

**PART 20—COMMERCIAL MOBILE RADIO SERVICES**

1. The authority citation for part 20 continues to read as follows:

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

2. Section 20.18 is amended by revising paragraphs (d)(1) and (j) to read as follows:

**§ 20.18 911 Service.**

\* \* \* \* \*

(d) *Phase I enhanced 911 services.* (1) As of April 1, 1998, or within six months of a request by the designated Public Safety Answering Point as set forth in paragraph (j) of this section, whichever is later, licensees subject to this section must provide the telephone number of the originator of a 911 call and the location of the cell site or base station receiving a 911 call from any mobile handset accessing their systems to the designated Public Safety Answering Point through the use of ANI and Pseudo-ANI.

\* \* \* \* \*

(j) *Conditions for enhanced 911 services.* The requirements set forth in paragraphs (d) through (h) of this section shall be applicable only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the Public Safety Answering Point's costs of the enhanced 911 service is in place.

\* \* \* \* \*

[FR Doc. 99–33391 Filed 12–28–99; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 36 and 54**

[CC Docket No. 96–45; FCC 99–306]

**Federal-State Joint Board on Universal Service**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document announces the effective date of the rules governing its existing support mechanism to ensure that support for rural carriers is not substantially changed when non-rural carriers are removed from that mechanism and transitioned to the new forward-looking support mechanism.

The document was published in the **Federal Register** on December 1, 1999. Some of the rules contained information collection requirements.

**DATES:** The amendments to 47 CFR 36.611(h), 36.612, 54.307(b), (c), 54.309(c), 54.311(c), and 54.313 published at 64 FR 67416 (December 1, 1999) became effective on December 15, 1999.

**FOR FURTHER INFORMATION CONTACT:** Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

**SUPPLEMENTARY INFORMATION:** On October 21, 1999, the Commission adopted an order adopting a new specific and predictable forward-looking mechanism that will provide sufficient support to enable affordable, reasonably comparable intrastate rates for customers served by non-rural carriers. That document also addressed specific methodological issues relating to the calculation of forward-looking support, including the area over which costs should be averaged; the level of the national benchmark; the amount of support to be provided for costs above the national benchmark; the elimination of the state share requirement; and the targeting of the statewide support amount. A summary was published in the **Federal Register**. See 64 FR 67416, December 1, 1999. Some of the rules contained information collection requirements. We stated that the “rules contain information collections that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these rules.” The information collections were approved by OMB on December 2, 1999. See OMB Nos. 3060–0233, 3060–0774 and 3060–0894. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules. It also modifies the rules governing our existing support mechanism to ensure that support for rural carriers is not substantially changed when non-rural carriers are removed from that mechanism and transitioned to the new forward-looking support mechanism.

**List of Subjects***47 CFR Part 36*

Reporting and recordkeeping requirements, Telephone.

*47 CFR Part 54*

Universal service.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 99–33767 Filed 12–28–99; 8:45 am]

BILLING CODE 6712–01–U

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 95**

[WT Docket No. 98–169; FCC 99–372]

**Rules to Provide Regulatory Flexibility in the 218–219 MHz Service**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission modifies the restructuring plan adopted in the 218–219 MHz final rule document. The purpose of the modification is to remove a provision whereby an eligible licensee participating in the restructuring plan can obtain a seventy-percent credit on its down payment and forego, for a period of two years, eligibility to acquire the surrendered licenses. It was not the Commission's intent to adopt the seventy-percent credit and the intended effect is to correct the prior error.

**DATES:** Effective December 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Andrea Kelly, Wireless Telecommunications Bureau, Auctions and Industry Analysis Division (202) 418–0660.

**SUPPLEMENTARY INFORMATION:** 1. This *Order on Reconsideration* in WT Docket 98–169 was adopted November 24, 1999 and released November 30, 1999. The document is available, in its entirety, for inspection and copying during normal business hours in the FCC Reference Center, (Room CY–A257), 445 12th Street, SW, Washington, DC 20554. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800. In addition, it is available on the Commission's website at <http://www.fcc.gov/Bureaus/Wireless/Orders>.

**Synopsis***I. Background*

2. In the *218–219 MHz Report and Order* 64 FR 59656 (November 3, 1999), the Commission adopted a restructuring plan for existing 218–219 MHz licensees. These licensees were current in installment payments (*i.e.* less than ninety days delinquent) as of March 16, 1998, or those licensees that had properly filed grace period requests

under the former installment payment rule. ("Eligible Licensees"). The restructuring plan offered three options to provide specific relief for licensees that wish to retain their license but are experiencing financial hardship or that wish to return their licenses due to an inability to assume their financial responsibilities. The three options are: (a) Reamortization and Resumption of Payments; (b) Amnesty, and (c) Prepayment, whereby an Eligible Licensee may prepay the principal of any license it wishes to retain with cash and prepayment credits generated from down payments on spectrum returned to the Commission and any installment payments previously made. The Commission's order allowed an Eligible Licensee electing the Amnesty option to choose either to receive no credit for its down payment, but remain eligible to bid on the surrendered licenses when they are subsequently offered in auction, with no restriction on after-market acquisitions; or obtain a credit for seventy percent of its down payment and forego for a period of two years, from the start date of the next auction of the 218–219 MHz Service, eligibility to reacquire the surrendered licenses through either auction or any secondary market transaction.

## II. Discussion

3. It was not the Commission's original intent to adopt the seventy percent credit proposed in the *218–219 MHz Flex NPRM*, 63 FR 52215 (September 30, 1998) therefore, on its own motion, for the following reasons, the Commission corrects the prior error. On review, it is apparent that, under the Amnesty option, allowing an Eligible Licensee to obtain credit for its down payment and forego reacquiring surrendered licenses for a period of two years is inconsistent with our responsibility to protect the integrity of the auction program and promote new and innovative uses of spectrum. Giving a seventy percent credit on down payments associated with returned spectrum, without an adequate counterbalancing public interest benefit, would undermine the integrity of the auction process by relieving participants of even the most basic obligation of their participation.

4. However, the Commission recognizes that it allows for a credit on down payments in other portions of the *218–219 MHz Report and Order*. Specifically, an Eligible Licensee who elects the Prepayment option is eligible for an eighty-five percent credit on its down payment. It is important to note that an Eligible Licensee who elects the prepayment option is providing a public

benefit through early payment of its financial obligations. Nevertheless, under the Prepayment option, the Commission retains an amount equal to the three-percent default payment. (Fifteen percent of the twenty-percent down payment equals three percent of the purchase price.) Thus, as an Eligible Licensee electing the Amnesty option is not providing the same public benefit, it would not be in the public interest to allow it a seventy-percent credit on its down payment. Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services, (PCS), *Order on Reconsideration of the Second Report and Order*, 63 FR 17111 (April 8, 1998) ("*C Block Reconsideration Order*").

5. The *218–219 MHz Report and Order* increased the flexibility of the 218–219 MHz service and extended the license term in order to encourage new and innovative uses in the marketplace and expedite service to the public. In the *218–219 MHz Report and Order*, the only restriction on reacquisition applied to those Eligible Licensees opting for the seventy percent credit. Thus, as the seventy percent credit is no longer available, Eligible Licensees electing Amnesty will not be precluded from reacquiring licenses at auction or in the secondary market. This result is appropriate as Eligible Licensees electing amnesty may still have viable business plans to implement based on spectrum they may acquire in future auctions or in the secondary market. A two-year restriction on the acquisition of certain spectrum may negatively impact an otherwise viable business plan. The Commission's action in this *Order on Reconsideration* moots the comments of EON Corporation seeking to broaden the disqualification period to exclude the future acquisition of any 218–219 MHz Service licenses to be auctioned in the ensuing two-year period. As the Commission stated in the *218–219 MHz Report and Order*, limiting the reacquisition of spectrum or acquisition of additional spectrum by Eligible Licensees would not be in the public interest.

