

³This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

⁴The income tax rate for North Dakota is 14 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302-11.8(e)(2)(iii).

⁵The income tax rate for Rhode Island is 27.5 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302-11.8(e)(2)(iii).

⁶The income tax rate for Vermont is 25 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302-11.8(e)(2)(iii).

APPENDIX C TO PART 302-11—FEDERAL TAX TABLES FOR RIT ALLOWANCE—YEAR 2

* * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1996

The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, or 1995.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
	15	\$6,885	\$31,807	\$12,295	\$45,572	\$17,027	\$59,055	\$8,229	$29,600
28	31,807	70,867	45,572	105,805	59,055	123,190	29,600	61,245
31	70,867	144,170	105,805	168,990	123,190	179,414	61,245	90,611
36	144,170	292,883	168,990	301,968	179,414	295,681	90,611	150,779
39.6	292,883	.....	301,968	.....	295,681	.....	150,779	.....

APPENDIX D TO PART 302-11—PUERTO RICO TAX TABLES FOR RIT ALLOWANCE

* * * * *

PUERTO RICO MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1995

The following table is to be used to determine the Puerto Rico marginal tax rate for computation of the RIT allowance as prescribed in § 302-11.8(e)(4)(i).

Marginal tax rate (percent)	Single filing status		Any other filing status	
	Over	But not over	Over	But not over
12 .....	.....	.....	.....	\$25,000
18 .....	.....	\$25,000	.....	.....
31 .....	.....	.....	\$25,000	\$50,000
33	\$25,000	.....	\$50,000	.....

Dated: January 5, 1996.
 Roger W. Johnson,
 Administrator of General Services.
 [FR Doc 96-2154 Filed 2-1-96;8:45am]
 BILLING CODE 6820-24-F

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 90**

[PR Docket No. 89-552, GN Docket No. 93-252; FCC 96-27]

Wireless Telecommunications Services; Private Land Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a procedure that will enable 220 MHz licensees to modify their licenses to relocate their authorized base stations at currently unauthorized locations. The Commission also extends the current February 2, 1996, construction deadline to March 11, 1996, for all non-nationwide 220 MHz licensees that elect to construct their base station at their currently authorized location, and to August 15, 1996, for all licensees granted authority to modify their licenses to relocate their base station. The action adopted in this *Second Report and Order* is needed to provide existing 220 MHz licensees with the flexibility they need to complete construction of their systems and provide service. This *Second Report and Order* contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

EFFECTIVE DATE: The extensions of the construction deadline is effective January 26, 1996. The rule amendments are effective March 4, 1996. Letters of intent and modification applications may be filed after March 4, 1996. Written comments by the public on the proposed and/or modified information collections are due by February 23, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before March 1, 1996.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain,

OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Marty Liebman, 202-418-1310, or Mary Woytek, 202-418-1066. For additional information concerning the information collections contained in this *Second Report and Order* contact Dorothy Conway at 202-418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Second Report and Order* in PR Docket No. 89-552 and GN Docket No. 93-252, FCC 96-27, adopted January 26, 1996, and released January 26, 1996. The complete text of this *Second Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Second Report and Order

The Commission adopts a procedure that will enable 220 MHz licensees to modify their licenses to relocate their authorized base stations to currently unauthorized locations. Under this procedure, licensees with base stations authorized inside any Designated Filing Area (DFA) will be permitted to relocate their base stations up to one-half the distance over 120 kilometers (km) toward any authorized co-channel base station, to a maximum distance of 8 km. Licensees with base stations authorized outside the boundaries of any DFA will be permitted to relocate their base stations up to one-half the distance over 120 km toward any authorized co-channel base station, to a maximum distance of 25 km, so long as they do not locate their base station more than 8 km inside the boundaries of any DFA. A licensee will be permitted to relocate its base station less than 120 km from the base station of a co-channel licensee or more than one-half the distance over 120 km toward the base station of a co-channel licensee only with the consent of that licensee.

