

distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules is discussed in the August 1, 2005 rule approving the revised Salt Lake City Carbon Monoxide Maintenance Plan and related revisions submitted by the Governor of Utah on October 19, 2004.

The Congressional Review Act (CRA), 5 U.S.C. section 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement, 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the

reasons therefore, and established an effective date of November 25, 2005. 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**. This correction to the identification of plan for Utah is not a "major rule" as defined by 5 U.S.C. section 804(2).

#### List of Subjects in 40 CFR Part 52

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

Dated: October 14, 2005.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

■ 40 CFR part 52 is amended to read as follows:

#### PART 52—[CORRECTED]

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

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

#### Subpart TT—UTAH

##### § 52.2320 [Amended]

■ 2. Section 52.2320 is amended in paragraphs (c)(60) introductory text, (c)(60)(i)(A), and (c)(60)(i)(B) by revising "UACR" to read "UAC" wherever it appears.

[FR Doc. 05-21266 Filed 10-25-05; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[ET Docket No. 00-258; FCC 05-172]

#### Advanced Wireless Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document reallocates the 2155-2160 MHz band for Fixed and Mobile services and designates the 2155-2175 MHz band for Advanced Wireless Service (AWS) use. We continue our ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including Advanced Wireless Services (AWS).

**DATES:** Effective November 25, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Priya Shrinivasan, Office of Engineering & Technology, (202) 418-7005.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Eighth Report and Order*, ET Docket No. 00-258, FCC 05-172, adopted September 23, 2005, and released September 29, 2005. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

#### Summary of the Report and Order

1. In the *Eighth Report and Order* ("Eighth R&O") in ET Docket No. 00-258, the Commission continues its ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including Advanced Wireless Services (AWS). Advanced wireless systems could provide, for example, a wide range of voice, data and broadband services over a variety of mobile and fixed networks. Specifically, the Commission reallocates the 2155-2160 MHz band for Fixed and Mobile services and designates the 2155-2175 MHz band for AWS use.

2. Based on the Commission's determination that additional spectrum is needed for AWS use, and because the characteristics of the 2155-2175 MHz band make it well suited for such use, concludes that designating this band for AWS will promote efficient use of the spectrum and allow for the rapid introduction of high-value services in the band. Because the 2155-2175 MHz band is adjacent to the 2110-2155 MHz and 2175-2180 MHz bands that have already been designated for AWS, an AWS designation for this band will create 70 MHz of contiguous spectrum that will promote the rapid introduction of new technologies and service offerings, and will foster the use of the highest potential spectrum. Furthermore, designation of the 2155-2175 MHz band for AWS use is consistent with the Commission's previous decisions to designate spectrum for AWS on a primary basis to support the types of high powered mobile applications associated with AWS and Broadband PCS expansion. In addition, as proposed, the Commission

allocates the 2155–2160 MHz band to Fixed and Mobile services in order to allow the provision of AWS in this band. Although commenters did not explicitly address the Commission's proposal to add a Mobile allocation to the 2155–2160 MHz band, such support is implicit in their support for redesignating the 2155–2175 MHz band for AWS use because a Mobile allocation is essential for the provision of AWS.

3. The Commission notes that it does not decide here how to assign this new AWS spectrum at 2155–2175 MHz but will consider this issue in a separate service rules proceeding at a later date. It also notes that a current bilateral agreement in the 2155–2160/62 kHz band between the United States and Canada provides for coordinated use of Broadband Radio Service (BRS) and Educational Broadband Service (EBS) along the common border. The sharing of the 2160/62–2175 MHz band between the United States and Canada is covered by Arrangement A of the *Agreement Concerning the Coordination and Use of Radio Frequencies Above Thirty Megacycles per Second*, with Annex, as amended. There are no agreements with Mexico in the 2155–2175 MHz band. Accordingly, the Commission notes that there may be a need to negotiate new or modified agreements to provide for more flexible use of the spectrum with Canada and Mexico along the common borders.

