of broadband services and the development of local telephone service competition. Selected information provided in the worksheet will be made available to the public in a manner consistent with the Commission's rules and orders.

We have estimated that each response to this collection of information will take, on average, 10 hours. Note that many companies will file multiple responses and that this estimated average reflects the fact that many companies will be required to file only a single service count that should be readily available from internal company records. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, enter the data in a Form 477 spreadsheet, prepare a floppy diskette or compact disc (if the filer decides to submit completed Form 477(s) by a method other than e-mail) and certification, and actually file the report. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD–PERM, Washington, DC 20554, Paperwork Reduction Project (3060–0816). We also will accept your comments via the Internet if you send them to *Judith-B.Herman@fcc.gov.* Do not send completed FCC Form 477 to this address. Remember—You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060–0816.

The Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. If we believe there may be a violation or potential violation of a statute or a Commission regulation, rule, or order, your filing may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your worksheet may be disclosed to the Department of Justice, court, or other adjudicative body when (a) the Commission; or (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

Reporting entities failing to file Form 477 in a timely fashion may be subject to penalties under the Communications Act, including sections 502 and 503(b).

List of Subjects in 47 CFR Parts 1, 20 and 43

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Parts 1, 20, and 43 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 is revised to read as follows:

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, and 303(r).

■ 2. Section 1.7001 is amended by revising paragraph (b) to read as follows:

§ 1.7001 Scope and content of filed reports.

* * * * *

(b) All commercial and government-controlled entities, including but not limited to common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)), cable television companies, Multichannel Multipoint Distribution Service (MMDS/MDS) ''wireless cable'' carriers, other fixed wireless providers, terrestrial and satellite mobile wireless providers, utilities and others, which are facilities-based providers, shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they provide service.

* * * * *

PART 20—COMMERCIAL MOBILE RADIO SERVICES

■ 3. The authority citation for part 20 is revised to read as follows:

Authority: 47 U.S.C. 154, 157, 160, 251–254, 303, and 332 unless otherwise noted.

■ 4. Section 20.15 is amended by revising paragraph (b)(1) to read as follows:

§ 20.15 Requirements under Title II of the Communications Act.

* * * * *

(b) * * *

(1) File with the Commission copies of contracts entered into with other carriers or comply with other reporting requirements, or with §§ 1.781 through 1.814 and 43.21 of this chapter; except that commercial radio service providers that offer broadband service, as described in § 1.7001(a) of this chapter or mobile telephony are required to file reports pursuant to §§ 1.7000 and 43.11 of this chapter. For purposes of this section, *mobile telephony* is defined as real-time, two-way switched voice service that is interconnected with the public switched network utilizing an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless handoff of subscriber calls.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

■ 5. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

■ 6. Section 43.11 is amended by revising paragraph (a) to read as follows:

§ 43.11 Reports of local exchange competition data.

(a) All common carriers and their affiliates (as defined in 47 U.S.C. 153 (1)) providing telephone exchange or exchange access service (as defined in 47 U.S.C. 153 (16) and (47)) or commercial mobile radio service (CMRS) providers offering mobile telephony (as defined in § 20.15(b)(1) of this chapter) shall file with the Commission a completed FCC Form 477, in accordance with the Commission's rules and the instructions to the FCC Form 477, for each state in which they provide service.

* * * * *

[FR Doc. 04–28415 Filed 12–28–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 15, 27, 87 and 97

[ET Docket No. 00–258; WT Docket No. 02–8; FCC 04–246]

Advanced Wireless Services

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document facilitates the introduction of Advanced Wireless

Service (AWS) in the band 1710–1755 MHz—an integral part of a 90 MHz spectrum allocation recently reallocated to allow for such new and innovative wireless services. We largely adopt the proposals set forth in our recent *AWS Fourth NPRM* in this proceeding that are designed to clear the 1710–1755 MHz band of incumbent Federal Government operations that would otherwise impede the development of new nationwide AWS services. These actions are consistent with previous actions in this proceeding and with the United States Department of Commerce, National Telecommunications and Information Administration (''NTIA'') *2002 Viability Assessment*, which addressed relocation and reaccommodation options for Federal Government operations in the band.

DATES: Effective January 28, 2005.

FOR FURTHER INFORMATION CONTACT: Ted Ryder, Office of Engineering and Technology, (202) 418–2803.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Seventh Report and Order*, ET Docket No. 00–258 and WT Docket No. 02–8, FCC 04–246, adopted October 14, 2004, and released October 21, 2004. The full text of this Commission decision is available on the Commission's Internet site at www.fcc.gov. It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Room CY–B402, 445 12th Street, SW., Washington, DC 20554. Alternate formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of the Report and Order

1. In the Seventh Report and Order (7th R&O), we undertook a narrow and specific task—the reaccommodation of Federal Government users in order to make the 1710–1755 MHz band available for AWS use. However, the decisions we made are part of a larger and substantially more complex proceeding. The quest to make spectrum available for a variety of new and innovative wireless services has involved a variety of bodies, including this Commission, Federal Government stakeholders as represented through NTIA, and Congress.

2. In the Omnibus Budget Reconciliation Act of 1993 (''OBRA–93''), Congress directed the Secretary of Commerce to identify at least 200 megahertz of spectrum below 5 GHz for transfer to non-Federal Government services. NTIA identified 235 megahertz, including the bands 1710–1755 MHz and 2390–2400 MHz, for such transfer. At that time, the band 1710–1755 MHz, which was a Federal Government exclusive band, was to be reallocated as a mixed-use band. Specifically, Federal Government use of the band 1710–1755 MHz was to remain protected indefinitely at 333 fixed microwave stations used by Federal power agencies, as required by 47 U.S.C. 923(c)(4), and would additionally be protected indefinitely at 111 stations used for aviation-related safety communications and at 16 sites used by DOD for fixed point-to-point microwave, tactical radio relay, aeronautical mobile stations, etc.