The Commission also extends the current February 2, 1996, construction deadline to March 11, 1996, for all non-nationwide 220 MHz licensees that elect to construct their base station at their currently authorized location, and to August 15, 1996, for all licensees granted authority to modify their licenses to relocate their base stations.

Licensees seeking authority to modify their authorizations to relocate their base stations may file, by March 11, 1996, a statement of their intention to file an application requesting such modification, and will be required to file a modification application by no later than May 1, 1996. The Commission believes that the procedures adopted in this Order will provide existing 220 MHz licensees flexibility to complete construction of their systems and provide service. At the same time, the Commission believes its decision will not unreasonably impair the opportunity of potential licensees to obtain licenses in the 220 MHz service.

The Commission began accepting applications for 220 MHz licenses on May 1, 1991, and on May 24, 1991, after receiving over 59,000 applications, imposed a freeze on the filing of all initial and modification applications for the 220 MHz service—a freeze that remains in effect today. Since then, the Commission has issued authorizations to approximately 3,800 licensees to operate "non-nationwide" 220 MHz stations. A number of 220 MHz licensees have asked to be permitted to file modification applications to relocate their stations to currently unauthorized sites. In response, the Commission released, on August 29, 1995, the *Fourth Notice of Proposed Rulemaking* in this proceeding (*Fourth NPRM*), 60 FR 46566, September 7, 1995) proposing a procedure to enable existing licensees in the 220 MHz service to seek modification of their authorizations to relocate their base stations.

While the Commission is ordinarily reluctant to open a "license modification only" filing window, where the applications of initial applicants would not be accepted, it recognizes that the 220 MHz service is unique. *Evans v. Federal Communications Commission, Order, per curiam*, Case No. 92-1317 (D.C. Cir. March 18, 1994), effectively placed all of the more than 3,000 authorizations the Commission granted in the 220 MHz service in doubt for nearly a two-year period, and caused many licensees to refrain from constructing their stations. Following the settlement of the case, the deadline for licensees to construct their systems and place them in operation was extended on four separate occasions to allow licensees sufficient time to construct their systems. However, with several years having passed since 220 MHz licensees filed their applications, many licensees have found that, for various reasons, they are unable to construct at their authorized locations. In light of these circumstances, the Commission is adopting a modification

procedure which will provide these licensees an opportunity to construct their radio stations and offer mobile communications service to the public. The Commission believes that this modification procedure will also increase the number of potential users of the 5 kHz narrowband radio equipment and thus help to promote the development and implementation of this spectrally efficient technology.

The Commission will afford non-nationwide 220 MHz licensees the opportunity to relocate their authorized base stations by filing modification applications under the following procedure:

(1) A licensee with an authorized base station located in a DFA will be permitted to relocate its base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 8 km.

(2) A licensee with an authorized base station not located in a DFA may relocate its base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 25 km, so long as it does not locate its base station more than 8 km inside of any DFA (i.e., not more than 8 km from the nearest DFA boundary line).

(3) The application of a licensee proposing a modification to relocate its base station at least 120 km from each co-channel licensee's initially authorized base station but more than one-half the distance over 120 km toward the base station of a co-channel licensee will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the modification application.

(4) The application of a licensee proposing a modification resulting in less than 120 km separation from a co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the modification application.

(5) Any modification application that does not meet these standards will be considered defective and dismissed. All licensees applying for modification of their authorization must also ensure that they comply with all applicable technical and operational rules (e.g., Section 90.723(d) and Section 90.729 of the Commission's Rules).

While the Commission believes that this decision will accommodate the needs of most 220 MHz licensees to relocate their base stations, we

recognize that in certain areas of the Nation it is possible that the technical characteristics of base station sites available under our relocation procedure may be considerably inferior to the technical characteristics of currently licensed sites and sites that may exist at nearby, more elevated locations. Because of their unique terrain features, the Commission has historically treated licensees authorized to serve these areas differently than licensees authorized elsewhere in the Nation. The Commission therefore believes that it would be appropriate to entertain waiver requests by licensees authorized in any urban areas with such unique terrain features, to relocate their stations to sites at higher elevations that may be situated more than 8 km (or 25 km, for licensees authorized outside DFAs) from their authorized location. A licensee seeking such a waiver of Section 90.753 of the Commission's Rules must provide: (1) A showing that the terrain in question does, in fact, present unique technical and operational problems; and (2) a technical analysis demonstrating that in relocating its base station to its desired location at a higher elevation, the licensee will provide service to substantially the same geographic area it was authorized to serve pursuant to its initial application.

