

deadlines for comments on the NPRM, and should have a separate and distinct heading designating them as responses to the IRFA.

**D. Paperwork Reduction Act Analysis**

153. This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

**E. Further Information**

154. For additional information on this proceeding, contact Kevin Holmes of the Broadband Division, Wireless Telecommunications Bureau, at (202) 418-BITS.

**VI. ORDERING CLAUSES**

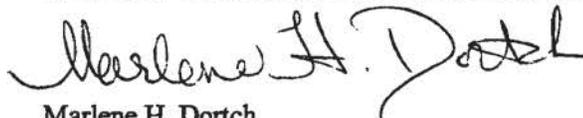
155. Accordingly, IT IS ORDERED, pursuant to Sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332 and 333 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, and 333 that this Notice of Proposed Rulemaking and Notice of Inquiry are hereby ADOPTED.

156. IT IS FURTHER ORDERED that NOTICE IS HEREBY GIVEN of the proposed regulatory changes described in the *AWS-4 Notice*, and that comment is sought on these proposals.

157. IT IS FURTHER ORDERED that the Initial Regulatory Flexibility Analysis IS ADOPTED.

158. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch  
Secretary

## APPENDIX A

## Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 2, 25, 27, 101 as follows:

**PART 1— PRACTICE AND PROCEDURE**

1. The authority citation for part 1 continues to read as follows:

Authority: 15 U.S.C. 79 et seq.; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

2. Section 1.949 is amended by adding paragraph (c) as follows:

**§ 1.949 Application for renewal of license.**

\*\*\*\*\*

(c) Renewal Showing. An applicant for renewal of a geographic-area authorization in the 2000-2020 MHz and 2180-2200 MHz service bands must make a renewal showing, independent of its performance requirements, as a condition of renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address:

- (1) The level and quality of service provided by the applicant (e.g., the population served, the area served, the number of subscribers, the services offered);
- (2) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;
- (3) The extent to which service is provided to rural areas;
- (4) The extent to which service is provided to qualifying tribal land as defined in § 1.2110(f)(3)(i); and
- (5) Any other factors associated with the level of service to the public.

**PART 2— FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS**

3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

4. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Page 36 is revised

b. In the list of non-Federal Government (NG) Footnotes, footnote NG168 is removed.

**§ 2.106 Table of Frequency Allocations.**

The revision reads as follows:

\*\*\*\*\*

1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A			1980-2025	NG177	Satellite Communications (25)
5.388 5.389A 5.389B 5.389F				2000-2020 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space)	
2010-2025 FIXED MOBILE 5.388A 5.388B	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space)	2010-2025 FIXED MOBILE 5.388A 5.388B	1980-2025	2020-2025 FIXED MOBILE	
5.388	5.388 5.389C 5.389E	5.388		NG177	
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space)			2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) SPACE RESEARCH (Earth-to-space) (space-to-space)	2025-2110 FIXED NG118 MOBILE 5.391	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)
5.392			5.391 5.392 US90 US222 US346 US347 US393	5.392 US90 US222 US346 US347 US393	
2110-2120 FIXED MOBILE 5.388A 5.388B SPACE RESEARCH (deep space) (Earth-to-space)			2110-2120	2110-2120 FIXED MOBILE	Public Mobile (22) Wireless Communications (27) Fixed Microwave (101)
5.388				US252	
2120-2170 FIXED MOBILE 5.388A 5.388B	2120-2160 FIXED MOBILE 5.388A 5.388B Mobile-satellite (space-to-Earth)	2120-2170 FIXED MOBILE 5.388A 5.388B	2120-2200	2120-2180 FIXED MOBILE	
5.388				US252	
2160-2170 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth)			2120-2200	2120-2180 FIXED MOBILE	
5.388				US252	
2170-2200 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A			2120-2200	NG153 NG178	Satellite Communications (25) Wireless Communications (27)
5.388 5.389A 5.389F				2180-2200 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth)	

