

and Order, MB Docket No. 03–86, adopted July 1, 2003, and released July 3, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, 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.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 250A at George West.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[ET Docket No. 98–206; RM–9147; RM–9245; FCC 03–152]

Commission's Rules To Permit Operation of NGSO FSS Systems Co-Frequency With GSO and Terrestrial Systems in the Ku-Band Frequency Range

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document we revise our service area definition and build out requirement for the Multichannel Video Distribution and Data Service (MVDDS) in the 12.2–12.7 GHz band (12 GHz band). Specifically, we adopt Designated Market Areas (DMAs) as the service area definition for MVDDS. We also conclude that a five-year substantial service build out requirement is more appropriate for the

MVDDS. We believe that these actions will better facilitate the delivery of advanced wireless services in the 12 GHz band and promote expeditious deployment of such services to a wide range of populations, including unserved and underserved communities.

DATES: Effective September 16, 2003.

ADDRESSES: Federal Communications Commission 445 12th Street, SW., TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Jennifer Burton, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418–0680, email jburton@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's *Third Report and Order*, FCC 03–152, adopted on June 25, 2003, and released on July 7, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at bmillin@fcc.gov.

1. In the *Third R&O*, we revise our service area definition and build out requirement for the Multichannel Video Distribution and Data Service (MVDDS) in the 12.2–12.7 GHz band (12 GHz band). In the *Second Further Notice of Proposed Rule Making (Second Further Notice)*, 68 FR 19486, (April 21, 2003), in this proceeding, we sought further comment on the most appropriate service area definition for the geographic licensing of MVDDS. In this connection, we sought comment on whether use of the DMAs defined by Nielsen Media Research (Nielsen) will facilitate delivery of advanced wireless services, such as video and data broadband services, to a wide range of populations, including those areas that are unserved and underserved. In addition, we sought comment on whether we should modify the MVDDS build out requirement as a means to foster expeditious deployment of advanced wireless services to these communities as well.

2. Upon consideration of the record in this proceeding, including but not limited to the comments filed in response to the *Second Further Notice*, we adopt DMAs as the service area definition for MVDDS. We also

conclude that a five-year substantial service build out requirement is more appropriate for the MVDDS. We believe that these actions will facilitate delivery of advanced wireless services in the 12 GHz band and promote expeditious deployment of such services to a wide range of populations, including unserved and underserved communities.

Procedural Matters

Final Regulatory Flexibility Analysis

3. The Final Regulatory Flexibility Analysis, required by section 603 of the Regulatory Flexibility Act, as amended by the Congressional Review Act, Public Law No. 104–121 (1996).

Paperwork Reduction Act

4. The *Third R&O* contains modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public and other Federal agencies are invited to comment on the modified information collection(s) contained in this proceeding.

Final Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act (RFA), we incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Second Further Notice of Proposed Rule Making*. In view of the fact that we have adopted a further rule amendment in the *Third Report and Order*, we have included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.

Need for, and Objectives of the Third Report and Order

6. In the *Third Report and Order*, we revisit the geographic licensing plan adopted in the *Second Report and Order*, 67 FR 63279, (October 11, 2002), and adopt a revised licensing framework for MVDDS. In the *Second Report and Order*, the Commission adopted a service area definition for MVDDS on the basis of Component Economic Areas (CEAs). Based on the previously-established record in this proceeding, differing responsive comments to the January 20, 2003 *Auction PN* received from Northpoint Technology, Ltd. (Northpoint) and MDS America on the issue of service area designations, and on subsequent discussions between Commission staff and Nielsen representatives concerning the use of its DMAs, we revisited the service area designation. We are persuaded to adopt a service area definition for MVDDS on