The Commission notes that there are five groups of applications (totalling 34 applications) that were filed on the last day 220 MHz applications were accepted in May 1991, and that remain pending before the Commission. These applications are mutually exclusive with one another and, in each of the five groups, the applicants have requested the same base station locations. How these 34 applications are to be ultimately processed is a matter raised in the context of the *Third Notice of Proposed Rulemaking (Third NPRM)* in this Docket (60 FR 46564, September 17, 1995). Prior to reaching decisions in that proceeding, the Commission will not take any action in this *Second R&O* that would affect the rights of these applicants, either positively or negatively, to be licensed or, once licensed, to take advantage of the relocation options being afforded to other existing 220 MHz licensees. The Commission's analysis indicates that if we were to allow certain existing 220 MHz licensees, located between 120 km and 170 km from one of the five base station locations, to relocate under the modification procedure as though these pending applications did not exist, the licensees granted licenses at these locations, once authorized, would not

be able to relocate their base stations under the procedure. The Commission will therefore require the following licensees to ensure that, in seeking relocation of their base stations pursuant to this *Second R&O*, they comply with our modification procedure by protecting a possible co-channel station at the following locations.

The following licensees must protect a possible co-channel licensee at coordinates N 30.5221, W 083.2036:

Licensee (Call Sign) Distance to Coordinates (km)

WPCB732	163.87
WPCW990	163.87

The following licensees must protect a possible co-channel licensee at coordinates N 36.3628, W 121.0951:

Licensee (Call Sign) Distance to Coordinates (km)

WPCY266	140.77
WPCA288	140.77
WPCV737	140.90
WPCX490	140.77
WPCW812	140.90
WPCX487	140.77
WPBU519	140.77
WPBZ605	154.53
WPCW456	154.53
WPCX473	163.16
WPCY621	123.67
WPCK365	123.67
WPCR214	123.67
WPCX477	165.01
WPCW482	156.40
WPCJ969	168.09
WPCX469	157.27

The following licensees must protect a possible co-channel licensee at coordinates N 42.1551, W 089.0155:

Licensee (Call Sign) Distance to Coordinates (km)

WPBU711	123.19
WPCM336	123.19
WPCX791	123.19
WPCD923	123.45
WPCA452	120.23
WPCT282	126.45
WPCK616	130.69
WPCA720	125.51
WPCA717	125.51
WPCA301	152.08
WPDG617	143.76
WPCV785	152.08
WPDH432	143.76
WPCB933	143.76
WPDR932	123.19

The following licensees must protect a possible co-channel licensee at coordinates N 33.2753, W 080.5642:

Licensee (Call Sign) Distance to Coordinates (km)

WPCC592	126.82
WPCQ606	126.82
WPBR454	137.48

WPCK496	158.29
WPCP569	158.29
WPDG323	163.37

The following licensees must protect a possible co-channel licensee at coordinates N 35.0658, W 078.5558:

Licensee (Call Sign) Distance to Coordinates (km)

WPCD332	138.40
WPCV776	136.08
WPCW524	131.16

Licensees with authorized base stations identified above as being located more than 136 km from a protected base station site and located in a DFA are still restricted to relocations of no greater than 8 km.

The *Second R&O* next determines that licensees with Special Temporary Authority (STA) to operate base stations at alternative locations, who certify, in accordance with this *Second R&O* that it has constructed its base station and has placed it in operation, or commenced service at that site by the adoption date of this decision, will be permitted to seek permanent authorization at the site, in accordance with the procedures for filing modification applications established the full text of this *Second R&O*, regardless of whether locating at its STA site is in strict conformance with the relocation distance limitations prescribed in the Commission's modification procedure.

