

service to be delivered by satellites and complementary radio transmitters. On May 22, 1990, Radio Satellite Corporation filed a Request for Authorization to build and operate an earth station that would provide DARS and other mobile satellite services over a system planned to be built by the American Mobile Satellite Corporation in the 1.6/2.4 GHz bands. Finally, on July 27, 1990, Strother Communications, Inc. filed a Petition for Rule Making requesting that the Commission allocate spectrum and adopt rules for terrestrial digital audio broadcasting services.

2. In August 1990, the Commission issued a *Notice of Inquiry (NOI)*, 55 FR 34940 (August 27, 1990), soliciting information necessary to identify spectrum and develop technical rules and regulatory policies for DARS in the United States. In the *NOI*, we noted international interest in the development of digital sound broadcasting and expressed concern that the United States would be disadvantaged if it did not participate in this new technology. In a parallel effort, by a series of inquiries between 1989 and 1991, the Commission solicited comment on appropriate U.S. positions to be taken at the 1992 World Administrative Radio Conference (WARC-92). We sought comment on possible spectrum to be used for the provision of high-quality audio programming by the broadcasting satellite service (BSS Sound). Based on the inquiries, and in coordination with the National Telecommunications Information Administration (NTIA), the Commission supported a U.S. position seeking an allocation for satellite and complementary terrestrial DARS at 2310-2360 MHz.

3. At WARC-92, three different BSS (Sound) allocations were adopted. International Radio Regulation RR750B allocated the 2310-2360 MHz band in the United States for digital audio satellite broadcasting (BSS Sound). This allocation, like those adopted for other areas of the world, was limited to audio broadcasting by digital modulation. In November 1992 the Commission released the *Notice of Proposed Rule Making and Further Notice of Inquiry (NPRM)*, 57 FR 57049 (December 2, 1992), in which we proposed to adopt the WARC-92 allocation of 2310-2360 MHz for satellite DARS; proposed to accommodate aeronautical telemetry services now operating in the 2310-2390 MHz band at 2360-2390 MHz; and solicited comment on regulatory and technical aspects of satellite DARS. Also in 1992, we accepted for comment SCDR's license application and invited competing applications. Digital Satellite

Broadcasting Company, Primosphere Limited Partnership, and American Mobile Radio Corporation each submitted applications. As a result, there are currently four pending satellite DARS license applications.

4. Further, two industry committees are presently considering DARS technical standards issues. The Electronics Industry Association (EIA) has formed a subcommittee to consider the development of standards for terrestrial and satellite DARS. Also, the National Radio Systems Committee (NRSC) has agreed to examine terrestrial DARS systems which would operate in the AM or FM broadcast bands, and EIA and NRSC are cooperating in testing such DARS technologies.

5. Comments to the *NPRM* comprised a wide variety of parties. Proponents of the allocation, including potential DARS providers, equipment manufacturers, and potential users, state that there will be major benefits from satellite DARS. These parties argued generally that a satellite-delivered system will meet the needs of unserved and underserved markets as well as provide enhanced quality of reception and increased audio program diversity. Further, they pointed out that a satellite DARS system that would provide enhanced quality of reception for all listeners is currently feasible. In addition, they asserted that the allocation would create economic opportunities in the United States for various segments of industry, especially manufactures of DARS-related equipment. Finally, proponents argued that a satellite DARS allocation will improve U.S. competitiveness in the world marketplace. Opponents, primarily existing broadcast entities, either rejected a satellite DARS allocation or recommended that an allocation not be until terrestrial DARS allocation options have been fully explored. Many of these commenters argued that satellite systems will adversely impact present AM/FM radio services by driving local stations out of business. This, they contended, will cause a loss of local service, which a satellite service by its nature cannot replace. This effect, these opponents argued, contravenes the intent of the Communications Act of 1934 that local needs be met by broadcast media. In addition, opponents argued that programming will become less, not more, diverse as a result of satellite DARS. Some commenters did not oppose a satellite DARS allocations, but recommended that the Commission allocate frequencies in the 1.4-1.5 GHz band in lieu of the proposed allocation.

6. In the *Report and Order* the Commission allocates spectrum in the 2310-2360 MHz band for new satellite DARS. This domestic allocation is in accordance with the international allocation made at WARC-92. We are making this allocation, rather than an alternative allocation in the 1.4-1.5 GHz band, because it was strongly favored by commenters and because this band was allocated for BSS (Sound) at WARC-92. Satellite DARS will provide continuous radio service of compact disk quality on a nationwide or regional basis, including areas which are presently unserved or underserved. In addition, this new service will provide opportunities for domestic economic development and will improve U.S. competitiveness in the world marketplace by promoting rapid technological development in various areas, such as satellite communications and audio compression. Furthermore, we continue to support efforts to implement terrestrial DARS technology. We believe that existing radio broadcasters can and should have the opportunity to profit from new digital radio technologies, and we anticipate that technical advances will soon permit both AM and FM broadcasters to offer improved digital sounds. These innovations will also help promote the future viability of our terrestrial broadcasting system, which provides local news and public affairs programming. Finally, we note that we are deferring licensing and service rules for satellite DARS until a further proceeding.

Ordering Clauses

Accordingly, it is ordered, that Part 2 of the Commission's Rules is amended as specified below, effective March 16, 1995. This action is taken pursuant to Sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r).

List of Subjects in 47 CFR Part 2

Radio.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Rule Changes

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows: