (b)(1)(iv) of this section for each of the submitted test points provided by the Commission. These test points are based on information from U.S.-licensed geostationary satellite orbit fixed-satellite service and broadcast satellite service operators in the bands 10.7 GHz to 14.5 GHz. Each U.S.-licensed geostationary satellite orbit fixed satellite service and broadcast satellite service operator in the bands 10.7 GHz to 14.5 GHz may submit up to 10 test points for this section containing the latitude, longitude, altitude, azimuth, elevation angle, antenna size, efficiency to be used by non-geostationary satellite orbit fixed-satellite service licensees in the bands 10.7 GHz to 14.5 GHz during the upcoming year.

(2) Operational equivalent power flux-density, space-to-Earth direction, (operational EPFD<sub>down</sub>) limits. Using the information contained in (b)(1) of this section plus the measured space station