For the same reasons, the Commission will provide similar relief to licensees that are in the process of constructing their base station at their STA site. Such licensees will be permitted to seek permanent authorization at their STA site, in accordance with the procedures for filing modification applications established in the full text of this *Second R&O*, regardless of whether locating their station at its STA site is in strict conformance with the relocation distance limitations prescribed in our modification procedure, if they certify that they had taken delivery of their base station transceiver on or before the adoption date of this decision. A licensee seeking permanent authorization at its STA site under either of these conditions must ensure that it complies with all applicable technical and operational rules (e.g., Section 90.723 and Section 90.729 of the Commission's Rules).

The current deadline for non-nationwide 220 MHz licensees to construct and operate their base station is February 2, 1996. With the adoption and release of this *Second R&O* occurring close to this February date, the Commission believes that it is

appropriate to give licensees sufficient time to decide whether they want to relocate their base station under our modification procedure, and then to construct their base station and begin operation. The Commission will therefore extend the construction deadline for all non-nationwide 220 MHz licensees that intend to construct their base station at their currently authorized location to March 11, 1996. For licensees that elect to modify their authorization to relocate their base station, the deadline shall be August 15, 1996.

The Commission will begin to accept modification applications from licensees seeking to relocate their base stations 30 days after publication of the summary of this *Second R&O* in the Federal Register. The deadline for filing modification applications will be May 1, 1996. If a licensee does not construct its base station and place it in operation, or commence service, at its currently authorized location on or before March 11, 1996, and, instead, chooses to seek modification of its authorization to relocate its base station, it must inform the Commission on or before March 11, 1996, of its intention to seek a license modification. Otherwise its authorization will cancel automatically at the close of March 11, 1996. Because the Commission recognizes that the relatively short time period between the release of this *Second R&O* and the March 11, 1996 date may not be sufficient to enable licensees to evaluate the decisions reached in this *Second R&O*, acquire an alternative base station site, and perform the necessary technical analysis needed to file a modification application, the Commission will permit licensees to submit a letter during the period beginning 30 days after publication of the summary of this *Second R&O* in the Federal Register, but no later than March 11, 1996, certifying to the Commission their intent to file an application to modify their authorization to relocate their base station. This letter will serve to extend a licensee's authorization past March 11, 1996, even if the licensee has not yet identified and secured an alternate site. The Commission will then allow licensees to file their modification applications requesting relocation of their base station any time after this date, but no later than May 1, 1996. If a licensee files a letter indicating its intent to file a modification application and does not file such an application on or before May 1, 1996, the licensee's existing authorization will cancel automatically unless the licensee had

constructed its base station at its initially authorized location and placed it in operation, or commenced service, on or before March 11, 1996. To ensure that licensees are provided an adequate construction period, the Commission will extend the deadline for a licensee to construct its station and place it in operation, or commence service, beyond August 15, 1996, by the number of days after June 1, 1996, that pass before a licensee's timely filed modification application is actually granted.

If a licensee elects to construct its base station and place it in operation, or commence service, at its initially authorized location on or before March 11, 1996, and also seeks to modify its authorization to relocate the station, its construction deadline will be considered to be met if it constructs its base station and places it in operation, or commences service, on or before March 11, 1996, and it will be given until August 15, 1996, to construct and place in operation its base station, or commence service, at its new station location. If the application for modification of any licensee seeking relocation of its base station is denied for any reason, that licensee's existing authorization will cancel automatically unless the licensee has constructed its base station at its initially authorized location and placed it in operation, or commenced service, by March 11, 1996.