**PART 25— SATELLITE COMMUNICATIONS**

5. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701-744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

6. Section 25.143 is amended by revising paragraphs (i) and (k) to read as follows:

**§ 25.143 Licensing provisions for the 1.6/2.4 GHz mobile-satellite service and 2 GHz mobile-satellite service.**

\*\*\*\*\*

(i) Incorporation of ancillary terrestrial component base stations into a 1.6/2.4 GHz mobile-satellite service network. Any licensee authorized to construct and launch a 1.6/2.4 GHz system may construct ancillary terrestrial component (ATC) base stations as defined in §25.201 at its own risk and subject to the conditions specified in this subpart any time after commencing construction of the mobile-satellite service system.

\*\*\*\*\*

(k) Aircraft. ATC mobile terminals must be operated in accordance with 25.136(a). All portable or hand-held transceiver units (including transceiver units installed in other devices that are themselves portable or hand-held) having operating capabilities in the 1610–1626.5 MHz/2483.5–2500 MHz bands shall bear the following statement in a conspicuous location on the device: “This device may not be operated while on board aircraft. It must be turned off at all times while on board aircraft.”

7. Section 25.149 is amended by revising the section heading, revising paragraph (a)(1), removing and reserving paragraphs (a)(2)(i), (b)(1)(i), and (b)(5)(i), and revising paragraphs (d) and (e), to read as follows:

**§ 25.149 Application requirements for ancillary terrestrial components in the mobile-satellites service networks operating in the 1.5/1.6 GHz and 1.6/2.4 GHz mobile-satellite service.**

(a) \*\*\*

(1) ATC shall be deployed in the forward-band mode of operation whereby the ATC mobile terminals transmit in the MSS uplink bands and the ATC base stations transmit in the MSS downlink bands in portions of the 1626.5–1660.5 MHz/1525–1559 MHz bands (L-band) and the 1610–1626.5 MHz/2483.5–2500 MHz bands (Big LEO band).

\*\*\*\*\*

(d) Applicants for an ancillary terrestrial component authority shall demonstrate that the applicant does or will comply with the provisions of §1.924 of this chapter and 25.203(e) through 25.203(g) and with §25.253 or §25.254, as appropriate, through certification or explanatory technical exhibit.

(e) Except as provided for in paragraph (f) of this section, no application for an ancillary terrestrial component shall be granted until the applicant has demonstrated actual compliance with the provisions of paragraph (b) of this section. Upon receipt of ATC authority, all ATC licensees must ensure continued compliance with this section and §25.253 or §25.254, as appropriate.

\*\*\*\*\*

**§25.252 [Removed and Reserved].**

8. Remove and Reserve 25.252.

9. Section 25.255 is amended by revising the section heading as follows:

**§ 25.255 Procedures for resolving harmful interference related to operation of ancillary terrestrial components operating in the 1.5/1.6 GHz and 1.6/2.4 GHz bands.**

**PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES**

10. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

11. Section 27.1 is amended by adding paragraph (b)(10) to read as follows:

**§ 27.1 Basis and purpose.**

\*\*\*\*\*

(b) \*\*\*

(10) 2000-2020 MHz and 2180-2200 MHz.

\*\*\*\*\*

12. Section 27.2 is amended by revising paragraph (a) and adding paragraph (d) to read as follows:

**§ 27.2 Permissible uses.**

(a) Miscellaneous wireless communications services. Except as provided in paragraph (b) or (d) of this section and subject to technical and other rules contained in this part, a licensee in the frequency bands specified in §27.5 may provide any services for which its frequency bands are allocated, as set forth in the non-Federal Government column of the Table of Allocations in §2.106 of this chapter (column 5).

\*\*\*\*\*

(d) 2000-2020 MHz and 2180-2200 MHz bands. Operators in the 2000-2020 MHz and 2180-2200 MHz bands may not provide the mobile-satellite service under the provisions of this part; rather, mobile-satellite service shall be provided in a manner consistent with part 25 of this chapter.