3. The Report and Order accomplishes two main tasks. First, we allow Federal Government users access to new frequencies—generally grouped into frequencies in the band 2025–2110 MHz (''2 GHz'') and frequencies in the band 2360–2400 MHz—that will allow Federal users to relocate existing operations in such a way that will ultimately free spectrum for these users to relocate operations from the 1710–1755 MHz band. Second, we address the relocation procedures and policies that are necessary to make these relocations of Federal Government users possible.

4. Specifically, the 7th R&O adopts the following spectrum allocation decisions:

—We allow the U.S. Department of Defense (''DOD'') to use the band 2025–2110 MHz, on a co-equal, primary basis with non-Federal Government operations, for earth stations at 11 sites to support military space operations (also known as tracking, telemetry, and commanding or ''TT&C''). This will provide DOD with additional flexibility in the band 1755–1850 MHz to accommodate systems displaced from the band 1710–1755 MHz.

—We permit the DOD to operate stations in the fixed and mobile except aeronautical mobile services in the band 2025–2110 MHz on a secondary basis at six sites in the southwestern region of the United States.

—We rescind the recently established rules for the Wireless Communications Services (''WCS'') at 2385–2390 MHz and no longer make the band 2390–2400 MHz available for use by Unlicensed Personal Communications Services (''UPCS''). We also allow Federal and non-Federal Government flight test stations to operate in the band 2385–2395 MHz, which in turn will permit DOD to relocate all aeronautical mobile systems out of the band 1710–1755 MHz. In addition, these allocation changes provide needed replacement spectrum for use by DOD and commercial flight test stations, which recently lost access to 35 megahertz of spectrum at 1525–1535 MHz and 2320–2345 MHz.

The Band 2025–2110 MHz (2GHZ)

5. *DOD Co-Primary Use of 2 GHz Band*. We adopted, with minor changes, the proposals for the 2 GHz band set forth in the AWS Fourth NPRM. In so doing, we recognize the concerns of the broadcasting community that sharing of that band by TV Broadcast Auxiliary Service (''BAS'') stations and DOD TT&C uplink earth stations will be challenging in some instances. However, we are confident that such sharing is feasible and will promote the public interest, particularly in the ultimate provision of AWS to the public, provided that coordination procedures adequate to the protection of both incumbent BAS stations and DOD TT&C uplink earth stations are imposed. In this regard, we are maintaining in the 2 GHz band our longstanding policy that first-licensed facilities have the right of protection from later-licensed facilities operating in the same band. This means that a new DOD TT&C uplink earth station seeking to operate at 2 GHz must coordinate with all BAS stations that may be affected by the new earth station's operation. To ensure that the right of protection of first-licensed facilities is adequately maintained, we conclude that it is necessary to ensure that not too long a period of time elapses between the authorization and the commencement of operations of a DOD TT&C uplink earth station at 2 GHz. Thus, DOD must coordinate facilities at the 11 sites only when construction and/or implementation are anticipated, and prior to authorization. To ensure that such coordination occurs successfully, prior to authorization, DOD must coordinate the DOD TT&C uplink earth station with all potentially affected incumbent BAS, Cable Television Relay Service (''CARS''), and Local Television Transmission Service (''LTTS'') licensees of stations within the coordination contour of the earth station, consistent with Appendix 7 of the ITU Radio Regulations, and engage the local BAS frequency coordinator(s), where available, in support of achieving such coordination. DOD, at the time it submits its application for the authorization of a 2 GHz earth station to the Commission through NTIA's

Frequency Assignment Subcommittee (''FAS''), must provide, with its application, a list of the entities with which coordination was undertaken. For those rare situations where no reasonable coordination can be negotiated, the issue may be raised to the FCC and NTIA to jointly arbitrate resolution. We will not concur with authorizing operation of any 2 GHz DOD TT&C uplink earth station in the absence of successful coordination between DOD and the affected BAS incumbents. Once the DOD TT&C uplink earth station has begun coordination, new BAS, CARS, and LTTS stations for which coordination begins later must accept interference from the DOD earth station, as is normally the case for new stations sharing spectrum on a co-primary basis. Finally, to ensure that future BAS, CARS, and LTTS licensees have a means for coordinating their proposed operations with the DOD TT&C uplink earth station, DOD earth stations must maintain a point of contact for coordination.

6. Accordingly, we adopted revisions generally as proposed for footnote US346. Additionally, we have corrected some of the geographic coordinates for the 11 DOD earth stations, originally listed in proposed footnote US346, and we have made several editorial changes to the footnote.

7. We acknowledge that recent data supplied by the Society of Broadcast Engineers, Inc. (''SBE''), indicate that there may be a significant potential for interference from DOD TT&C earth stations at the 11 sites that may use the 2 GHz band into 2 GHz fixed receive-only receivers used in connection with BAS electronic newsgathering (''ENG'') mobile TV pick-ups (''TVPUs''). However, as indicated in the *AWS Fourth NPRM*, sharing techniques currently exist that should enable 2 GHz earth stations to be engineered into the 11 sites without harming existing BAS operations. We also acknowledge that some sharing situations will be difficult and may require more restrictive techniques, such as limiting power, limiting the pointing direction and elevation of the DOD earth station, constructing berms or installing RF shielding, arranging time-sharing agreements for DOD use during off-peak hours when TV BAS use is at a minimum, and other mitigation techniques. Nonetheless, because these techniques, together with coordination with potentially affected licensees, can facilitate implementation of the DOD TT&C earth stations at the 11 sites, we see no insurmountable technical obstacles that would prevent us from implementing the proposed 2 GHz allocation.

8. We also observe that, as noted by Motorola, interference to 2 GHz TV BAS stations from DOD earth stations will not be an immediate issue because DOD satellites incorporating those frequencies will not be available for at least several years. Further, to ensure mission success, NTIA anticipates that new satellites will be built with dual tracking and command frequencies, *i.e.*, in both the band 1761–1842 MHz and the 2 GHz band. As DOD gains experience with TT&C operations in the 2 GHz band, use of the band 1761–1842 MHz for TT&C is expected to be reduced, but DOD requirements in that band may exist until the year 2030. Therefore, initial DOD use of the 2 GHz band is not expected to involve either immediate or full relocation of the current systems. However, enabling relocation of DOD operation from the band 1761–1842 MHz to the 2 GHz band will over time allow DOD the flexibility to accommodate additional systems in the band 1755–1850 MHz. Finally, DOD may choose not to use the 2 GHz band for some of its 11 existing sites that currently operate in the band 1761–1842 MHz due to coordination difficulties with incumbent operations.

9. Additionally, we observe that, by the time DOD earth stations begin to use the 2 GHz band, total or near-total conversion to digital BAS operations is likely to have occurred. That conversion promises to significantly reduce the potential for interference to BAS receivers because the digital technology to be used for BAS is far more robust than analog technology against undesired signals. As noted by SBE, use of digital technology by BAS licensees may permit the BAS desired/undesired (''D/U'') ratio to be relaxed by several orders of magnitude in some cases. While it is not possible to precisely forecast when digital BAS operations will be used in a particular geographic area, it is also not possible to precisely forecast when a DOD earth station may begin to use 2 GHz frequencies in that area. Given the uncertain timeframe for DOD implementation of the 2 GHz allocation for the 11 sites, possibly extending many years into the future, it may be appropriate for us to establish the specifics of a coordination process that will accommodate future developments, such as the digital conversion of BAS operations.

10. With regard to the specific concern of Gannett Co., Inc. (''Gannett''), about the DOD site at Buckley AFB, CO, we will not impose *a priori* conditions that would restrict DOD's options at that site. We find that requiring coordination to protect incumbent operations and maintaining flexibility on specific technical requirements will allow the spectrum sharing situation to be customized to meet the requirements at the time when DOD needs to use this spectrum.

11. Regarding the technical characteristics of the DOD TT&C operations, we observe that NTIA has updated the *NTIA Manual* to require that DOD TT&C earth stations operating in the band 2025–2110 MHz conform to operational limits specified in the ITU *Radio Regulations* for that band. These limits require that an earth station not transmit until the mainbeam of its antenna is pointing at least 3° above the horizon, unless affected parties have agreed to a lower elevation angle. In addition, we observe that NTIA has adopted the ITU limit on the effective isotropic radiated power (''EIRP'') transmitted in any direction towards the horizon by an earth station. Specifically, these limits require that an earth station be:

(1) Limited to an EIRP of 40 dBW at a 0° elevation angle, in any 4 kHz band;

(2) Permitted to increase its EIRP to 40 dBW plus 3 times their elevation angle between 0–5°, in any 4 kHz band;

(3) Unlimited in EIRP at elevation angles above 5°; and

(4) Restricted from exceeding these EIRP limits by more than 10 dB.

While these technical characteristics give an idea of how DOD TT&C operations might operate if they were constructed today, the situation may change before the operations are ready to be constructed for the 2 GHz band. Therefore, we find that a flexible approach regarding technical requirements backed up with coordination to protect incumbent operations is the best approach to sharing the 2 GHz band. This will allow DOD to take advantage of the latest technological capabilities to achieve sharing with BAS operations and will allow them to consider any changes in BAS equipment or use that might occur between now and when DOD needs access to this spectrum.

12. *Adjacent Band Services*. We reject the suggestion of Cingular Wireless LLC (''Cingular'') that DOD operations be limited to the central portion of the 2 GHz band because we find that it is technically feasible for those operations to use the entire band without causing interference to adjacent band fixed and mobile services. In this regard, we find that techniques such as power control, operation of earth stations at higher elevation angles, baseband filtering, berms or RF shielding, and other

techniques, as well as frequency offsets, can mitigate interference from 2 GHz DOD earth stations to adjacent band fixed and mobile services at 1930–2025 MHz and 2110–2155 MHz. We also reject the recommendations of Motorola, Inc. (''Motorola''), that we add AWS in the upper adjacent band 2110–2120 MHz to the list of services that require coordination in footnote US346, or increase out-of-band emission (''OOBE'') limits for DOD 2 GHz earth stations. NTIA and DOD state that DOD 2 GHz earth stations' compliance with the OOBE limits in the *NTIA Manual* should provide adequate protection to out-of-band users. However, we recognize the likelihood that a variety of factors—such as high power operation on a frequency close to the adjacent band, combined with a momentarily low beam elevation angle to acquire or maintain communications with a non-geostationary satellite orbit (''NGSO'') satellite as it passes through elevation angles just above the horizon in a certain direction—may occur, increasing the potential for interference to AWS users in that direction. We accept NTIA's and DOD's position that additional measures will not generally be needed. However, we expect that DOD will be cognizant of the potential for interference into AWS operations in the adjacent band 2120–2155 MHz and take appropriate steps to control such interference for specific situations at DOD TT&C earth stations. In this regard, we note that the same measures exercised by the DOD 2 GHz earth station to protect BAS facilities, such as maintaining high elevation angles and erecting berms as described, should similarly mitigate against adjacent band interference with AWS operating in the same areas. We will address protection of new services in the lower adjacent band 2020–2025 MHz, which has been allocated for use by Fixed and Mobile services on a primary basis, in a future decision.

13. Finally, with regard to the potential for 2 GHz DOD earth stations to cause overload interference to adjacent band receivers, we recognize this potential but note that at present it is unclear what type of receivers will be used in these adjacent bands when DOD transmitters commence operations in several years. Further, as suggested by Cingular, the record in this proceeding is not sufficiently developed to warrant the adoption of receiver interference immunity standards at this time. However, we urge industry to contemplate the future development of such standards and will revisit this issue if the situation warrants.

14. *Secondary DOD Use of 2 GHz Band.* We find that permitting DOD to operate 2 GHz stations in the fixed and mobile except aeronautical mobile services on a secondary basis at six sites is in the public interest. These sites are all at remote locations in the southwestern United States and can operate without hindering 2 GHz BAS fixed and mobile operations. We are adopting Motorola's recommendation that we modify the wording of our proposed new footnote to clarify the status of the military operations and make some other minor editorial changes to the footnote.

