## FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 26

[ET Docket No. 94-32, FCC 95-319]

Wireless Service; General Wireless Communications Service

**AGENCY:** Federal Communications

Commission.

ACTION: Final rule.

SUMMARY: This Second Report and Order creates the General Wireless Communications Service and adopts rules for licensing of this service in the 4660-4685 MHz band. These rules will be found in newly adopted 47 CFR Part 26. The creation of the General Wireless Service comes in response to the Omnibus Budget Reconciliation Act of 1993 (Reconciliation Act), and is intended to benefit the public by permitting and encouraging the introduction of new services and the enhancement of existing services. 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.

**EFFECTIVE DATE:** August 9, 1995. Section 26.104 which contains information collection requirements will not become effective until approved by the Office of Management and Budget. Notice of such approval and the effective date will be provided in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Karen Rackley, 202–418–0620, or Dan

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## SUPPLEMENTARY INFORMATION:

Type of Review: New collection requirement

Title: In the Matter of Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use OMB Number: None.

Form Number:

Affected Public: Business or other-forprofit organizations, not-for-profit institutions, and state, local, or tribal governments.

Number of Respondents: 875 Estimated time per response: Approximately 4 hours

Total burden: Approximately 3500 hours five and ten years after initial

license grant

Needs and Uses: These requirements comply with Congressional directive that the Commission adopt performance requirements to ensure prompt service to rural areas, prevent stockpiling or warehousing of spectrum and encourage investment in and development of new technologies

This is a synopsis of the *Second Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

## Synopsis of the Second Report and Order

1. By this action, the Commission creates the General Wireless Communications Service (GWCS), and adopts rules for licensing of this service in the 4660-4685 MHz band. The 25 megahertz of spectrum in the 4660-4685 MHz band was transferred from Federal Government to private sector use and was allocated to the Fixed and Mobile services in the First Report and Order and Second Notice of Proposal Rule Making (First R&O/Second NPRM) in this proceeding. (The Notice of Inquiry in this proceeding was published at 59 FR 255589, May 17, 1994; the Notice of Proposed Rule Making at 59 FR 19393, May 17, 1994; the Notice of Proposed Rule Making at 59 FR 19393, November 17, 1994; and the First Report and Order at 60 FR 13102, March 10, 1995.)

2. The *First R&O* allocated the 2390–2400 MHz band for use by unlicensed Personal Communicationa Services (PCS) devices, provided for continued use of the 2402–2417 MHz band by devices operating in accordance with Part 15 of our rules, supgraded the allocation of these bands for use by the Amateur service on a primary basis, and allocation the 5440–4685 MHz band for use by Fixed and Mobile Service. The *Second NPRM* proposed rules for use of the 4660–NPRM proposed rule for use of the 4660–4685 MHz band.

## **Service Rules**

3. The Second NPRM proposed to create a new service, the General Wireless Communications Service (GWCS), for licensing of the 4660–4685 MHz band. This new service would allow a licensee to provide a wide range of Fixed or Mobile services. As stated in the Second NPRM, CWCS would provide licensees an opportunity to use the spectrum flexibility in order to meet the needs of consumers. Services that would not be within the proposed GWCS category included Broadcast services, Radio location services, and Satellite services.

4. The Commission proposed to establish the flexible GWCS service classification in order to enhance the ability of service providers to meet a

variety of user needs. The Commission also acknowledged the possibility that these needs might better be accommodated by rules that prescribe the use of the 4660-4685 MHz frequency band only by specific services. Interested parties who opposed the proposed establishment of a GWCS category were asked to suggest ways in which use of the 4660-4685 MHz band could be limited to specific services. For example, the Commission sought comment on (1) what services should be treated as eligible; (2) whether we should divide channels in the band in a matter which assigns Fixed services exclusively to certain channels and Mobile services exclusively to other channels in the band; (3) whether we should establish priorities for Fixed service or Mobile service use of some or all of the channels established in the band; and (4) whether we should assign some or all channels established in the band for exclusive use by private Fixed or Mobile Services. Proponents of this alternative approach for designating services in the 4660-4685 MHz frequency band were asked to provide facts and arguments supporting their view that such an approach would better serve the Commission's objectives and the public interest than would the establishment of GWCS, which would permit use of the spectrum for these as well as other applications.

5. The Commission adopts the proposed General Wireless Communications Service for the 4660-4685 MHz block, largely as proposed in the Second NPRM. This flexible, broadly defined service should accommodate a wide variety of potential Fixed and Mobile service uses, including all of those identified by the commenters. The flexibility of GWCS should also help make frequencies available for new technologies and services, including those that have been mentioned in the current comments and those that may be developed in the years ahead. In addition, as a service category that is not limited to specific past and current uses, but is available for the implementation of future technologies, GWCS should encourage research and investment to invent, develop, and market new technologies, and spur their deployment to serve consumers.

6. Under the Reconciliation Act, the spectrum reallocated from Federal Government use is to be allocated and assigned to public use under a plan that makes frequencies available for new technologies and services, and stimulates the development of such technologies. The Commission believes that the General Wireless