

227, and 303 (r); and section 1.429 of the Commission's Rules, 47 CFR 1.429, this *Order* in CG Docket No. 02–278 is adopted as set forth herein.

This *Order* is effective upon publication in the **Federal Register**. In light of the fact that this *Order* imposes no new obligations, the Commission find good cause, pursuant to 5 U.S.C. 553(d), to make this *Order* effective on less than thirty days' notice.

List of Subjects in 47 CFR Part 64

Telephone.

■ For the reasons set forth, amend part 64 of title 47 of the Code of Federal Regulations as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. Section 64.1200 is amended by adding the following note to paragraph (f)(3):

§ 64.1200 Delivery restrictions.

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(f) * * *

Note to paragraph (f)(3): Paragraph 64.1200(f)(3) is stayed as of October 14, 2003, as it applies to the time limitations on facsimile advertisements. The Federal Communications Commission will publish a document in the **Federal Register** when the stay is lifted.

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Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 74 and 78

[ET Docket No. 95–18; DA 03–2838]

2 GHz Suspension

AGENCY: Federal Communications Commission.

ACTION: Final rule; suspension order.

SUMMARY: This document suspends for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period for Phase 1 of the 2 GHz band relocation plan between Mobile-Satellite Service (MSS) and Broadcast Auxiliary Service (BAS). The mandatory negotiation period will continue to remain in effect for the duration of this suspension or until otherwise modified by Commission action. The Commission retains the option to shorten or lengthen this suspension as circumstances warrant.

DATES: Effective September 6, 2003.

FOR FURTHER INFORMATION CONTACT: Gary Thayer, Office of Engineering and Technology, (202) 418–2290.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket No. 95–18, DA 03–2838, adopted September 4, 2003, and released September 5, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of the Order

1. The *Order* effectively immediately suspends, for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period for Phase 1 of the 2 GHz band relocation plan between Mobile-Satellite Service (MSS) and Broadcast Auxiliary Service (BAS). This mandatory negotiation period was originally adopted in the *Second Report and Order and Second Memorandum Opinion and Order (Second Report and Order)*, 65 FR 48174, August 7, 2000, in this proceeding, and later extended until September 6, 2003, in a subsequent *Order (Suspension Order)*, 67 FR 53755, August 19, 2002. The mandatory negotiation period will continue to remain in effect for the duration of this suspension or until otherwise modified by Commission action. We retain the option to shorten or lengthen this suspension as circumstances warrant.

2. This action only relates to 35 megahertz of spectrum, currently used by BAS licensees, in the 1990–2025 MHz band. In 1997, the Commission reallocated this spectrum, paired with 35 megahertz in the 2165–2200 MHz band used by Fixed Service (FS) licensees, for MSS, effective January 1, 2000. In the *Second Report and Order*, it adopted relocation procedures for incumbent licensees in these bands. The relocation plan was modeled after the Commission's earlier *Emerging Technologies* policies in ET Docket No. 92–9, and requires MSS entrants to provide comparable facilities to BAS and FS incumbents that are relocated prior to specified sunset dates. The BAS relocation plan calls for a two-phase

relocation, each phase beginning with a two-year mandatory negotiation period. In the event that an agreement for relocation is not reached by the end of a particular negotiation period, the MSS licensee(s) have the option of relocating BAS incumbents involuntarily. The initial, two-year mandatory negotiation period for Phase 1 commenced upon **Federal Register** publication of the *Second Report and Order* on September 6, 2000, and was due to expire on September 6, 2002. The *Suspension Order* extended this date by one year, to September 6, 2003.

3. Recently, the Commission adopted decisions that will permit alternative uses and new allocations in portions of the 2 GHz band that had been allocated for MSS. In a *Third Report and Order, Third Notice of Proposed Rulemaking, and Second Memorandum Opinion and Order*, 68 FR 11987, March 13, 2003, in ET Docket No. 00–258, it reallocated a portion of this spectrum in order to provide for new Fixed and Mobile services, including Advanced Wireless Services (AWS). In a *Report and Order and Notice of Proposed Rulemaking* in IB Docket No. 01–185, it permitted MSS licensees to provide ancillary terrestrial component (ATC) operations in the 2 GHz MSS band. The Commission has not yet adopted any modifications to the existing BAS and FS relocation rules as may be necessary in light of these decisions.

4. In the *Suspension Order*, the Commission noted the outstanding issues in the *MSS Flexibility Notice* and *AWS Notice* proceedings relating to use of the 2 GHz MSS band and concluded that it did not appear that it would be able to act on the respective issues prior to the Phase 1 BAS mandatory negotiation deadline of September 6, 2002. It concluded that it was in the public interest to continue the negotiating period until we were able to address these relocation issues. It also found that it was prudent and in the public interest to suspend the expiration of the initial negotiation period for one year under those circumstances, rather than prejudice consideration of the relocation issues presented in the pending proceedings. The Commission further stated that it retained the option to shorten or lengthen this suspension as circumstances warranted.

5. In February of this year, the Commission decided to reallocate portions of the 2 GHz MSS band (in ET Docket No. 00–258) and modify the nature of permissible MSS use of the band (in IB Docket No. 01–185). However, it has not yet addressed the modifications to the BAS and FS relocation plan that may be necessary