6. The Commission modifies the *218–219 MHz Report and Order*. Therefore, while the Commission will not give Eligible Licensees electing amnesty a credit for down payments associated with spectrum returned to the Commission, neither will it limit the reacquisition of spectrum or the acquisition of additional spectrum.

## III. Ordering Clauses

7. Accordingly, it is ordered that, pursuant to § 1.108 of the Commission's

rules, 47 CFR 1.108, the Commission reconsiders on its own motion the decision in Amendment of part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, *Report and Order and Memorandum Opinion and Order*, WT Docket No. 98–169, FCC 99–239 regarding amnesty and resumption of payment in the 218–219 MHz service, as detailed herein.

## IV. Supplemental Final Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act ("RFA"),<sup>1</sup> an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the Amendment of part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service and Amendment of part 95 of the Commission's Rules to Allow Interactive Video and Data Service Licensees to Provide Mobile Services, *218–219 MHz Flex NPRM*. The Commission sought written public comment on the proposals in the *218–219 MHz Flex NPRM*, including comment on the IRFA. A Final Regulatory Flexibility Analysis ("FRFA") was included in the Amendment of part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service, *218–219 MHz Report and Order*. In this *Order on Reconsideration*, we issue this supplemental Final Regulatory Flexibility Analysis ("supplemental FRFA") which conforms to the RFA.

## V. Need for, and Objectives of, The Order on Reconsideration

9. In the *218–219 MHz Report and Order*, among other things, we adopted a restructuring plan for existing 218–219 MHz licensees that were current in installment payments (*i.e.* less than ninety days delinquent) as of March 16, 1998, or those licensees that had properly filed grace period requests under the former installment payment rule. ("Eligible Licensees"). The restructuring plan offered three options to provide specific relief for licenses that wish to retain their license, but are experiencing financial hardship, or that wish to return their licenses due to an inability to assume their financial responsibilities. Under one of these options, Amnesty, an Eligible Licensee could choose either to receive no credit

<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, Public Law 104–121, 110 Stat. 847 (1996) ("CWA"). Title II of the CWA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

for its down payment, but remain eligible to bid on the surrendered licenses when they are subsequently offered in auction, with no restriction on after-market acquisitions; or obtain a credit for seventy percent of its down payment and forego for a period of two years, from the start date of the next auction of the 218–219 MHz Service, eligibility to reacquire the surrendered licenses through either auction or any secondary market transaction.

10. On review, it is apparent that, under the Amnesty option, allowing an Eligible Licensee to obtain credit for its down payment and forego reacquiring surrendered licenses for a period of two years is inconsistent with our responsibility to protect the integrity of the auction program and promote new and innovative uses of spectrum. Giving a seventy percent credit of the down payments associated with returned spectrum would undermine the integrity of the auction process by relieving participants of even the most basic obligation of their participation. Further, a two-year restriction on the reacquisition of the surrendered license unduly restricts the number of potential licenses, and is inconsistent with a fair and equitable auction process.

#### VI. Summary of Significant Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis

11. Previously, no petitions were filed in direct response to the IRFA or the FRFA in this proceeding. Thus, on our own motion, we have issued this *218–219 MHz Reconsideration Order*.

#### VII. Description and Estimate of the Number of Small Entities to Which the Rules Apply

12. Previously, in the FRFA, pursuant to the RFA, we provided a detailed description and estimate of the number of small entities that may be affected by the proposed rules, if adopted. We noted that the *218–219 MHz Report and Order* affects a number of small entities who are either licensees, or who may choose to become applicants for licenses, in the 218–219 MHz Service. Such entities fall into two categories. The first category consists of those using the 218–219 MHz Service for providing interactivity capabilities in conjunction with broadcast services. In the FRFA, with respect to the first category, we estimated that the number of small business entities operating in the 218–219 MHz band for interactivity capabilities with television viewers in the 218–219 MHz Service which will be subject to the rules will be less than 612. The second category consists of those

using the 218–219 MHz Service to operate other types of wireless communications services with a wide variety of uses, such as commercial data applications and two-way telemetry services. In the FRFA, with respect to the second category, we estimated that the number of small entities that would provide wireless communications services other than that described herein would be 247 or less.

