

CALIFORNIA—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * *	*	*	*	*
San Diego Area
San Diego County	Nonattainment	Serious.
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¹ This date is November 15, 1990, unless otherwise noted.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[GN Docket No. 93-252, PR Docket No. 89-553; FCC 94-331]

Implementation of Sections 3(n) and 332 of the Communications Act

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Order on reconsideration.

SUMMARY: This Order on Reconsideration in GN Docket No. 93-252 and PR Docket No. 89-553 is a partial reconsideration of the Third Report and Order in GN Docket No. 93-252, ("CMRS Order"). In this reconsideration, the Commission decides not to suspend granting of secondary site authorizations for incumbent 900 MHz Specialized Mobile Radio ("SMR") systems, as originally determined in the CMRS Order. In the CMRS Order, the Commission decided not to grant any further secondary site authorizations, which would have allowed existing 900 MHz SMR operators to construct facilities outside of their Designated Filing Areas ("DFAs"), enabling them to expand their systems or link facilities in different markets. The Commission had reasoned that, even though these secondary sites would not be entitled to protection from co-channel interference and may have to discontinue operation eventually, it would contaminate the 900 MHz band to continue to license secondary sites in advance of Major Trading Area ("MTA") licensing. On reconsideration, however, the Commission concludes that such an outright prohibition on further secondary site licensing imposes a significant burden on existing 900 MHz SMR licensees that are building out

their systems and intend to become MTA licensees, which would also delay the availability of service to customers. Also, the Commission emphasizes that secondary site operators assume the risk of having to discontinue operations in the event of interference to an MTA-licensed system. Thus, the Commission will continue to process and grant secondary site authorizations to qualified applicants.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission Order on Reconsideration in GN Docket No. 93-252 and PR Docket No. 89-553, adopted December 21, 1994, and released December 22, 1994. The full text of this Order on Reconsideration 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 may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of Order on Reconsideration

1. The Order, taken on the Commission's own motion, reverses the Commission's decision in the CMRS Order, 59 FR 59945 (11/21/94), to suspend further granting of secondary site authorizations for 900 MHz SMR systems pending the implementation of new service and licensing rules for those SMR systems.

2. By way of background, the Commission adopted new licensing rules for this service in the CMRS Order, dividing 200 channels into 20 blocks of 10 channels each, using MTAs as the service area for each license, and using competitive bidding selection for mutually exclusive applications. The incumbent systems already licensed in the DFAs (which correspond to the top 50 major markets) were grandfathered, i.e., given co-channel interference protection for existing facilities, but

were not allowed to expand beyond existing service areas unless they obtained MTA licenses. Some incumbents had been granted authorizations to construct facilities outside their DFAs to expand their systems or link facilities in different markets, which became "secondary sites," i.e., not entitled to co-channel interference protection, when the Commission discontinued primary site licensing in 1986. The CMRS Order established that any 900 MHz SMR secondary sites licensed before August 10, 1994, would be entitled to primary site protection, so as to avoid discontinuation of operations for such sites that had become integral to the existing systems. In this connection, the Commission decided not to license any further secondary sites to avoid contamination of the 900 MHz band in advance of MTA licensing.

3. In this Order, the Commission concludes that an outright prohibition on further licensing of secondary sites imposes a significant burden on 900 MHz incumbents who are building out systems and who intend to become MTA licensees. A suspension of licensing would delay service to consumers until the new 900 MHz rules are adopted and selection of licensees takes place. Also, as secondary sites are not entitled to interference protection, and secondary site-holders assume the risk of discontinuation, the Commission concludes that this policy will not contribute to spectrum contamination. Thus, the Commission will continue to grant secondary site authorizations to qualified SMR applicants in the 900 MHz band, subject to strict enforcement of the no-interference policy regarding secondary operation, defined in 47 CFR 90.7.

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Radio.