The application of a licensee seeking relocation of its base station should include the following:

- (1) A Form 600 requesting station modification, and providing all applicable information.
- (2) Certification that the location of the proposed base station is in conformance with the modification procedures adopted in this proceeding, or a letter evidencing consent of a co-channel licensee that the licensee may be authorized less than 120 km from the co-channel licensee or more than one-half the distance over 120 km toward the base station of a co-channel licensee.
- (3) For licensees with STAs (if applicable, and as provided in the *Second Report and Order*), certification that (a) the licensee has constructed its base station and placed it in operation, or commenced service, at its STA site on or before the adoption date of this *Second R&O*; or (b) the licensee had taken delivery of its base station transceiver on or before the adoption date of this *Second R&O*.

(4) Certification that the licensee has constructed its base station and placed it in operation, or commenced service, at its initially authorized location on or before March 11, 1996 (if applicable).

The *Second R&O* considers the issue of meeting the construction and operation requirement, and determines that "grandfathered" CMRS licensees and PMRS licensees would be required to meet their "placed in operation" requirement by satisfying the provisions of Section 90.155 of the Commission Rules and all "non-grandfathered" CMRS licensees would be required to meet the "commencement of service" requirement as provided under Section 90.167 of the Commission's Rules. However, to eliminate any confusion on the part of 220 MHz licensees as to which station construction and operation requirement they must follow, the Commission will allow all 220 MHz licensees to meet their applicable deadline (*i.e.*, March 11, 1996, for licensees constructing their base station at their initially authorized location, and August 15, 1996, for licensees granted license modification to relocate their base station) by constructing their base station and satisfying either the "placed in operation" provisions of Section 90.155 or the "commencement of service" provisions of Section 90.167.

Fred Daniel d/b/a Orion Telecom (Orion) asks that the Commission modify Section 90.723(d) of the Rules to require that base station transmitters utilizing channels assigned from Sub-Band A be geographically separated from AMTS base station receivers utilizing channels within 200 kHz of the Sub-Band A channel. The Commission does not believe that the current record is adequate to determine the merits of Orion's request, and finds it would be more appropriate to consider it as part of a separate proceeding. The Commission invites Orion to submit its request for relief in the form of a Petition for Rulemaking.

Finally, in the *Third NPRM*, the Commission extended the construction deadline for Phase I 220 MHz licensees located within Line A of the Canadian border until 12 months after the signing of an agreement with Canada on the sharing of 220-222 MHz channels near the border. Since the Commission did not amend the appropriate rules at the time of the adoption of the *Third NPRM*, we will take the opportunity to do so in this proceeding.

Procedural Matters; Ordering Clauses
Final Regulatory Flexibility Analysis.

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this decision will have an impact on small 220 MHz operators. As detailed in the full text of the *Second Report and Order*, the actions taken in this decision were initiated in response

to requests by 220 MHz licensees to establish a flexible license modification procedure that will end a freeze on the acceptance of modification applications and will give existing 220 MHz licensees the ability to relocate their authorized base stations to currently unauthorized sites. This action will enhance the competitive potential of 220 MHz services in the commercial radio service marketplace. The Commission believes the alternative adopted in this decision represents the best balance of providing licensees, many of whom may be considered small businesses, with the most flexibility and the least regulatory burden possible. The full text of the Commission's final regulatory flexibility analysis may be found in Appendix B of the full text of this *Second R&O*.

Paperwork Reduction Act

This *Second Report and Order* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Second Report and Order*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due February 23, 1996; OMB comments are due March 1, 1996. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: _____
Title: Private Land Mobile Radio Services Part 90.

Form No.: _____
Type of Review: New collection.
Respondents: 220 MHz licensees seeking to modify their authorizations to relocate their base stations.

Number of Respondents: 500.
Estimated Time Per Response: 3.8 hours.

Total Annual Burden: 1,900.
Needs and Uses: The information collected will be used by the Commission to verify licensee compliance with Commission rules and regulations, to ensure the integrity of the 220 MHz service and to ensure that

licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934.

It is ordered that the Final Regulatory Flexibility Analysis, as required by Section 604 of the Regulatory Flexibility Act, and as set forth in Appendix B of the full text of this decision, is adopted.