15. *EESS Use of 2 GHz Band.* We are not requiring DOD to frequency coordinate its new 2 GHz uplink earth stations with existing 2 GHz EESS uplinks that operate under US347. While we concur with Space Imaging LLC that it and other commercial remote-sensing operators use the 2 GHz band for important purposes, their operations are on a non-interference basis, and such users of a frequency band do not have the right to be protected from interference caused by new, primary users of that same band. However, we urge DOD, prior to commencing 2 GHz operations, to consult with remote-sensing licensees that operate under US347. We observe that it is in DOD's self-interest to do so because these remote sensing licensees perform significant defense and intelligence work.

The Band 2360–2400 MHz

16. We are adopting our proposals for the band 2360–2400 MHz. Commenters generally support these proposals and we find that their adoption will play a major role in facilitating the introduction of AWS by permitting DOD to relocate essential aeronautical mobile systems to the band 2360–2395 MHz from the band 1710–1755 MHz. With regard to the concerns voiced by the Aerospace and Flight Test Radio Coordinating Council (''AFTRCC''), that new amateur use of the band 2390–2395 MHz should be precluded and existing amateur use of that band should be grandfathered, we decline to adopt such measures. We believe that shared use should not impose an undue constraint on either service. Amateur access to the band on a primary basis was established relatively recently—in 1995—and we note that amateur use of the band appears to be relatively light. Moreover, aeronautical mobile use of the band will likely be predominantly at remote facilities. We also will not impose coordination requirements between amateur and aeronautical flight testing operations. We observe that the potential for interference from amateur operations, even directional point-to-point operations, to flight testing operations, would be small, due to the high altitudes of aeronautical mobile flight testing transmitters, and the correspondingly high elevation and off-axis attenuation of high gain flight testing receive antennas on the ground. Although, as noted by AFTRCC, low antenna elevation angle and off-axis attenuation of flight testing receive antennas, and line-of-site conditions, could occur, and thus we cannot rule out the possibility of interference to flight testing from amateur operations, we believe the likelihood of such an occurrence is limited by the remoteness of flight testing facilities, and the relatively light use of the band 2390–2395 MHz band by amateurs. Also, as indicated by the current lack of agreement regarding coordination between the National Association for Amateur Radio (also known as the American Radio Relay League or ''ARRL'') and AFTRRC, and especially given the flexibility of amateurs to operate without specific station authorization or registration on the Commission's database, it appears impractical to establish an effective coordination requirement at this time. We also conclude that, because most flight testing is conducted at high altitudes with low output power at remote facilities, the reverse potential for interference from flight testing operations into amateur operations is also small. Therefore, we will not require that flight testing operations be coordinated with amateur operations. Recognizing that this is a unique approach to shared use of the band, in the unlikely event that interference occurs to either flight testing or amateur operations, we expect that both parties will work together to identify and resolve the interference or find a mutually acceptable solution. Should these efforts not succeed, the matter should be referred to the FCC or NTIA for resolution.

17. We decline to adopt the recommendation of Sirius Satellite Radio Inc. and XM Radio, Inc. (''Sirius/XM''), that all new Government and non-Government aeronautical mobile operators in the band 2360–2395 MHz meet the OOBE limits that apply to WCS licensees at 2305–2320/2345–2360 MHz to protect Satellite Digital Audio Radio Service (''DARS'') receivers in the band 2320–2345 MHz from interference. We find those limits to be inappropriate for aeronautical mobile services at 2360–2395 MHz. It is extremely unlikely that aeronautical mobile transmitters would

be in close enough proximity to Satellite DARS receivers so as to create a potential for harmful interference to those receivers. In this regard, we observe that aeronautical mobile operations will not be widespread and will often occur in the vicinity of test ranges. Thus, it is expected that there normally would be large separation distances between aeronautical mobile transmitters and Satellite DARS receivers. We also observe that Satellite DARS signal strength is generally sufficiently high to overcome potential interference from aeronautical mobile transmitters even in an unusual case where the DARS receiver is relatively close to the aeronautical transmitter. Further, Sirius/XM have provided no analysis or other information demonstrating that tighter emission limits are necessary to ensure that spurious emissions from aeronautical transmitters do not cause harmful interference to Satellite DARS receivers. We find that Sirius/XM have not established any basis or need for applying the WCS OOBE limits to aeronautical mobile services at 2360–2395 MHz. Accordingly, we will apply the OOBE limits specified in § 87.139 of our Rules to aeronautical mobile operations in the band 2360–2395 MHz.

18. Finally, no commenting party opposed the removal of the WCS from the band 2385–2390 MHz or UPCS from the band 2390–2400 MHz. Therefore, we adopt those proposals to help clear the spectrum for new uses.

19. Accordingly, as proposed in the *AWS Fourth NPRM*, we adopt footnote US276 to clearly indicate the allocations for the band 2360–2395 MHz.

20. In Appendix A to the *AWS Fourth NPRM*, we proposed changes to §§ 15.301, 15.303, 15.319, and 15.321 of our Rules. In those proposed rule sections, we erroneously deleted references to the asynchronous 1910–1920 MHz portion of the greater 1910–1930 MHz UPCS band. In the interim, in the *800 MHz/Nextel Order*, we have adopted rules redesignating the 1910–1915 MHz lower half of the 1910–1920 MHz band for Nextel. We have also adopted rules redesignating the 1915–1920 MHz upper half of the 1910–1920 MHz band, *See AWS 6th R&O*, 69 FR 62615, October 27, 2004. The UPCS rules we adopt reflect those decisions.

Final Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act (''RFA''),[1] an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the *Fourth Notice of Proposed Rule Making* (''AWS Fourth NPRM'') in this proceeding. The Commission sought written comment on the proposals in the *AWS Fourth NPRM*, including comments on the IRFA.[2] The present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.