13. On January 6, 1998, the SBA approved of the small business size standards established in the *Competitive Bidding Tenth Report and Order*.<sup>2</sup> As we described in the FRFA, the first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (“MSA”) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business.

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

14. Previously, in the FRFA to the *218–219 MHz Report and Order*, we adopted rules altering the reporting and recordkeeping requirements for a number of small business entities. The rules changed the obligations of 218–219 MHz Service licensees with respect to license renewal, construction reports, and acquisitions by partitioning or disaggregation. As we noted in the FRFA, the *218–219 MHz Report and Order* contained three options relevant to some small businesses that will alter their reporting and recordkeeping requirements. Our reconsideration order is relevant only to the second option. Specifically, non-defaulting 218–219 MHz Service licensees currently participating in the installment payment plan may elect one of three restructuring plans concerning their outstanding payments. However, our reconsideration order does not alter any reporting, recordkeeping, or other compliance requirements contained in the *218–219 MHz Report and Order*.

#### IX. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. As we described in detail in the FRFA to the *218–219 MHz Report and Order*, we adopted final rules designed to maximize opportunities for participation by, and growth of, small businesses in providing wireless services. We noted that we expected that the extension of license terms from five to ten years and allowing

partitioning and disaggregation of licenses will specifically assist small businesses. We also noted that the *218–219 MHz Report and Order* contained provisions, such as liberalization of construction requirements and technical restrictions, and elimination of the cross-ownership restriction, that will assist all licensees, including small business licensees.

16. In this *Order on Reconsideration*, we change the options available to those small businesses electing the Amnesty option in the restructuring plan. The *218–219 MHz Report and Order* allowed an Eligible Licensee electing the Amnesty option to choose either to receive no credit for its down payment, but remain eligible to bid on the surrendered licenses when they are subsequently offered in auction, with no restriction on after-market acquisitions; or obtain a credit for seventy percent of its down payment and forego for a period of two years, from the start date of the next auction of the 218–219 MHz Service, eligibility to reacquire the surrendered licenses through either auction or any secondary market transaction. We recognize that some commentators proposed a more liberal amnesty option. However, we believe that eliminating all adverse financial consequences of a licensee’s decision to participate in the auction would be contrary to a fair and equitable auction process. Further, it might encourage future licensees to participate in an auction under the assumption that the Commission will relieve it of the most basic obligations of participation in an auction, if, in the future, its business plans do not prove profitable. Thus, we will not provide the licensees with a seventy percent down payment credit. However, to the extent that a licensee believes that it can create a valuable business with the same license, if its debt burden were smaller, it will not be precluded from acquiring the license at auction, or in any secondary market transaction. For these reasons, we did not consider any significant alternatives to our proposals to minimize significant economic impact on small entities.

17. *Report to Congress:* The Commission will send a copy of the *Order on Reconsideration*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Order on Reconsideration*, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

<sup>2</sup> See Letter to Daniel B. Phythyon, Chief, WTB, from Aida Alvarez, Administrator, SBA, Dated Jan. 6, 1998.

**List of Subjects in 47 CFR Part 95**

Communications equipment, Penalties, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 99-33768 Filed 12-28-99; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****49 CFR Chapter III and Part 301**

[Docket No. OST-2000-6698]

**Motor Carrier Safety Regulations; Revision of Chapter Heading and Removal of CFR Part**

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Final rule.