13. Section 27.4 is amended by revising the paragraph titled Advanced wireless service (AWS) to read as follows:

**§ 27.4 Terms and definitions.**

\*\*\*\*\*

Advanced Wireless Service (AWS). A radiocommunication service licensed pursuant to this part for the frequency bands specified in § 27.5(h) or § 27.5(j).

\*\*\*\*\*

14. Section 27.5 is amended by adding paragraph (j) to read as follows:

**§ 27.5 Frequencies.**

\*\*\*\*\*

(j) 2000-2020 MHz and 2180-2200 MHz bands. The following frequencies are available for licensing pursuant to this part in the 2000-2020 MHz and 2180-2200 MHz (AWS-4) bands:

(1) Two paired channel blocks of 10 megahertz each are available for assignment as follows:

Block A: 2000-2010 MHz and 2190-2200 MHz; and

Block B: 2010-2020 MHz and 2180-2190 MHz.

(2) Reserved.

15. Section 27.6 is amended by adding paragraph (i) to read as follows:

**§ 27.6 Service areas.**

\*\*\*\*\*

(i) 2000-2020 MHz and 2180-2200 MHz bands. AWS service areas for the 2000-2020 MHz and 2180-2200 MHz bands are based on Economic Areas (EAs) as defined in paragraph (a) of this section.

16. Section 27.13 is amended by adding paragraph (i) to read as follows:

**§ 27.13 License period.**

\*\*\*\*\*

(i) 2000-2020 MHz and 2180-2200 MHz bands. Authorizations for the 2000-2020 MHz and 2180-2200 MHz bands will have a term not to exceed ten years from the date of issuance or renewal.

17. Section 27.14 is amended by revising the first sentence of paragraphs (a), (f), and (k), and adding paragraph (q) to read as follows:

**§ 27.14 Construction requirements; Criteria for renewal.**

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Block C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, Block D in the 758–763 MHz and 788–793 MHz bands, Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, and Block D in the 2345–2350 MHz band, and with the exception of AWS licensees holding authorizations in the 2000-2020 MHz and 2180-2200 MHz bands, must, as a performance requirement, make a showing of “substantial service” in their license area within the prescribed license term set forth in §27.13. \*\*\*

\*\*\*\*\*

(f) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for the 698–746 MHz, 747–762 MHz, and 777–792 MHz bands and AWS licensees holding authorizations for the 2000-2020 MHz and 2180-2200 MHz bands. \*\*\*

\* \* \* \* \*

(k) WCS and AWS licensees holding authorizations in the spectrum blocks enumerated in paragraphs (g), (h), (i), or (q) of this section, including any licensee that obtained its license pursuant to the procedures set forth in paragraph (j) of this section, shall demonstrate compliance with performance requirements by filing a construction notification with the Commission, within 15 days of the expiration of the applicable benchmark, in accordance with the provisions set forth in §1.946(d) of this chapter. \*\*\*

\* \* \* \* \*

(q) The following provisions apply to any AWS licensee holding an authorization in the 2000-2020 MHz and 2180-2200 MHz bands (an “AWS-4 licensee”):

(1) An AWS-4 licensee shall provide signal coverage and offer service within three (3) years from the date of the initial license to at least thirty (30) percent of the total population in the aggregate service areas that it has licensed in the 2000-2020 MHz and 2180-2200 MHz bands (“AWS-4 3-Year Buildout Requirement”). For purposes of this subpart, a licensee’s total population shall be calculated by summing the population of each license authorization that a licensee holds in the 2000-2020 MHz and 2180-2200 MHz bands; and

(2) An AWS-4 licensee shall provide signal coverage and offer service within seven (7) years from the date of the initial license to at least to at least seventy (70) percent of the total population in each of its licensed areas (“AWS-4 7-Year Buildout Requirement”).