It is further ordered that pursuant to the authority of Sections 4(i), 303(d), 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303 (d), 303(r) and 332, Part 90 of the Commission's Rules, 47 CFR Part 90, is amended as set forth below effective 30 days after publication of the summary of this *Second Report and Order* in the Federal Register.

It is further ordered that non-nationwide 220 MHz licensees may file a letter with the Acting Secretary of the Commission indicating their intent to file an application to modify their authorizations to relocate their base stations 30 days after publication of the summary of this *Second Report and Order* in the Federal Register, but no later than March 11, 1996.

It is further ordered that non-nationwide 220 MHz licensees may file applications to modify their authorizations to relocate their base stations 30 days after publication of the summary of this *Second Report and Order* in the Federal Register, but no later than May 1, 1996.

It is further ordered that the deadline for non-nationwide 220 MHz licensees to construct their base station and place it in operation, or commence service, is extended from February 2, 1996, to March 11, 1996, and that the effective date of this extension is the adoption date of this *Second Report and Order*. The current deadline for non-nationwide 220 MHz licensees to construct and operate their base stations is February 2, 1996. With the adoption and release of the *Second Report and Order* occurring within 30 days of that date, there is good cause to order this rule change to take effect upon the adoption of this *Second Report and Order*.

It is further ordered that non-nationwide 220 MHz licensees that file a modification application on or before March 11, 1996, or a letter in accordance with this Order indicating an intent to modify their authorization to relocate their base station shall be granted an extension of the deadline to construct their base station and place it in operation, or commence service, until August 15, 1996, if the modification application is ultimately granted.

It is further ordered that the request by the American Mobile Telecommunications Association to

extend the current February 2, 1996, deadline for non-nationwide 220 MHz licensees to construct their stations and place them in operation to a date 120 days after the effective date of this *Second R&O* is denied.

It is further ordered that the Acting Secretary shall transmit a copy of this *Second Report and Order* to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90
Radio.

Federal Communications Commission,
William F. Caton,
Acting Secretary.

Revisions to Commission Rules

47 CFR Part 90 is amended as follows:

**PART 90—PRIVATE LAND MOBILE
RADIO SERVICES**

1. The authority citation for Part 90 continues to read as follows:

Authority: 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.723(f) is revised to read as follows:

§ 90.723 Selection and assignment of frequencies.

* * * * *

(f) Except for nationwide assignments, the separation of co-channel base stations shall be 120 kilometers. Except for licensees seeking license modification in accordance with the provisions of Sections 90.751 and 90.753, shorter separations will be considered on a case-by-case basis upon submission of a technical analysis indicating that at least 10 dB protection will be provided to an existing station's 38 dBu signal level contour.

3. Section 90.751 is added to read as follows:

§ 90.751 Minor modifications of non-nationwide licenses.

Licensees granted non-nationwide authorizations from among applications filed on or before May 24, 1991 (Phase I licensees) will be given an opportunity to seek modification of their license to relocate their initially authorized base station, i.e., locate their base station at a site other than its initially authorized location. The conditions under which modifications will be granted and the procedures for applying for license modifications are described in Sections 90.753, 90.755, and 90.757. For CMRS licensees, these modifications will be treated as minor modifications in accordance with Section 90.164.

4. Section 90.753 is added to read as follows:

§ 90.753 Conditions of license modification.

(a) Except as provided in paragraphs (b), and (c) of this section, a Phase I non-nationwide licensee may modify its authorization to relocate its authorized base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 8 km.

(b) A Phase I non-nationwide licensee with an authorized base station located outside a Designated Filing Area (DFA) (see Public Notice, DA 86-173, 52 FR 1302 (January 12, 1987)) may modify its authorization to relocate its authorized base station up to one-half the distance over 120 km toward any co-channel licensee's initially authorized base station, to a maximum distance of 25 km, so long as the base station is relocated no more than 8 km inside of any DFA (i.e., no more than 8 km from the nearest DFA boundary line).