A. Need for, and Objectives of, the Adopted Rules

22. In this Seventh Report and Order, we allow the Department of Defense (''DOD'') to use the band 2025–2110 MHz (''2 GHz'') on a co-equal, primary basis with non-Federal Government operations for DOD earth stations at 11 sites that support DOD space operations. DOD access to the 2 GHz band may make more spectrum available in the band 1755–1850 MHz for absorbing certain DOD systems displaced from the band 1710–1755 MHz. In addition, we permit the DOD to operate stations in the fixed and mobile services in the 2 GHz band on a secondary (non-interference) basis at six sites in the southwestern region of the United States.

23. We also make numerous allocation changes to the band 2360–2400 MHz, the most significant of which rescinds the recent establishment of Wireless Communications Services at 2385–2390 MHz, allows Federal and non-Federal Government flight test stations to operate in the band 2385–2395 MHz, and no longer permits the band 2390–2400 MHz to be used by Unlicensed Personal Communications Services (''UPCS'') applications. These allocation changes permit DOD to relocate all aeronautical mobile systems out of the band 1710–1755 MHz, which is a major objective for facilitating the introduction of Advanced Wireless Services (''AWS''). In addition, these allocation changes provide needed replacement spectrum for use by DOD and commercial flight test stations, which recently lost access to the 35 megahertz of spectrum at 1525–1535 MHz and 2320–2345 MHz. Thus, these actions are a significant step forward toward the introduction of AWS while ensuring that the provision of important military services is not compromised.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

24. We received no comments directly in response to the IRFA. We did, however, consider the potential impact of the proposed rules on smaller entities, and conclude that any impact will not be adverse. While new DOD use of the 2 GHz band will require coordination between DOD and existing TV Broadcasting Auxiliary Services (''BAS'') licensees, the burden will be on DOD to demonstrate that its new use can be accomplished on a non-interference basis.

C. Description and Estimate of the Number of Small Entities to Which the Adopted Rules Will Apply

25. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[3] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[4] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[5]

26. A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''[6] Nationwide, there are approximately 1.6 million small organizations.[7] ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.''[8] As of 1997, there were approximately 87,453 governmental entities in the United States.[9] This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer then 50,000 and

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[2] AWS Fourth NPRM, 18 FCC Rcd 13235 (2003) ¶ 64 and Appendix B.

[3] 5 U.S.C. 601(6).

[4] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[5] 15 U.S.C. 632.

[6] 5 U.S.C. 601(4).

[7] Independent Sector, The New Nonprofit Almanac and Desk Reference (2002).

[8] 5 U.S.C. 601(5).

[9] U.S. Census Bureau, Statistical Abstract of the United States: 2000, Section 9, pages 299–300, Tables 490 and 492.

1,498 have populations of 500,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be approximately 84,098 or fewer.

27. In the 2 GHz band, the rules adopted in this Report and Order affect licensees in the Television BAS, the Local Television Transmission Service (''LTTS''), and the Cable Television Relay Service (''CARS'').

BAS. This service uses a variety of transmitters to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the stations). There are approximately 712 TV BAS licensees in the 1990–2110 MHz band, and these licensees will ultimately be required to use only the 2 GHz portion of that band.[10] It is unclear how many of these will be affected by our new rules.

The Commission has not developed a definition of small entities specific to BAS licensees. The U.S. Small Business Administration (SBA) has developed small business size standards, as follows: For TV BAS, we use the size standard for Television Broadcasting, which consists of all such companies having annual receipts of no more than $12.0 million.[11] According to Census Bureau data for 1997, there were 906 Television Broadcasting firms, total that operated for the entire year.[12] Of this total, 734 firms had annual receipts of $9,999,999.00 or less and an additional 71 had receipts of $10 million to $24,999,999.00.[13] Thus, under this standard, the majority of firms can be considered small.

CARS. There are nine CARS mobile licensees in the 1990–2110 MHz band, and these licensees will ultimately be required to use only the 2 GHz portion of that band.[14] It is unclear how many of these will be affected by our new rules. The SBA has developed a small business size standard for Cable and other Program Distribution, which consists of all such companies having annual receipts of no more than $12.5 million.[15] According to Census Bureau data for 1997, there were 1,311 firms within the industry category Cable and Other Program Distribution, total, that operated for the entire year.[16] Of this total, 1,180 firms had annual receipts of $9,999,999.00 or less, and an additional 52 firms had receipts of $10 million to $24,999,999.00.[17] Thus, under this standard, the majority of firms can be considered small.

LTTS. There are 34 LTTS licensees in the 1990–2110 MHz band, and these licensees will ultimately be required to use only the 2 GHz portion of that band.[18] It is unclear how many of these will be affected by our new rules. The Commission has not yet defined a small business with respect to local television transmission services. For purposes of this FRFA, we will use the SBA's definition applicable to Cellular and Other Wireless Telecommunications—*i.e.*, an entity with no more than 1,500 persons.[19] According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year.[20] Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.[21] Thus, under this size standard, the majority of firms can be considered small.

In the band 2360–2390 MHz, the rules adopted in this Report and Order are not expected to impact licensees of flight test stations, except to provide those licensees continued access to the sub-band 2385–2390 MHz. That is, Federal and non-Federal Government licensees of flight test stations have long shared the band 2360–2390 MHz and our new rules essentially return the sub-band 2385–2390 MHz to its state prior to reallocation. The additional flexibility given to Federal Government users is not expected to impact licensees of flight test stations because this use would be on a secondary basis.

In the band 2390–2400 MHz, the rules adopted in this Report and Order are not expected to greatly impact licensees in the amateur service. Federal and non-Federal Government use of the band 2390–2395 MHz is expected to occur at only a limited number of aeronautical telemetry ranges in remote areas. We have reviewed our files and have found that no unlicensed PCS device has been authorized in the band 2390–2400 MHz.

D. Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

28. The new rules require that DOD coordinate a request for use of frequencies in the 2 GHz band prior to submitting an application to the Commission through the Frequency Assignment Subcommittee of the Interdepartment Radio Advisory Committee of the National Telecommunications and Information Administration. Commission licensees may choose to conduct studies or incur other expenses during the coordination process.[22] This will entail costs typically associated with the coordination process. In addition, we observe that DOD will be the party initiating coordination.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

29. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[23]

30. We are requiring that the 11 DOD earth stations that will operate in the 2 GHz band prior coordinate their frequency use with existing TV BAS licensees. Such a requirement will ensure that these earth stations operate in a manner that minimizes the potential of causing harmful interference. This action is expected to protect incumbent BAS, LTTS, and CARS systems from service disruptions caused by receiving harmful interference. Some commenters recommended that we not relocate these

[10] The IRFA mistakenly listed the number of TV BAS licensees for the sub-band 1990–2025 MHz rather than for the entire band 1990–2110 MHz. There are approximately 144 more licensees in the entire band than in the sub-band.

[11] 13 CFR 121.201, NAICS code 515120.

[12] U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, ''Receipts Size of Firms Subject to Federal Income Tax; 1997,'' Table 4, NAICS code 515120 (issued Oct. 2000).

[13] *Id.* The census data do not provide a more precise estimate.

[14] The IRFA mistakenly listed the number of CARS licensees for the sub-band 1990–2025 MHz rather than for the entire band 1990–2110 MHz. However, the number of CARS licensees is the same in the sub-band as in the entire band.

[15] *Id.* at NAICS code 515120.

[16] *Id.*

[17] *Id.* The census data do not provide a more precise estimate.

[18] The IRFA mistakenly listed the number of LTTS licensees for the sub-band 1990–2025 MHz rather than for the entire band 1990–2110 MHz. However, the number of LTTS licensees in each band differs by only one.

[19] 13 CFR 121.201, NAICS code 517212.

[20] U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, ''Employment Size of Firms Subject to Federal Income Tax: 1997,'' Table 5, NAICS code 517212 (issued Oct. 2000).

[21] *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is ''Firms with 1,000 employees or more.''

[22] *See* Seventh Report and Order ¶ 27.

[23] 5 U.S.C. 603(c).

earth stations to the 2 GHz band,[24] but we find that such relocation will not adversely impact incumbents and is essential to facilitate the introduction of AWS.

F. Report to Congress

31. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

32. Pursuant to Sections 1, 4(i), 7(a), 302(a), 303(f), and 303(g) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157(a), 302(a), 303(f), and 303(g), this Seventh Report and Order IS ADOPTED and that parts 1, 2, 15, 27, 87, and 97 of the Commission's Rules ARE AMENDED as specified in rules section, effective 30 days after publication in the **Federal Register.**

Congressional Review Act

33. The Commission will send a copy of the Seventh Report and Order including FRFA, in a report to be sent to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Parts 1, 2, 15, 27, 87, and 97

Radio.

Federal Communications Commission

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, 15, 27, 87, and 97 to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e).

§ 1.948 [Amended]

■ 2. Section 1.948 is amended by removing and reserving paragraph (j)(1)(xiv).

■ 3. Section 1.1307(b)(1) is amended by revising the entry for ''Wireless Communications Service (part 27)'' to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(1) * * *

TABLE 1.—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation requirement if:
* * * *	* * *
Wireless Communications Service (part 27)	(1) for the 1390–1392 MHz, 1392–1395 MHz, 1432–1435 MHz, and 1670–1675 MHz bands: *Non-building-mounted antennas:* height above ground level to lowest point of antenna < 10 m *and* total power of all channels > 2000 W ERP (3280 W EIRP). *Building-mounted antennas:* total power of all channels > 2000 W ERP (3280 W EIRP). (2) for the 746–764 MHz, 776–794 MHz, 2305–2320 MHz, and 2345–2360 MHz bands Total power of all channels > 1000 W ERP (1640 W EIRP).
* * * *	* * *

* * * * *

§ 1.9005 [Amended]

■ 4. Section 1.9005 is amended by removing and reserving paragraph (p).

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 5. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 6. Section 2.106, the Table of Frequency Allocations, is amended as follows:

■ a. Revise pages 47, 48, 49 and 51.

■ b. In the list of United States (US) footnotes, revise footnotes US276 and US346, remove US363, and add footnote US393.

■ c. In the list of non-Federal Government (NG) footnotes, remove footnote NG174.

■ d. In the list of Federal Government (G) footnotes, revise footnotes G2, G120, and G122.

The revisions and additions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

[24] *See, e.g.*, comments of the Society of Broadcast Engineers, Inc., as described in the Seventh Report and Order ¶ 20.

1670-2110 MHz (UHF) Page 47

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
1670-1675 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE 5.380 5.341			1670-1675 5.341 US211 US362	1670-1675 FIXED MOBILE except aeronautical mobile 5.341 US211 US362	Wireless Communications (27)
1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.341	1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile MOBILE-SATELLITE (Earth-to-space) 5.341 5.377	1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.341	1675-1700 METEOROLOGICAL AIDS (radiosonde) METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341 US211		
1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) Fixed Mobile except aeronautical mobile 5.289 5.341 5.382	1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (Earth-to-space) 5.289 5.341 5.377 5.381	1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341 5.381			
1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341	1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile MOBILE-SATELLITE (Earth-to-space) 5.289 5.341 5.377	1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341 5.384	1700-1710 FIXED G118 METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341	1700-1710 METEOROLOGICAL-SATELLITE (space-to-Earth) Fixed 5.289 5.341	
1710-1930 FIXED MOBILE 5.380 5.384A 5.388A			1710-1755 5.341 US311 US378	1710-1755 FIXED MOBILE 5.341 US311 US378 NG176	Wireless Communications (27)