**SUMMARY:** This document amends the heading for chapter III concerning motor carrier safety regulations. On October 9, 1999, the Secretary of Transportation (Secretary) rescinded the authority previously delegated to the Federal Highway Administrator to perform motor carrier functions and operations, and to carry out the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code; and redelegated that authority to the Director, Office of Motor Carrier Safety, a new office within the Department of Transportation (Department). The title of chapter III, therefore, was changed from "Federal Highway Administration, Department of Transportation" to "Office of Motor Carrier Safety, Department of Transportation" on October 29, 1999. On December 9, 1999, the Motor Carrier Safety Improvement Act of 1999 established a new administration—the Federal Motor Carrier Safety Administration (FMCSA)—within the Department to improve the motor carrier safety program, effective January 1, 2000. Accordingly, the title of chapter III is now being changed from "Office of Motor Carrier Safety, Department of Transportation" to "Federal Motor Carrier Safety Administration, Department of Transportation" to reflect the statutory changes noted above. The document also removes regulations that reference the organizational structure of the Federal Highway Administration (FHWA) so that new regulations may be added for the FMCSA.

**EFFECTIVE DATE:** This final rule is effective on January 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590; or Ms. Cindy Walters, Office of the General Counsel, (202) 366-9314, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:****Electronic Access**

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the **Federal Register's** home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

**Background**

Section 338 of the Department of Transportation Appropriations Act, FY2000 [Public Law 106-69, 113 Stat. 986, at 1022 (October 9, 1999)] prohibits the expenditure of any funds appropriated by that Act "to carry out the functions and operations of the Office of Motor Carriers within the Federal Highway Administration" (FHWA). Section 338 further provides that, if the authority of the Secretary on which the functions and operations of the Office of Motor Carriers are based is redelegated outside the FHWA, the funds available to that office under the Act may be transferred and expended to support its functions and operations.

On October 9, 1999, the Secretary rescinded the authority previously delegated to the FHWA Administrator to carry out motor carrier functions and operations, and to carry out the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, U.S.C.; and redelegated that authority to the Director, Office of Motor Carrier Safety, a new office within the Department (64 FR 56270 and 64 FR 58356). Thus, the heading for chapter III, title 49 of the CFR, was changed from "Chapter III—Federal Highway Administration, Department of Transportation" to "Chapter III—Office of Motor Carrier Safety, Department of Transportation" on October 29, 1999 (64 FR 58355).

Section 101, title I, of the Motor Carrier Safety Improvement Act of 1999 (Public Law 106-159, 113 Stat. 1748 (December 9, 1999)) established a new administration—the Federal Motor

Carrier Safety Administration—to improve the motor carrier safety program, effective January 1, 2000. Accordingly, the heading for chapter III, title 49 of the CFR, is now changed to read "Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation."

The new FMCSA includes the following headquarters offices: the Office of Motor Carrier Research and Standards, the Office of Data Analysis and Information Systems, the Office of Motor Carrier Enforcement, the Office of Policy and Program Management, the Office of National and International Safety Programs, the Office of Technology Evaluation and Deployment, and the Office of Program Evaluation. In addition, the motor carrier functions of the former OMCS's Resource Centers and Division (i.e., State) Offices have been transferred to FMCSA Resource Centers and FMCSA Division Offices, respectively. Rulemaking, enforcement, and other activities of the former OMCS will be continued by the new administration. The action will cause no changes in the motor carrier functions and operations of the offices or resource centers listed above. For the time being all phone numbers and addresses are unchanged. Accordingly, this rule will also remove part 301 of chapter III (which references the organizational structure of the FHWA) and reserve this part so that new regulations may be added for the FMCSA.

This rule is being published as a final rule and made effective on January 1, 2000. As the rule relates to Departmental organization, procedure, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). This action makes no substantive changes to the motor carrier safety regulations. It simply provides a chapter heading change to 49 CFR chapter III, and removes certain regulations that reference the organizational structure of the FHWA. Therefore, prior notice and opportunity to comment are unnecessary and that good cause exists to dispense with the 30-day delay in the effective date requirement so that the Federal Motor Carrier Safety Administration may administer its regulations pursuant to the statutory changes noted above.

**List of Subjects in 49 CFR Part 301**

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing and under the authority of 49 U.S.C. 301 and 322, Public Law 106-159, 113 Stat. 1748, and 49 CFR 1.73, chapter III of