(3) If any AWS-4 licensee fails to establish that it meets the AWS-4 3-Year Buildout Requirement, all of the licensee’s 2000-2020 MHz and 2180-2200 MHz band license authorizations, including, if the AWS-4 license was assigned pursuant to a license modification, any licensed under part 25 or any other part of these regulations, shall terminate automatically without Commission action.

(4) If any AWS-4 licensee fails to establish that it meets the AWS-4 7-Year Buildout Requirement for a particular license within seven (7) years of the date on which the original license was issued, that licensee's authorization for the entire EA shall terminate automatically without Commission action, and the license will become available for reassignment by the Commission.

(5) To demonstrate compliance with these performance requirements, licensees shall use the most recently available U.S. Census Data at the time of measurement and shall base their measurements of population served on areas no larger than the Census Tract level. The population within a specific Census Tract (or other acceptable identifier) will only be deemed served by the licensee if it provides signal coverage to and offers service within the specific Census Tract (or other acceptable identifier). To the extent the Census Tract (or other acceptable identifier) extends beyond the boundaries of a license area, a licensee with authorizations for such areas may only include the population within the Census Tract (or other acceptable identifier) towards meeting the performance requirement of a single, individual license.

(6) Failure by any AWS-4 licensee to meet the performance requirements in this paragraph (q) will result in forfeiture of the license and the licensee will be ineligible to regain it.

18. Section 27.15 is amended by revising paragraph (d)(1)(i); adding paragraph (d)(1)(iii); revising paragraph (d)(2)(i), and adding paragraph (d)(2)(iii) to read as follows:

**§ 27.15 Geographic partitioning and spectrum disaggregation.**

\*\*\*\*\*

(d) \*\*\*

(1) \*\*\*

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Blocks C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, or Block D in the 758–763 MHz and 788–793 MHz bands; and for licensees holding authorizations in the 2000-2020 MHz and 2180-2200 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in §27.14. Parties to partitioning agreements have

two options for satisfying the construction requirements set forth in §27.14. Under the first option, the partitioner and partitionee each certifies that it will independently satisfy the substantial service requirement for its respective partitioned area. If a licensee subsequently fails to meet its substantial service requirement, its license will be subject to automatic cancellation without further Commission action. Under the section option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire, pre-partitioned geographic service area. If the partitioner subsequently fails to meet its substantial service requirement, only its license will be subject to automatic cancellation without further Commission action.

\*\*\*\*\*

(iii) For AWS-4 licensees holding authorizations in the 2000-2020 MHz and 2180-2200 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in §27.14. Each party to a geographic partitioning must individually meet any service-specific performance requirements (i.e., construction and operation requirements). If a licensee, including a partitionee, fails to meet any service-specific performance requirements on or before the required date, its authorization will terminate automatically on that date without further Commission action pursuant to § 27.14(q)

(2) \*\*\*

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Blocks C, C1, or C2 in the 746–757 MHz and 776–787 MHz bands, or Block D in the 758–763 MHz and 788–793 MHz bands; and for licensees holding authorizations in the 2000-2020 MHz and 2180-2200 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in §27.14. Parties to disaggregation agreements have two options for satisfying the construction requirements set forth in §27.14. Under the first option, the disaggregator and disaggregatee each certifies that it will share responsibility for meeting the substantial service requirement for the geographic service area. If the parties choose this option and either party subsequently fails to satisfy its substantial service responsibility, both parties' licenses will be

subject to forfeiture without further Commission action. Under the second option, both parties certify either that the disaggregator or the disaggregatee will meet the substantial service requirement for the geographic service area. If the parties choose this option, and the party responsible subsequently fails to meet the substantial service requirement, only that party's license will be subject to forfeiture without further Commission action.

\*\*\*\*\*

(iii) For AWS licensees holding authorizations in the 2000-2020 MHz and 2180-2200 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in §27.14. Each party to a spectrum disaggregation must individually meet any service-specific performance requirements (i.e., construction and operation requirements). If a licensee, including a disaggregatee, fails to meet any service-specific performance requirements on or before the required date, its authorization will terminate automatically on that date without further Commission action pursuant to § 27.14(q).