(c) A Phase I non-nationwide licensee that has been granted Special Temporary Authority (STA) to operate at an alternative base station location may modify its authorization to seek permanent authorization at that location, regardless of whether locating the station at the STA site is in strict conformance with the provisions of paragraphs (a) and (b) of this section, if the licensee certifies that such a modification is in conformance with Sections 90.723 and 90.729 and:

(1) It has constructed its base station and has placed it in operation, or commenced service, at the STA site on or before January 26, 1996; or

(2) It has taken delivery of its base station transceiver on or before January 26, 1996.

(d) The application of a Phase I non-nationwide licensee proposing a base station modification resulting in less than 120 km separation from a co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the licensee's application.

(e) The application of a Phase I non-nationwide licensee proposing a base station modification resulting in at least a 120 km separation from each co-channel licensee's initially authorized base station but more than one-half the distance over 120 km toward any co-channel licensee's initially authorized base station will be accepted by the Commission only with the consent of that co-channel licensee, as evidenced in a letter submitted concurrently with the licensee's application.

5. Section 90.755 is added to read as follows:

§ 90.755 Procedures for License Modification.

(a) A Phase I non-nationwide licensee seeking modification of its authorization to relocate its authorized base station in accordance with the provisions of Section 90.753 must file the following on or before May 1, 1996:

(1) Form 600 requesting license modification, and providing all applicable information;

(2) Certification that the location of its proposed base station is in conformance with the provisions of Section 90.753, or, as provided in Section 90.753(d), a letter evidencing consent of a co-channel licensee that the licensee may be authorized less than 120 km from the co-channel licensee;

(3) If applicable, the required certification by a licensee with a Special Temporary Authority, in accordance with Section 90.753(c);

(4) If applicable, certification that the licensee has constructed its base station and placed it in operation, or commenced service, at its initially authorized location on or before March 11, 1996.

(b) A licensee seeking modification of its authorization to relocate its base station in accordance with the provisions of Section 90.753, should file, on or before March 11, 1996, either a modification application, as provided in paragraph (a) of this section, or a letter certifying to the Commission its intent to file an application to modify its authorization to relocate its base station. For a licensee that has not constructed its authorized base station and placed it in operation, or commenced service, by March 11, 1996, this filing will serve to extend the licensee's construction requirement in accordance with the provisions of Section 90.757.

6. Section 90.757 is added to read as follows:

§ 90.757 Construction requirements.

(a) Except as provided in paragraph (b) of this section, a Phase I non-nationwide licensee that is granted modification of its authorization to relocate its base station must construct its base station and place it in operation, or commence service, on all authorized channels on or before August 15, 1996, or within 12 months of initial grant date, whichever is later. The authorization of a licensee that does not construct its base station and place it in operation, or commence service, by this date, cancels automatically and must be returned to the Commission.

(b) A Phase I non-nationwide licensee with a base station authorized at a location north of Line A must construct its base station and place it in operation,

or commence service, on all authorized channels within 12 months of initial grant date, or within 12 months of the date of the release of the terms of an agreement between the United States and Canadian governments on the sharing of 220–222 MHz spectrum between the two countries, whichever is later. The authorization of a licensee that does not construct its base station and place it in operation, or commence service, by this date, cancels automatically and must be returned to the Commission.

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PANAMA CANAL COMMISSION

48 CFR Part 3509

RIN: 3207–AA30

Panama Canal Commission Acquisition Regulation; Debarment, Suspension and Ineligibility

AGENCY: Panama Canal Commission.

ACTION: Interim final rule with request for comments.

SUMMARY: The Panama Canal Commission is today amending its regulations in Subpart 3509.4 of Title 48, Code of Federal Regulations (CFR), concerning the debarment, suspension and ineligibility of contractors or potential contractors to conform with changes in the Federal Acquisition Regulation (FAR) and to improve the agency's notice and administrative procedures pertaining to debarment, suspension or ineligibility.

DATES: Effective February 2, 1996. Comments must be received by April 2, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to John A. Mills, Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006–5402 (Telephone: (202) 634–6441; Facsimile: (202) 634–6439), or Theodore G. Lucas, Deputy General Counsel, Office of General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011–2300 (Telephone in Republic of Panama: 011 (507) 272–7511; Facsimile: 011 (507) 272–3748).