### Final Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act (RFA) <sup>1</sup> an Initial Regulatory Flexibility Analysis was incorporated in the *Third Notice of Proposed Rule Making* (Third NPRM) in ET Docket 00–258, 68 FR 12015, March 13, 2003.<sup>2</sup> The Commission sought written public comment on the proposals in the *Third NPRM*, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

<sup>1</sup> See 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>2</sup> Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, ET Docket No. 00–258, IB Docket No. 99–81, *Third Report and Order, Third Notice of Proposed Rulemaking and Second Memorandum Opinion and Order*, 18 FCC Rcd 2223 (2003).

<sup>3</sup> 5 U.S.C. 604.

### A. Need for, and Objectives of, the Eighth Report and Order

5. The *Eighth Report and Order (Eighth R&O)* reallocates the 2155–2160 MHz band for Fixed and Mobile services and designates the 2155–2175 MHz band for the provision of advanced wireless services (AWS). The *Eighth R&O* is the latest in a series of decisions in ET Docket 00–258 allocating spectrum that can be used for the provision of new and innovative wireless communications services that we have collectively referred to as “AWS.” The provision of this spectrum serves the public interest by promoting the rapid deployment of efficient radio communications facilities and supports the goals of Section 7 of the Communications Act,<sup>4</sup> which sets forth a policy of encouraging the provision of new technologies and services to the public.

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

6. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

### C. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of entities that will be affected by the rules.<sup>5</sup> The RFA defines “small entity” as having the same meaning as the term “small business,” “small organization,” and “small governmental jurisdiction.”<sup>6</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.<sup>7</sup> Under the Small Business Act, a “small business concern” is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).<sup>8</sup>

<sup>4</sup> 47 U.S.C. 157.

<sup>5</sup> 5 U.S.C. 603(b)(3), 604(a)(3).

<sup>6</sup> 5 U.S.C. 601(6).

<sup>7</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in 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, established one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the **Federal Register**.”

<sup>8</sup> 15 U.S.C. 632.

8. *Multipoint Distribution Service, Multichannel Multipoint Distribution Service*. Multichannel Multipoint Distribution Service (MMDS) systems, often referred to as “wireless cable,” transmit video programming to subscribers using the microwave frequencies of Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS).<sup>9</sup> In connection with the 1996 MDS auction, the Commission defined “small business” as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years. The SBA has approved of this standard.<sup>10</sup> The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs).<sup>11</sup> Of the 67 auction winners, 61 claimed status as a small business. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than \$40 million and are thus considered small entities.<sup>12</sup>

9. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution,<sup>13</sup>

<sup>9</sup> Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, *Report and Order*, 10 FCC Rcd 9589, 9593, paragraph 7 (1995) (“*MDS Auction R&O*”). The MDS and ITFS was renamed the Broadband Radio Service (BRS) and Educational Broadband Service (EBS), respectively. *See* Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 MHz Band, WT Docket No. 03–66, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165 (2004).

<sup>10</sup> *See* Letter to Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Gary Jackson, Assistant Administrator for Size Standards, Small Business Administration (dated Mar. 20, 2003) (noting approval of \$40 million size standard for MDS auction).

<sup>11</sup> Basic Trading Areas (BTAs) were designed by Rand McNally and are the geographic areas by which MDS was auctioned and authorized. *See MDS Auction R&O*, 10 FCC Rcd at 9608, paragraph 34.

<sup>12</sup> 47 U.S.C. 309(j). Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of section 309(j) of the Communications Act of 1934, 47 U.S.C. 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard for “other telecommunications” (annual receipts of \$12.5 million or less). *See* 13 CFR 121.201, NAICS code 517910.

<sup>13</sup> 13 CFR 121.201, NAICS code 517510.

which includes all such companies generating \$12.5 million or less in annual receipts.<sup>14</sup> According to Census Bureau data for 1997, there were a total of 1,311 firms in this category that had operated for the entire year.<sup>15</sup> Of this total, 1,180 firms had annual receipts of under \$10 million, and an additional 52 firms had receipts of \$10 million or more but less than \$25 million.<sup>16</sup> Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the proposed rules and policies. Because the Commission's action only affects MDS operations in the 2155–2160/62 MHz band, the actual number of MDS providers who will be affected by the proposed reallocation will only represent a small fraction of these small businesses.