19. Section 27.17 is added to read as follows:

**§ 27.17 Discontinuance of Service in the 2000-2020 MHz and 2180-2200 MHz bands.**

(a) Termination of Authorization. A licensee's authorization in the 2000-2020 MHz and 2180-2200 MHz bands will automatically terminate, without specific Commission action, if it permanently discontinues service after meeting the AWS-4 3-Year Buildout Requirement as specified in § 27.14 of the Commission's rules.

(b) Permanent discontinuance of service is defined as 180 consecutive days during which an AWS-4 licensee does not operate or, in the case of a commercial mobile radio service provider, does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier.

(c) Filing Requirements. A licensee of the 2000-2020 MHz and 2180-2200 MHz bands that permanently discontinues service as defined in this section must notify the Commission of the discontinuance within 10 days by filing FCC Form 601 or 605 requesting license cancellation. An authorization will

automatically terminate, without specific Commission action, if service is permanently discontinued as defined in this section, even if a licensee fails to file the required form requesting license cancellation.

20. Section 27.50 is amended by revising paragraphs (d), (d)(1) introductory text, (d)(2) introductory text, and (d)(4) and adding paragraph (d)(7) to read as follows:

**§ 27.50 Power Limits and Duty Cycle.**

\*\*\*\*\*

(d) The following power and antenna height requirements apply to stations transmitting in the 1710–1755 MHz, 2110–2155 MHz, 2000-2020 MHz, and 2180-2200 MHz bands:

(1) The power of each fixed or base station transmitting in the 2110–2155 MHz or 2180-2200 MHz bands and located in any county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, is limited to:

\*\*\*\*\*

(2) The power of each fixed or base station transmitting in the 2110–2155 MHz or 2180-2200 MHz bands and situated in any geographic location other than that described in paragraph (d)(1) is limited to:

\*\*\*\*\*

(4) Fixed, mobile, and portable (hand-held) stations operating in the 1710–1755 MHz and 2000-2020 MHz bands are limited to 1 watt EIRP. Fixed stations operating in these bands are limited to a maximum antenna height of 10 meters above ground. Mobile and portable stations operating in these bands must employ a means for limiting power to the minimum necessary for successful communications.

\*\*\*\*\*

(7) A licensee operating a base or fixed station in the 2180–2200 MHz band utilizing a power greater than 1640 watts EIRP and greater than 1640 watts/MHz EIRP must be coordinated in advance with all AWS licensees authorized to operate on adjacent frequency blocks in the 2180–2200 MHz band.

\*\*\*\*\*

21. Section 27.53 is amended by revising paragraph (h) introductory text to read as follows:

**§ 27.53 Emission limits.**

\*\*\*\*\*

(h) Except as provided in section 27.1134(e) for the 2180-2200 MHz band, for operations in the 1710-1755 MHz, 2110-2155 MHz, 2000-2020 MHz, and 2180-2200 MHz bands, the power of any emission outside a licensee's frequency block shall be attenuated below the transmitter power (P) by at least  $43 + 10 \log_{10}(P)$  dB. For operations in the 2000-2020 MHz band, the power of any emissions between 1995 MHz and 2000 MHz shall be attenuated below the transmitter power (P) by at least a value as determined by linear interpolation from  $70 + 10 \log_{10}(P)$  dB at 1995 MHz to  $43 + 10 \log_{10}(P)$  dB at 2000 MHz.

\*\*\*\*\*

22. Section 27.55 is amended by revising paragraph (a)(1) to read as follows:

**§ 27.55 Power strength limits.**

\*\*\*\*\*

(a)\*\*\*

(1) 2110-2155, 2180-2200, 2305-2320 and 2345-2360 MHz bands: 47 dB $\mu$ V/m.

