

2025 MHz shall operate on a secondary basis to Advanced Wireless Services.

NG178 In the band 2165–2180 MHz, where the receipt date of the initial application for facilities in the fixed and mobile services was prior to January 16, 1992, said facilities shall operate on a primary basis and all later-applied-for facilities shall operate on a secondary basis to any service licensed pursuant to the allocation adopted in FCC 03–16, 68 FR 11986, March 13, 2003 (“Advanced Wireless Services”). Not later than December 9, 2013, all such facilities in the band 2165–2180 MHz shall operate on a secondary basis to Advanced Wireless Services.

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PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 3. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f), 336(h) and 554.

■ 4. Section 74.602 is amended by revising paragraph (a)(3)(i), and by revising and redesignating paragraph (a)(3)(ii) as (a)(3)(iii) and by adding a new paragraph (a)(3)(ii) and by removing and reserving paragraph (a)(4) to read as follows:

§ 74.602 Frequency assignment.

(a) * * *

(3)(i) After January 7, 2004, stations may adhere to the channel plan specified in paragraph (a) of this section, or the following channel plan in Band A:

Channel A1r—2025.5–2037.5 MHz
Channel A2r—2037.5–2049.5 MHz
Channel A3r—2049.5–2061.5 MHz
Channel A4—2061.5–2073.5 MHz
Channel A5r—2073.5–2085.5 MHz
Channel A6r—2085.5–2097.5 MHz
Channel A7r—2097.5–2109.5 MHz

(ii) Stations adhering to the channel plan specified in paragraph (a)(3)(i) of this section may also use the following 40 data return link (DRL) channels to facilitate their operations in the 2025.5–2109.5 MHz band:

Lower band DRL channels

2025.000–2025.025 MHz
2025.025–2025.050 MHz
2025.050–2025.075 MHz
2025.075–2025.100 MHz
2025.100–2025.125 MHz
2025.125–2025.150 MHz
2025.150–2025.175 MHz
2025.175–2025.200 MHz
2025.200–2025.225 MHz
2025.225–2025.250 MHz
2025.250–2025.275 MHz
2025.275–2025.300 MHz

2025.300–2025.325 MHz
2025.325–2025.350 MHz
2025.350–2025.375 MHz
2025.375–2025.400 MHz
2025.400–2025.425 MHz
2025.425–2025.450 MHz
2025.450–2025.475 MHz
2025.475–2025.500 MHz

Upper band DRL channels

2109.500–2109.525 MHz
2109.525–2109.550 MHz
2109.550–2109.575 MHz
2109.575–2109.600 MHz
2109.600–2109.625 MHz
2109.625–2109.650 MHz
2109.650–2109.675 MHz
2109.675–2109.700 MHz
2109.700–2109.725 MHz
2109.725–2109.750 MHz
2109.750–2109.775 MHz
2109.775–2109.800 MHz
2109.800–2109.825 MHz
2109.825–2109.850 MHz
2109.850–2109.875 MHz
2109.875–2109.900 MHz
2109.900–2109.925 MHz
2109.925–2109.950 MHz
2109.950–2109.975 MHz
2109.975–2110.000 MHz

(iii) Broadcast Auxiliary Service, Cable Television Remote Pickup Service, and Local Television Transmission Service licensees in Nielsen Designated Market Areas (DMAs) 1–30, as such DMAs existed on September 6, 2000, will be required to use the Band A channel plan in paragraph (a)(3)(i) of this section after completion of relocation by an Emerging Technologies licensee in accordance with § 74.690 of this chapter. Licensees declining relocation and licensees in Nielsen DMAs 31–210, as such DMAs existed on September 6, 2000, will be required to discontinue use of the 1990–2025 MHz on the date that the first Mobile-Satellite Service licensee begins operations in the 2000–2020 MHz band.

(4) [reserved]

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■ 5. Section 74.690 is amended by revising paragraphs (a), (b), and (e) to read as follows:

§ 74.690 Transition of the 1990–2025 MHz band from the Broadcast Auxiliary Service to emerging technologies.

(a) Licensees proposing to implement Mobile-Satellite Services using emerging technologies (MSS Licensees) may negotiate with Broadcast Auxiliary Service licensees operating on a primary basis and fixed service licensees operating on a primary basis in the 1990–2025 MHz band (Existing Licensees) for the purpose of agreeing to terms under which the Existing Licensees would relocate their operations to the 2025–2110 MHz band, to other authorized bands, or to other

media; or, alternatively, would discontinue the use of the 1990–2025 MHz band when MSS operations commence in the 2000–2020 MHz band.

(b) An Existing Licensee in the 1990–2025 MHz band allocated for licensed emerging technology services will maintain primary status in the band until the Existing Licensee's operations are relocated by a MSS Licensee or are discontinued under the terms of paragraph (a) of this section.

* * * * *

(e) Subject to the terms of this paragraph (e), the relocation of Existing Licensees will be carried out in the following manner:

(1) Existing Licensees and MSS licensees may negotiate individually or collectively for relocation of Existing Licensees to one of the channel plans specified in § 74.602(a)(3) of this chapter. Parties may not decline to negotiate, though Existing Licensees may decline to be relocated.

(i) MSS licensees must relocate all Existing Licensees in Nielsen Designated Market Areas (DMAs) 1–30, as such DMAs existed on September 6, 2000, and all fixed stations operating in the 1990–2025 MHz band on a primary basis, prior to beginning operations, except those Existing Licensees that decline relocation. Such relocation negotiations shall be conducted as “mandatory negotiations,” as that term is used in § 101.73 of this chapter. If these parties are unable to reach a negotiated agreement, MSS Licensees may involuntarily relocate such Existing Licensees and fixed stations after December 8, 2004.

(ii) On the date that the first MSS licensee begins operations in the 2000–2020 MHz band, Broadcast Auxiliary Service licensees and fixed service licensees that are not operating on the new channel plan specified in § 74.602(a)(3) of this part must discontinue use of all operations in the 1990–2025 MHz band.

(iii) On the date that the first MSS licensee begins operations in the 2000–2020 MHz band, a one-year mandatory negotiation period begins between MSS licensees and Existing Licensees in Nielsen DMAs 31–210, as such DMAs existed on September 6, 2000. After the end of the mandatory negotiation period, MSS licensees may involuntary relocate any Existing Licensees with which they have been unable to reach a negotiated agreement. As described elsewhere in this paragraph (e), MSS Licensees are obligated to relocate these Existing Licensees within the specified three- and five-year time periods.

(2) Before negotiating with MSS licensees, Existing Licensees in Nielsen