10. *Fixed Microwave Services.* Microwave services include common carrier,<sup>17</sup> private-operational fixed,<sup>18</sup> and broadcast auxiliary radio services.<sup>19</sup> At present, there are approximately 36,708 common carrier fixed licensees and 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of the FRFA, we will use the SBA's definition applicable to Cellular and other Wireless Telecommunications companies—*i.e.*, an entity with no more than 1,500 persons.<sup>20</sup> According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year.<sup>21</sup> Of this

total, 965 firms had employment of 999 or fewer employees, and an additional twelve firms had employment of 1,000 employees or more.<sup>22</sup> Thus, under this size standard, majority of firms can be considered small. We note that the number of firms does not necessarily track the number of licensees. We estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

11. The *Eighth R&O* reallocates the 2155–2160 MHz band and designates the 2155–2175 MHz band to support the introduction of new AWS applications. The item does not propose service rules. The ultimate use of the band will be determined by future proceedings that adopt specific service rules and, more generally, by market forces operating within the framework of such rules. Accordingly, the item contains no new reporting, recordkeeping, or other compliance requirements.

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

12. 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.<sup>23</sup>

13. In the *Eighth R&O*, we decided to provide additional spectrum to support the introduction of AWS because doing so will promote the rapid deployment of efficient radio communications. Another option would have been to not reallocate or designate the 2155–2160 MHz band. We rejected this alternative because doing so would have limited our ability to provide additional spectrum and done little to minimize

the potential economic impact on small entities. Specifically, because incumbent users in the 2155–2160 MHz band are subject to a transition plan adopted in a separate proceeding and would ultimately be required to cease use of spectrum in this band, a decision to not reallocate the spectrum would only have a minimal, short-term effect on incumbent users yet make it much more likely that valuable spectrum resources would lie fallow. Additionally, the provision of additional spectrum that can be used to support AWS can directly benefit small business entities by providing new opportunities for the provision of innovative new fixed and mobile wireless services by such entities.

#### *F. Report to Congress*

14. The Commission will send a copy of the *Eighth R&O*, including this FRFA, in a report to be sent to Congress pursuant to the SBREFA.<sup>24</sup> In addition, the Commission will send a copy of the *Eighth R&O*, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Eighth R&O* and the FRFA (or summaries thereof) will also be published in the **Federal Register**.<sup>25</sup>

#### **Ordering Clauses**

15. Pursuant to Sections 1, 4(i), 7(a), 301, 303(f), 303(g), 303(r), 307, 316, 332 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154(i), 157(a), 301, 303(f), 303(g), 303(r), 307, 316, and 332, this Eighth Report and Order *is Adopted* and that part 2 of the Commission's rules *is amended*, as specified in the regulatory text, effective November 25, 2005.

16. Pursuant to Section 5(c) of the Communications Act, as amended, 47 U.S.C. 155(c), the Office of Engineering and Technology and the Wireless Telecommunications Bureau *Are Granted Delegated Authority* to implement the requirement set forth in this Order.

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

#### **List of Subjects in 47 CFR Part 2**

Communications equipment, Reporting and recordkeeping requirements.

<sup>24</sup> See 5 U.S.C. 801(a)(1)(A).

<sup>25</sup> See 5 U.S.C. 604(b).

<sup>14</sup> *Id.*

<sup>15</sup> U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4 (issued October 2000).

<sup>16</sup> *Id.*

<sup>17</sup> 47 CFR part 101 *et seq.* (formerly, part 21 of the Commission's rules) for common carrier fixed microwave services (except MDS).

<sup>18</sup> Persons eligible under parts 80 and 90 of the Commission's rules can use Private-Operational Fixed Microwave services. See 47 CFR Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

<sup>19</sup> Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's rules. See 47 CFR, part 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

<sup>20</sup> 13 CFR 121.201, NAICS code 517212.

<sup>21</sup> U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Employment Size of

Firms Subject to Federal Income Tax: 1997," Table 5 (issued Oct. 2000).

<sup>22</sup> *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."

<sup>23</sup> 5 U.S.C. 603(c).

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

**Final Rule**

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 2 as follows:

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

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

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

■ 2. Section 2.106, the Table of Frequency Allocations, is amended by revising page 34.