\*\*\*\*\*

23. Section 27.57 is amended by revising paragraph (c) to read as follows:

**§ 27.57 International Coordination.**

\*\*\*\*\*

(c) Operation in the 1710-1755 MHz, 2110-2155 MHz, 2000-2020 MHz, and 2180-2200 MHz bands is subject to international agreements with Mexico and Canada.

24. Amend part 27 by revising the heading of subpart to read as follows:

**Subpart L—1710-1755 MHz, 2110-2155 MHz, 2000-2020 MHz, and 2180-2200 MHz bands**

25. Section 27.1103 is added to read as follows:

**§ 27.1103 2000-2020 MHz and 2180-2200 MHz bands subject to competitive bidding.**

Mutually exclusive initial applications for 2000-2020 MHz and 2180-2200 MHz band licenses are subject to competitive bidding. The general competitive bidding procedures set forth in 47 CFR part 1, subpart Q will apply unless otherwise provided in this subpart.

26. Section 27.1104 is added to read as follows:

**§ 27.1104 Designated Entities in the 2000-2020 MHz and 2180-2200 MHz bands.**

Eligibility for small business provisions:

(a)(1) A small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average annual gross revenues not exceeding \$40 million for the preceding three years.

(2) A very small business is an entity that, together with its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship, has average annual gross revenues not exceeding \$15 million for the preceding three years.

(b) Bidding credits. A winning bidder that qualifies as a small business as defined in this section or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter. A winning bidder that qualifies as a very small business as defined in this section or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter.

\*\*\*\*\*

27. Revise § 27.1131 to read as follows:

**§ 27.1131 Protection of Part 101 operations.**

All AWS licensees, prior to initiating operations from any base or fixed station, must coordinate their frequency usage with co-channel and adjacent channel incumbent, Part 101 fixed-point-to-point microwave licensees operating in the 2110–2155 MHz and 2180-2200 MHz bands. Coordination shall be conducted in accordance with the provisions of §24.237 of this chapter.

28. Section 27.1134 is amended by adding paragraph (e) as follows:

**§ 27.1134 Protection of Federal Government operations.**

\*\*\*\*\*

(e) Protection of Federal operations in the 2200-2290 MHz band.

(1) [Reserved.]

(2) [Reserved.]

\*\*\*\*\*

29. Add § 27.1136 to read as follows:

**§ 27.1136 Protection of Mobile Satellite Services in the 2000-2020 MHz and 2180-2200 MHz bands.**

An AWS licensee of the 2000-2020 MHz and 2180-2200 MHz bands must accept any interference received from duly authorized mobile satellite service operations in these bands. Any such AWS licensees must protect mobile satellite service operations in these bands from harmful interference.

\*\*\*\*\*

30. Revise the first sentence of § 27.1160 to read as follows:

**§ 27.1160 Cost-sharing requirements for AWS.**

Frequencies in the 2110–2150 MHz and 2160–2200 MHz bands listed in §101.147 of this chapter have been reallocated from Fixed Microwave Services (FMS) to use by AWS (as reflected in §2.106) of this chapter. \*\*\*

31. Section 27.1166 is amended by revising paragraphs (a)(1), (b) introductory text, (b)(2), and (f) to read as follows:

**§ 27.1166 Reimbursement under the Cost-Sharing Plan.**

(a) \*\*\*

(1) To obtain reimbursement, an AWS relocater must submit documentation of the relocation agreement to the clearinghouse within 30 calendar days of the date a relocation agreement is signed with an incumbent. In the case of involuntary relocation, an AWS relocater must submit documentation of the relocated system within 30 calendar days after the end of the relocation.