5.149 5.341 5.385 5.386 5.387 5.388			1755-1850 FIXED MOBILE G42	1755-1850	
1930-1970 FIXED MOBILE 5.388A 5.388	1930-1970 FIXED MOBILE 5.388A Mobile-satellite (Earth-to-space) 5.388	1930-1970 FIXED MOBILE 5.388A 5.388	1850-2025	1850-2000 FIXED MOBILE NG177	RF Devices (15) Personal Communications (24) Fixed Microwave (101)
1970-1980 FIXED MOBILE 5.388A 5.388					
1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A 5.388 5.389A 5.389B 5.389F				2000-2020 MOBILE-SATELLITE (Earth-to-space) US380 NG156	Satellite Communications (25)
2010-2025 FIXED MOBILE 5.388A 5.388	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.388 5.389C 5.389D 5.389E 5.390	2010-2025 FIXED MOBILE 5.388A 5.388		2020-2025 FIXED MOBILE NG177	
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space) 5.392			2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) SPACE RESEARCH (Earth-to-space) (space-to-space) 5.391 5.392 US90 US222 US346 US347 US393	2025-2110 FIXED NG118 MOBILE 5.391 5.392 US90 US222 US346 US347 US393	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)

2110-2345 MHz (UHF) Page 49

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
2110-2120 FIXED MOBILE 5.388A SPACE RESEARCH (deep space) (Earth-to-space) 5.388			2110-2120 US252	2110-2155 FIXED MOBILE US252	Domestic Public Fixed (21) Public Mobile (22) Wireless Communications (27) Fixed Microwave (101)
2120-2160 FIXED MOBILE 5.388A 5.388	2120-2160 FIXED MOBILE 5.388A Mobile-satellite (space-to-Earth) 5.388	2120-2170 FIXED MOBILE 5.388A	2120-2200	2155-2160 FIXED	Domestic Public Fixed (21) Fixed Microwave (101)
2160-2170 FIXED MOBILE 5.388A 5.388 5.392A	2160-2170 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.388 5.389C 5.389D 5.389E 5.390	5.388		2160-2180 FIXED NG153 MOBILE NG178	Domestic Public Fixed (21) Public Mobile (22) Fixed Microwave (101)
2170-2200 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A 5.388 5.389A 5.389F 5.392A				2180-2200 MOBILE-SATELLITE (space-to-Earth) US380 NG168	Satellite Communications (25)
2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (space-to-Earth) (space-to-space)			2200-2290 SPACE OPERATION (space-to-Earth) (space-to-space) EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space) FIXED (line-of-sight only)	2200-2290	

2345-2655 MHz (UHF)					Page 51
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 2300-2450 MHz			2345-2360 Fixed Mobile US339 Radiolocation G2 G120 US327	2345-2360 FIXED MOBILE US339 RADIOLOCATION BROADCASTING- SATELLITE 5.396 US327	Wireless Communications (27) Aviation (87)
			2360-2390 MOBILE US276 RADIOLOCATION G2 G120 Fixed	2360-2390 MOBILE US276	Aviation (87)
			2390-2395 MOBILE US276	2390-2395 MOBILE US276 AMATEUR	Aviation (87) Amateur (97)
			2395-2400 G122	2395-2400 AMATEUR	Amateur (97)
			2400-2402 5.150 G123	2400-2417 AMATEUR	ISM Equipment (18) Amateur (97)
			2402-2417 5.150 G122	5.150 5.282	
			2417-2450 Radiolocation G2 5.150 G124	2417-2450 Amateur 5.150 5.282	
2450-2483.5 FIXED MOBILE Radiolocation 5.150 5.397	2450-2483.5 FIXED MOBILE RADIOLOCATION 5.150 5.394		2450-2483.5 5.150 US41	2450-2483.5 FIXED MOBILE Radiolocation 5.150 US41	ISM Equipment (18) TV Auxiliary Broadcasting (74F) Private Land Mobile (90) Fixed Microwave (101)

BILLING CODE 6712–01–C

* * * * *

United States (US) Footnotes

* * * * *

US276 Except as otherwise provided for herein, use of the band 2360–2395

MHz by the mobile service is limited to aeronautical telemetering and associated telecommand operations for flight testing of aircraft, missiles or major components thereof. The following three frequencies are shared on a co-equal basis by Federal and non-Federal stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles whether or not such operations involve flight testing: 2364.5 MHz, 2370.5 MHz, and 2382.5 MHz. All other mobile telemetering uses shall be secondary to the above uses.

* * * * *

US346 Except as provided for below and by footnote US222, Federal use of the band 2025–2110 MHz by the space operation service (Earth-to-space), Earth exploration-satellite service (Earth-to-space), and space research service (Earth-to-space) shall not constrain the deployment of the Television Broadcast Auxiliary Service, the Cable Television Relay Service, or the Local Television Transmission Service. To facilitate compatible operations between non-Federal terrestrial receiving stations at fixed sites and Federal earth station transmitters, coordination is required. To facilitate compatible operations between non-Federal terrestrial transmitting stations and Federal spacecraft receivers, the terrestrial transmitters in the band 2025–2110 MHz shall not be high-density systems (see Recommendations ITU–R SA.1154 and ITU–R F.1247). Military satellite control stations at the following sites shall operate on a co-equal, primary basis with non-Federal operations:

Facility	Coordinates
Naval Satellite Control Network, Prospect Harbor, ME.	44° 24′ 16″ N 068° 00′ 46″ W
New Hampshire Tracking Station, New Boston AFS, NH.	42° 56′ 52″ N 071° 37′ 36″ W
Eastern Vehicle Check-out Facility & GPS Ground Antenna & Monitoring Station, Cape Canaveral, FL.	28° 29′ 09″ N 080° 34′ 33″ W
Buckley AFB, CO	39° 42′ 55″ N 104° 46′ 36″ W
Colorado Tracking Station, Schriever AFB, CO.	38° 48′ 21″ N 104° 31′ 43″ W
Kirtland AFB, NM	34° 59′ 46″ N 106° 30′ 28″ W
Camp Parks Communications Annex, Pleasanton, CA.	37° 43′ 51″ N 121° 52′ 50″ W
Naval Satellite Control Network, Laguna Peak, CA.	34° 06′ 31″ N 119° 03′ 53″ W
Vandenberg Tracking Station, Vandenberg AFB, CA.	34° 41′ 21″ N 120° 30′ 07″ W
Hawaii Tracking Station, Kaena Pt, Oahu, HI.	21° 33′ 44″ N 158° 14′ 31″ W
Guam Tracking Stations, Anderson AFB, and Naval CTS, Guam.	13° 36′ 54″ N 144° 51′ 18″ E