The revisions read as follows:

**§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

**BILLING CODE 6712-01-P**

|  |  |  |  |   |  |
|--|--|--|--|---|--|
| 1930-1970<br>FIXED<br>MOBILE 5.388A 5.388B   | 1930-1970<br>FIXED<br>MOBILE 5.388A 5.388B<br>Mobile-satellite (Earth-to-space)<br>5.388       | 1930-1970<br>FIXED<br>MOBILE 5.388A 5.388B | 1930-1970<br>FIXED<br>MOBILE 5.388A 5.388B | 1850-2000<br>FIXED<br>MOBILE                            | RF Devices (15)<br>Personal Communications (24)<br>Fixed Microwave (101)               |
| 5.388  | 5.388  | 5.388                                      | 5.388                                      |   |  |
| 1970-1980<br>FIXED<br>MOBILE 5.388A 5.388B   |  |  |  | NG177   | Satellite Communications (25)  |
| 1980-2010<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space) 5.351A   |  |  |  | 2000-2020<br>MOBILE-SATELLITE<br>(Earth-to-space) US380 |  |
| 5.388 5.389A 5.389B 5.389F   |  |  |  | NG156   |  |
| 2010-2025<br>FIXED<br>MOBILE 5.388A 5.388B   | 2010-2025<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (Earth-to-space)<br>5.388 5.389C 5.389E 5.390 | 2010-2025<br>FIXED<br>MOBILE 5.388A 5.388B | 2010-2025<br>FIXED<br>MOBILE 5.388A 5.388B | 2020-2025<br>FIXED<br>MOBILE                            |  |
| 5.388  | 5.388  | 5.388                                      | 5.388                                      | NG177   |  |
| 2025-2110<br>SPACE OPERATION (Earth-to-space) (space-to-space)<br>EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space)<br>FIXED<br>MOBILE 5.391<br>SPACE RESEARCH (Earth-to-space) (space-to-space) |  |  |  | 2025-2110<br>FIXED NG118<br>MOBILE 5.391                | TV Auxiliary Broadcasting (74F)<br>Cable TV Relay (78)<br>Local TV Transmission (101J) |
| 5.392  |  |  |  | 5.392 US90 US222 US346<br>US347 US393                   |  |
| 2110-2120<br>FIXED<br>MOBILE 5.388A 5.388B<br>SPACE RESEARCH (deep space) (Earth-to-space)   |  |  |  | 2110-2120<br>FIXED<br>MOBILE                            | Public Mobile (22)<br>Wireless Communications (27)<br>Fixed Microwave (101)            |
| 5.388  |  |  |  | US252   |  |
| 2120-2160<br>FIXED<br>MOBILE 5.388A 5.388B   | 2120-2160<br>FIXED<br>MOBILE 5.388A 5.388B<br>Mobile-satellite (space-to-Earth)<br>5.388       | 2120-2170<br>FIXED<br>MOBILE 5.388A 5.388B | 2120-2170<br>FIXED<br>MOBILE 5.388A 5.388B | US252<br>2120-2180<br>FIXED<br>MOBILE                   |  |
| 5.388  | 5.388  | 5.388                                      | 5.388                                      |   |  |
| 2160-2170<br>FIXED<br>MOBILE 5.388A 5.388B   | 2160-2170<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth)<br>5.388 5.389C 5.389E 5.390 |  |  | 2180-2200<br>MOBILE-SATELLITE<br>(space-to-Earth) US380 | Satellite Communications (25)  |
| 5.388 5.392A   | 5.388 5.389C 5.389E 5.390  |  | 5.388                                      | NG153 NG178   |  |
| 2170-2200<br>FIXED<br>MOBILE<br>MOBILE-SATELLITE (space-to-Earth) 5.351A   |  |  |  | 2180-2200<br>MOBILE-SATELLITE<br>(space-to-Earth) US380 |  |
| 5.388 5.389A 5.389F 5.392A   |  |  |  | NG168   |  |

\* \* \* \* \*

[FR Doc. 05-21406 Filed 10-25-05; 8:45 am]

BILLING CODE 6712-01-C

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 2**

[ET Docket No. 00-258; FCC 05-172]

**Advanced Wireless Services****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission requires Broadband Radio Service (BRS) licensees in the 2150-2160/62 MHz band to provide information on the construction status and operational parameters of each incumbent BRS system that would be the subject of relocation.