FOR FURTHER INFORMATION CONTACT: Theodore G. Lucas, Deputy General Counsel, Office of General Counsel, Panama Canal Commission, or Barbara Fuller, Assistant to the Secretary for Commission Affairs, Office of the Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050,

Washington, DC 20006–5402 (Telephone: (202) 634–6441; Facsimile: (202) 634–6439).

SUPPLEMENTARY INFORMATION: Subpart 3509.4 forms part of the Panama Canal Commission Acquisition Regulation (PAR) located at Part 3509 of CFR Title 48. The subpart is being revised at this time to conform with recent changes to this subpart in the FAR and to improve the agency's notice and administrative procedures that govern actions pertaining to debarment, suspension and ineligibility determinations.

The changes substitute "Procurement Executive" for "Chairman of the Debarment Committee" in section 3509.404(c), remove paragraph (a) from section 3509.406–1, the substance of which is now incorporated in new section 3509.403, add paragraph (c) under section 3509.406–1 to name the Procurement Executive as the agency head's designee with respect to the action authorized by FAR 9.406–1(c), and improve the procedures in section 3509.406–3 by providing a more comprehensive and efficient system including the use of an independent, non-Government fact-finding official where fact-finding is required and by improving the internal processes of investigation, review and recommendation.

Several new sections are added to the subpart. Section 3509.403 is added to identify the Administrator of the Panama Canal Commission as the agency's *Debarment Official* and *Suspending Official* unless there is a conflict of interest or a previously established recusal statement in which case it is the Deputy Administrator. The new section also introduces and defines the term *Fact-finding Official*. The appointment and duties of a *Fact-finding Official* are developed fully at section 3509.406–3. Sections 3509.405, 3509.405–1 and 3509.405–2 are added to name the Procurement Executive as the agency head's designee with respect to the requirements of FAR 9.405 (a) and (d) (2) and (3), 9.405–1 (a) and (c) and 9.405–2(a). Section 3509.406–2 is unchanged. Sections 3509.406–70, "Settlement," and 3509.406–71, "Voluntary Exclusion," are added to enable the debarment official to, at his discretion, resolve a potential debarment without engaging in the complete debarment process. New sections 3509.407–2, 3509.407–70 and 3509.407–71 are added and section 3509.407–3 is revised to establish that most of the subpart's provisions concerning debarment apply equally to suspension. New section 3509.470 is substantively identical to the existing

3509.406–3(b)(7) and new section 3509.471 is substantively identical to the existing 3509.406–3(b)(6).

The section and paragraph numbers of this PAR subpart continue to conform with the corresponding section and paragraph numbers of the FAR.

The Commission has been exempted from Executive Order 12866 and, accordingly, the provisions of that directive do not apply to this rule. Even if the Order were applicable, this rule would not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Only a very small percentage of contractors or prospective contractors doing business with the Commission are debarred or suspended.

The agency has additionally determined the Paperwork Reduction Act does not apply because these changes to the PAR do not impose recordkeeping or information collection requirements or collections of information from offerors, contractors or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

Further, the agency has determined implementation of the rule will have no adverse effect on competition, employment, investment, productivity or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Administrator of the Panama Canal Commission certifies these regulatory changes meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

List of Subjects in 48 CFR Part 3509

Government procurement.

For the reasons set forth in the preamble, 48 CFR Part 3509 is amended as follows:

PART 3509—CONTRACTOR QUALIFICATIONS

1. The authority citation for Part 3509 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Part 3509 is amended by revising Subpart 3509.4 to read as follows:

Subpart 3509.4—Debarment, Suspension and Ineligibility

Sec. 3509.400 Scope of subpart.
3509.403 Definitions.

3509.404 List of Parties Excluded from
Federal Procurement and
Nonprocurement Programs.

3509.405 Effect of listing.

3509.405–1 Continuation of current
contracts.