* * * * *

US393 In the band 2025–2110 MHz, the military services may operate stations in the fixed and mobile except aeronautical mobile services on a secondary and coordinated basis at the following sites:

Site	Coordinates	Radius of operation (km)
Nellis AFB, NV	36° 14′ N 115° 02′ W	80
China Lake, CA.	35° 41′ N 117° 41′ W	50
Ft. Irwin, CA	35° 16′ N 116° 41′ W	50
Pacific Missile Test Range/Pt. Mugu, CA	34° 07′ N 119° 30′ W	80
Yuma, AZ	32° 32′ N 113° 58′ W	80
White Sands Missile Range, NM	33° 00′ N 106° 30′ W	80

* * * * *

Federal Government (G) Footnotes

* * * * *

G2 In the bands 216–225 MHz, 420–450 MHz (except as provided by US217 and G129), 890–902 MHz, 928–942 MHz, 1300–1390 MHz, 2310–2390 MHz, 2417–2450 MHz, 2700–2900 MHz, 5650–5925 MHz, and 9000–9200 MHz, the Federal radiolocation service is limited to the military services.

* * * * *

G120 Development of airborne primary radars in the band 2360–2390 MHz with peak transmitter power in excess of 250 watts for use in the United States is not permitted.

G122 In the bands 2395–2400 MHz, 2402–2417 MHz, and 4940–4990 MHz, Federal operations may be authorized on a non-interference basis to authorized non-Federal operations, but shall not hinder the implementation of any non-Federal operations.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

■ 7. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

■ 8. Section 15.301 is revised to read as follows:

§ 15.301 Scope.

This subpart sets out the regulations for unlicensed personal communications services (PCS) devices operating in the 1920–1930 MHz band.

■ 9. Section 15.303 is amended by revising paragraph (g) to read as follows:

§ 15.303 Definitions.

* * * * *

(g) *Personal Communications Services (PCS) Devices [Unlicensed].* Intentional radiators operating in the frequency band 1920–1930 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses.

* * * * *

§ 15.319 [Amended]

■ 10. Section 15.319 is amended by removing and reserving paragraph (a).

§ 15.321 [Removed and Reserved]

■ 11. Section 15.321 is removed and reserved.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 12. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337, unless otherwise noted.

§ 27.1 [Amended]

■ 13. Section 27.1 is amended by removing and reserving paragraph (b)(7).

§ 27.5 [Amended]

■ 14. Section 27.5 is amended by removing and reserving paragraph (g).

§ 27.6 [Amended]

■ 15. Section 27.6 is amended by removing and reserving paragraph (g).

§ 27.11 [Amended]

■ 16. Section 27.11 is amended by removing and reserving paragraph (h).

§ 27.13 [Amended]

■ 17. Section 27.13 is amended by removing and reserving paragraph (f).

§ 27.50 [Amended]

■ 18. Section 27.50 is amended by removing and reserving paragraph (g).

§ 27.53 [Amended]

■ 19. Section 27.53 is amended by removing and reserving paragraph (k).

Subpart K—[Removed]

■ 20. Subpart K is removed and reserved.

PART 87—AVIATION SERVICES

■ 21. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307(e) unless otherwise noted.

■ 22. Section 87.173 is amended by revising the entry in the table in paragraph (b) for ''2310–2390 MHz'' to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
* * * *		*	* *
2310–2395 MHz	J	MA,FAT	Aeronautical telemetry and telecommand operations.
* * * *		*	* *

■ 23. Section 87.303 is amended by revising paragraph (d)(1) to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1525 MHz and 2360–2395 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of aircraft and missiles, or their major components. The bands 1525–1535 MHz and 2310–2360 MHz are also available for these purposes on a secondary basis. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the Earth's atmosphere, as well as any incidental orbiting prior to reentry, of objects undergoing flight tests. In the band 1435–1530 MHz, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5, and 1525.5 MHz. In the band 2360–2390 MHz, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles, whether or not such operations involve flight testing: 2364.5, 2370.5 and 2382.5 MHz. In the band 2360–2395 MHz, all other mobile telemetry uses are secondary to the above stated launch vehicle uses.

* * * * *

PART 97—AMATEUR RADIO SERVICE

■ 24. 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.

■ 25. Section 97.303(j)(2)(iii) is revised to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(j) * * *

(2) * * *

(iii) The 2390–2417 MHz segment is allocated to the amateur service on a primary basis.

(A) The 2390–2395 MHz segment is shared with Federal and non-Federal Government mobile services on a co-equal basis. See 47 CFR 2.106, footnote US276.

(B) Amateur stations operating in the 2400–2417 MHz segment must accept harmful interference that may be caused by the proper operation of industrial, scientific and medical equipment.

* * * * *

[FR Doc. 04–28420 Filed 12–28–04; 8:45 am]

BILLING CODE 6712–01–C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket Nos. 01–338; CC Docket No. 96–98; CC Docket No. 98–147; FCC 04–248]

Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) modifies certain of the unbundling obligations associated with fiber-to-the-curb (FTTC) architectures pursuant to section 251 of the Telecommunications Act of 1996 (1996 Act). Specifically, the Commission concludes that FTTC loops will be subject to the same, limited unbundling obligations governing fiber-to-the-home (FTTH) loops. The Commission further clarifies that incumbent LECs need not build time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that never had TDM capability. In addition, the Order also clarifies that where an incumbent LEC has deployed new FTTH or FTTC loops using packet-based equipment, and they nevertheless need to hand off a signal to some customers in TDM format in order