**DATES:** Effective October 26, 2005.

**FOR FURTHER INFORMATION CONTACT:** Priya Shrinivasan, Office of Engineering & Technology, (202) 418-7005.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order*, ET Docket No. 00-258, FCC 05-172, adopted September 23, 2005, released September 29, 2005. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

**Summary of the Order**

1. In order to assist the Commission in determining the scope of the new Advanced Wireless Services (AWS) entrants' obligation to relocate certain incumbent licensees in the 2150-2162 MHz band, the Commission will require Broadband Radio Service (BRS) licensees in the 2150-2160/62 MHz band to provide the information to the Commission within 60 days and 120 days of the effective date of this *Order* (the filing dates will correspond to information collection requirements for the Commission's Universal Licensing System). The Commission reallocated this spectrum for AWS by Report and Order, 68 FR 3455, January 24, 2003,

and the accompanying Eighth Report and Order in ET Docket No. 00-258, FCC 05-172. Currently, neither the Commission nor the public has reliable information on the construction status and/or operational parameters of each BRS system in the 2150-2160/62 MHz band that would be subject to relocation. Pursuant to Section 4(i) of the Communications Act, 47 U.S.C. 154(i), the Commission believes that reliable, public data on each incumbent system that would be subject to relocation is essential well in advance of the planned auction of the 2150-2155 MHz band next year. It notes that the information required would ultimately be necessary in the context of relocation negotiations. Because the Commission now licenses the BRS service on the basis of geographic licensing areas, BRS licensees will be required to submit information on the locations and operating characteristics of BRS systems (e.g., the location of base or fixed stations by coordinates, tower heights, power levels, etc.) in the 2150-2160/62 MHz band, on other system characteristics of BRS incumbents (e.g., subscriber numbers and types of equipment used), and on categories of services provided (e.g., one-way or two-way service, point-to-point or point-to-multipoint operations, data or analog video service). The Commission also will require BRS licensees to provide this information even if the spectrum is leased to third parties. Further, because the Commission proposes relocation on a link-by-link basis, BRS licensees will be required, as part of the information on system design in the band, to provide the number of links (including the connection between a base station and subscriber premises equipment) within the system for both point-to-point and point-to-multipoint systems. To the extent that a system uses both BRS channels 1 and 2 as part of the same service (e.g., as a link to a two-way data service), BRS licensees will be required to make special note of this when providing their system information. The Commission notes that this list is not inclusive. This information will be collected through the Commission's Universal Licensing System (ULS) and made available to the public. To further this process, the Commission has delegated authority to the Office of Engineering and Technology and the Wireless Telecommunications Bureau to issue public notices setting forth the specific data required of BRS licensees, when it is to be filed and the procedures for filing this information. Finally, the Commission finds that there is good cause to make the requirement for BRS

licensees to file information effective upon publication of the *Order* in the **Federal Register**. The Commission has provided BRS licensees with ample time to file the required information and the ability to use the ULS to submit the information easily. As noted, reliable data on each incumbent system that would be subject to relocation is essential well in advance of the planned auction of the 2150-2155 MHz band next year.

2. Pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. 154(i), this *Order* is adopted, October 26, 2005. The *Order* contains information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, that are not effective until approved by the Office of Management and Budget (OMB).

3. Pursuant to Section 5(c) of the Communications Act, as amended, 47 U.S.C. 155(c), the Office of Engineering and Technology and the Wireless Telecommunications Bureau *Are Granted Delegated Authority* to implement the requirement set forth in this *Order*.

Federal Communications Commission.

**Marlene H. Dortch,***Secretary.*

[FR Doc. 05-21408 Filed 10-25-05; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 64**

[CC Docket No. 98-170 and CG Docket No. 04-208; FCC 05-55]

**Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing****AGENCY:** Federal Communications Commission.**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved for three years the information collections contained in the *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking (Second Report and Order)*. The information collections contained in the *Second Report and*