FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[ET Docket No. 94-32; FCC 95-47]

Spectrum Below 5 GHz Transferred From Federal Government Use

AGENCY: Federal Communications

Commission.

ACTION: Report and order.

SUMMARY: This First Report and Order adopts allocations for 50 megahertz of spectrum that has been transferred from Federal Government use to private sector use. This action is necessary to comply with provisions of the Omnibus Budget Reconciliation Act of 1993 (Reconciliation Act) that require the Commission to allocate, and propose regulations to assign, this spectrum within 18 months of adoption of the Reconciliation Act. A companion Notice of Proposed Rule Making, published elsewhere in this issue, proposes rules to govern use of the spectrum allocated in this Report and Order. Our goal in taking this action is to provide for use of spectrum transferred from Federal Government to private sector use in a way that will benefit the public by providing for the introduction of new services and devices and enhance existing services and devices. EFFECTIVE DATE: April 10, 1995. FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Office of Engineering and Technology, (202) 739-0723. SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order, ET Docket No. 94-32, FCC 95-47, adopted February 7, 1995, and released February 17, 1995. The full text of this First Report and Order is available for inspection during normal business hours in the Records Room of the Federal Communications Commission, room 239, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., NW., suite 140, Washington, DC 20037, telephone (202) 857-3800.

Summary of First Report and Order

- 1. The purpose of this R&O is to adopt allocations for 50 megahertz of spectrum that has been transferred from Federal Government to private sector use as required by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, Title VI, section 6001(a)(3), 107 Stat. 312 (approved August 10, 1993) (Reconciliation Act).
- 2. In compliance with the provision of the Reconciliation Act, the Department

of Commerce released a report on February 10, 1994, which made a preliminary identification of 200 megahertz of spectrum for reallocation from Federal Government to private sector use, including 50 megahertz at 2390-2400 MHz, 2402-2417 MHz, and 4660-4685 MHz identified for immediate availability. The Reconciliation Act requires that, by February 10, 1995, the Commission allocate, and propose regulations to assign, the 50 megahertz of spectrum that is immediately available. On November 8, 1994, we released a Notice of Proposed Rule Making, 59 FR 59393 (11/17/94), in this proceeding proposing that all 50 megahertz of immediately available spectrum be allocated for Fixed and Mobile service. As an alternative to allocating this spectrum generally for Fixed and Mobile services, the Notice of Proposed Rule Making requested comment on the possible allocation of these bands for specific communications services including an aeronautical audio/visual service to provide real time information and entertainment aboard aircraft, wireless local loop service, broadcast auxiliary services to support advanced television, unlicensed PCS, low-power communications, either on a licensed or unlicensed basis, and continued use of some of this spectrum by the amateur community.

3. Based on the record in this proceeding, the Commission determined that an approach that provides spectrum for both unlicensed devices and Fixed and Mobile services would best serve the public interest. Taking into account the unique nature of some of the bands under consideration, the current communications environment, and the suggestions of the commenting parties, we find it is desirable to allocate 25 megahertz for specific services and devices and 25 megahertz for Fixed and Mobile operations. In particular, we are providing 25 megahertz for use by unlicensed devices and the Amateur service and 25 megahertz for Fixed and Mobile operations. Specifically, we are allocating the 2390-2400 MHz band for use by unlicensed asynchronous Personal Communications Services (PCS) devices, providing for continued use of the 2402–2417 MHz band by devices operating in accordance with Part 15 of our Rules, allocating both of these bands for use by the Amateur service on a primary basis, and allocating the band 4660-4685 MHz for use by Fixed and Mobile services. The 2390-2400 MHz and 2402-2417 MHz bands will be governed by existing applicable rules. In a companion

Second Notice of Proposed Rule Making, the Commission proposed rules for use of the 4660–4685 MHz band. The allocations adopted in this Report and Order will benefit the public by providing for the introduction of new services and devices and the enhancement of existing services and devices. These new and enhanced services and uses will create new jobs, foster economic growth, and improve access to communications by industry and the American public.

Final Regulatory Flexibility Analysis

- 1. Need and purpose of this action: This Report and Order allocates 50 megahertz of spectrum that was transferred from Federal Government to private sector use. Transfer and allocation of this spectrum was required by the Omnibus Budget Reconciliation Act of 1993.
- 2. Summary of the issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis: There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.
- 3. Significant alternatives considered: Commenters in this proceeding supported allocating the spectrum under consideration for a number of various services. These services include wireless local loops, a ground-to-air aeronautical audio/video service, mobile satellite service, private services, unlicensed PCS devices, other unlicensed devices, amateur service, interactive data, audio and video services, fixed service, mobile services, and broadcast auxiliary services. This Report and Order considers all of these uses and provides analysis regarding each. As a result of this analysis, the Commission determined that the action taken in this Report and Order would provide the most beneficial use of the spectrum under consideration.

Paperwork Reduction

This proposal has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, disclosure or record retention requirements and will not increase the burden hours imposed on the public.

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 15

Communications equipment, Computer technology, Labeling, Radio.