

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Part 1 of the Commission's Rules) WT Docket No. 20-208
)

ORDER

Adopted: June 30, 2020

Released: June 30, 2020

By the Chief, Wireless Telecommunications Bureau:

1. In this Order, the Wireless Telecommunications Bureau (Bureau) makes a ministerial change to Commission rule section 1.907 regarding the Wireless Radio Services to conform the definition of “Covered Geographic Licenses” to the Commission’s intentions in recent rulemaking actions.

2. In the July 2019 *2.5 GHz R&O*,¹ the Commission amended the definition of “Covered Geographic Licenses” in section 1.907 to add “Educational Broadband Service (part 27, subpart M).”² The Commission, however, deferred the effective date of the rule changes stemming from the *2.5 GHz R&O* for six months from the date of Federal Register publication,³ and the rules became effective on April 27, 2020.⁴ In the February 2020 *3.7 GHz R&O*, the Commission amended the definition of “Covered Geographic Licenses” in section 1.907 to add “3.7 GHz Service (part 27, subpart O),”⁵ but inadvertently omitted “Educational Broadband Service (part 27, subpart M)” from the definition.⁶ Although the *3.7 GHz R&O*, as corrected by the Second Erratum, was published in the Federal Register on April 23, 2020,⁷ before the addition of Educational Broadband Service to section 1.907 became effective on April 27, 2020, the rule amendments stemming from the *3.7 GHz R&O* became effective on June 22, 2020⁸ after that addition, thereby inadvertently deleting it. As a result, “Educational Broadband Service (part 27, subpart M)” is no longer listed in the “Covered Geographic Licenses” definition.⁹

3. The Wireless Telecommunications Bureau (“Bureau”) issues this Order to reinsert “Educational Broadband Service (part 27, subpart M)” into the “Covered Geographic Licenses” definition

¹ *Transforming the 2.5 GHz Band*, WT Docket No. 18-120, Report and Order, 34 FCC Rcd 5446 (2019) (*2.5 GHz R&O*).

² *Id.* at 5491, Appendix A, para. 2.

³ *Id.* at 5489, 5490, paras. 117, 124.

⁴ *See Transforming the 2.5 GHz Band*, 84 Fed. Reg. 57343, 57343 (Oct. 25, 2019).

⁵ *Expanding Flexible Use in the 3.7 to 4.2 GHz Band*, Second Erratum at 2-3 (WTB Apr. 16, 2020); *Expanding Flexible Use in the 3.7 to 4.2 GHz Band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2490-91, Appendix A, para. 2 (2020) (*3.7 GHz R&O*).

⁶ *See 3.7 GHz R&O*, 35 FCC Rcd at 2390, 2490-91, para. 106 & n.316; *2.5 GHz R&O*, 34 FCC Rcd at 5489, para. 117.

⁷ *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, 85 Fed. Reg. 22804 (Apr. 23, 2020).

⁸ *Id.* at 22804; *Expanding Flexible Use of the 3.7 to 4.2 GHz Band; Correction*, 85 Fed. Reg. 38089 (June 25, 2020).

⁹ *Compare* 47 CFR § 1.907 (Effective April 27, 2020, to June 22, 2020) *with* 47 CFR § 1.907.

in section 1.907, as follows:

“*Covered geographic licenses.* Covered geographic licenses consist of the following services: 1.4 GHz Service (part 27, subpart I, of this chapter); 1.6 GHz Service (part 27, subpart J); 24 GHz Service and Digital Electronic Message Services (part 101, subpart G, of this chapter); 218-219 MHz Service (part 95, subpart F, of this chapter); 220-222 MHz Service, excluding public safety licenses (part 90, subpart T, of this chapter); 600 MHz Service (part 27, subpart N); 700 MHz Commercial Services (part 27, subpart F and H); 700 MHz Guard Band Service (part 27, subpart G); 800 MHz Specialized Mobile Radio Service (part 90, subpart S); 900 MHz Specialized Mobile Radio Service (part 90, subpart S); 3.7 GHz Service (part 27, subpart O); Advanced Wireless Services (part 27, subparts K and L); Air-Ground Radiotelephone Service (Commercial Aviation) (part 22, subpart G, of this chapter); Broadband Personal Communications Service (part 24, subpart E, of this chapter); Broadband Radio Service (part 27, subpart M); Cellular Radiotelephone Service (part 22, subpart H); Citizens Broadband Radio Service (part 96, subpart C, of this chapter); Dedicated Short Range Communications Service, excluding public safety licenses (part 90, subpart M); Educational Broadband Service (part 27, subpart M); H Block Service (part 27, subpart K); Local Multipoint Distribution Service (part 101, subpart L); Multichannel Video Distribution and Data Service (part 101, subpart P); Multilateration Location and Monitoring Service (part 90, subpart M); Multiple Address Systems (EAs) (part 101, subpart O); Narrowband Personal Communications Service (part 24, subpart D); Paging and Radiotelephone Service (part 22, subpart E; part 90, subpart P); VHF Public Coast Stations, including Automated Maritime Telecommunications Systems (part 80, subpart J, of this chapter); Upper Microwave Flexible Use Service (part 30 of this chapter); and Wireless Communications Service (part 27, subpart D).”

4. The Administrative Procedure Act allows an agency to forgo notice and comment “when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁰ Here, we find good cause on the grounds that the notice and comment procedure is unnecessary.¹¹ The Commission added the term “Educational Broadband Service (part 27, subpart M)” to the definition of “Covered Geographic Licenses” pursuant to a full notice and comment process.¹² The subsequent omission of that term was inadvertent. The reinsertion of “Educational Broadband Service (part 27, subpart M)” into the definition of “Covered Geographic Licenses” in section 1.907 is therefore a routine correction to address an administrative oversight.¹³

5. Similarly, an agency may make a rule effective immediately upon publication in the Federal Register, rather than providing for a 30-day waiting period, if the agency finds “good cause.”¹⁴ In determining whether good cause exists for an amended rule to take effect fewer than 30 days after Federal Register publication, an agency must “balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.”¹⁵ The immediate implementation of the amended

¹⁰ 5 U.S.C. § 553(b)(B).

¹¹ See *Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001) (stating that notice and comment is “unnecessary” when it involves a “routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public” (internal quotation marks omitted)).

¹² See *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands; Transforming the 2.5 GHz Band*, Notice of Proposed Rulemaking, 33 FCC Rcd 4687 (2018); *2.5 GHz R&O*, 34 FCC Rcd at 5449-50, paras. 11-12 (demonstrating the Commission asked for and received comments before issuing the *2.5 GHz R&O*).

¹³ See *Util. Solid Waste Activities Grp.*, 236 F.3d at 755.

¹⁴ 47 U.S.C. § 553(d)(3).

¹⁵ *Omnipoint Corp. v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996) (internal quotation marks omitted).

definition is necessary to avoid needlessly prolonging an obvious inaccuracy in the rule and delaying the return of the rule language to its clearly intended meaning. The immediate effective date also would not impose any burdens on affected persons. No additional time is necessary for affected persons to prepare for the effectiveness of the amended rule because it merely reinstates a term that had been published in its adopted form by the Commission six months before its effective date (i.e., from October 25, 2019, to April 27, 2020)—providing the public with a significantly longer preparatory period than the typically required minimum of 30 days—and which had been an effective part of the rule for almost two months thereafter, up until about a week ago, when its inadvertent deletion occurred (i.e., from April 27 until June 22). In addition, the amended rule does not require affected parties to take, or refrain from taking, any particular action. Thus, we find good cause to make the amended rule effective upon Federal Register publication.

6. Accordingly, it is ORDERED that, pursuant to sections 1, 4(i), 5, 301, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155, 301, 303, 307, this *Order* is adopted.

7. IT IS FURTHER ORDERED that the rule amendment adopted herein WILL BECOME EFFECTIVE UPON PUBLICATION in the Federal Register.

8. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Donald Stockdale
Chief
Wireless Telecommunications Bureau