\*\*\*\*\*

(b) Documentation of expenses. Once relocation occurs, the AWS relocater, or the voluntarily relocating microwave incumbent, must submit documentation itemizing the amount spent for items specifically listed in §27.1164(b), as well as any reimbursable items not specifically listed in §27.1164(b) that are directly attributable to actual relocation costs. Specifically, the AWS relocater, or the voluntarily relocating microwave incumbent must submit, in the first instance, only the uniform cost data requested

by the clearinghouse along with a copy, without redaction, of either the relocation agreement, if any, or the third party appraisal described in (b)(1), if relocation was undertaken by the microwave incumbent. AWS relocators and voluntarily relocating microwave incumbents must maintain documentation of cost-related issues until the applicable sunset date and provide such documentation upon request, to the clearinghouse, the Commission, or entrants that trigger a cost-sharing obligation. If an AWS relocator pays a microwave incumbent a monetary sum to relocate its own facilities, the AWS relocator must estimate the costs associated with relocating the incumbent by itemizing the anticipated cost for items listed in §27.1164(b). If the sum paid to the incumbent cannot be accounted for, the remaining amount is not eligible for reimbursement.

\*\*\*\*\*

(2) Identification of links. The AWS relocator, or the voluntarily relocating microwave incumbent, must identify the particular link associated with appropriate expenses (*i.e.*, costs may not be averaged over numerous links). Where the AWS relocator, or voluntarily relocating microwave incumbent relocates both paths of a paired channel microwave link (*e.g.*, 2110–2130 MHz with 2160–2180 MHz and 2130–2150 MHz with 2180–2200 MHz), the AWS relocator, or voluntarily relocating microwave incumbent must identify the expenses associated with each paired microwave link.

\*\*\*\*\*

(f) Reimbursement for Self-relocating FMS links in the 2130–2150 MHz and 2180–2200 MHz bands.

Where a voluntarily relocating microwave incumbent relocates a paired microwave link with paths in the 2130–2150 MHz and 2180–2200 MHz bands, it may not seek reimbursement from MSS operators, but is entitled to partial reimbursement from the first AWS beneficiary, equal to fifty percent of its actual costs for relocating the paired link, or half of the reimbursement cap in §27.1164(b), whichever is less. This amount is subject to depreciation as specified §27.1164(b). An AWS licensee who is obligated to reimburse relocation costs under this rule is entitled to obtain reimbursement from other AWS beneficiaries in accordance with §§27.1164 and 27.1168. For purposes of applying the cost-sharing formula relative to other AWS licensees that benefit from the self-relocation, the fifty percent attributable

to the AWS entrant shall be treated as the entire cost of the link relocation, and depreciation shall run from the date on which the clearinghouse issues the notice of an obligation to reimburse the voluntarily relocating microwave incumbent. The cost-sharing obligations for MSS operators in the 2180–2200 MHz band are governed by §101.82 of this chapter.

32. Section 27.1168 is amended by revising paragraphs (a) introductory text, (a)(1) through (a)(3) introductory text, (a)(3)(ii), and (b) to read as follows:

**§ 27.1168 Triggering a Reimbursement Obligation.**

\*\*\*\*\*

(a) The clearinghouse will apply the following test to determine when an AWS entity has triggered a cost-sharing obligation and therefore must pay an AWS relocater, MSS relocater, or a voluntarily relocating microwave incumbent in accordance with the formula detailed in §27.1164:

(1) All or part of the relocated microwave link was initially co-channel with the licensed AWS band(s) of the AWS entity or the selected assignment of the MSS operator that seeks and obtains ATC authority (see §25.149(a)(2)(i) of this chapter);

(2) An AWS relocater, MSS relocater or a voluntarily relocating microwave incumbent has paid the relocation costs of the microwave incumbent; and

(3) The AWS or MSS entity is operating or preparing to turn on a fixed base station at commercial power and the fixed base station is located within a rectangle (Proximity Threshold) described as follows:

\*\*\*\*\*

(ii) If the application of the Proximity Threshold Test indicates that a reimbursement obligation exists, the clearinghouse will calculate the reimbursement amount in accordance with the cost-sharing formula and notify the AWS entity of the total amount of its reimbursement obligation.

(b) Once a reimbursement obligation is triggered, the AWS entity may not avoid paying its cost-sharing obligation by deconstructing or modifying its facilities.