

documentation of citizenship should be consistent with the time allowed to submit documentation to establish other facets of eligibility for which documentation is requested. (See § 435.930 and § 435.911 of this chapter.)

#### **§ 436.408 [Removed and reserved]**

■ 14. Section 436.408 is removed and reserved.

#### **§ 436.1004–§ 436.1005 [Redesignated]**

■ 15. Sections 436.1004 and § 436.1005 are redesignated as § 436.1005 and § 436.1006, respectively.

■ 16. New section 436.1004 is added to read as follows:

**§ 436.1004 FFP in expenditures for medical assistance for individuals who have declared United States citizenship or nationality under section 1137(d) of the Act and with respect to whom the State has not documented citizenship and identity.**

FFP will not be available to a State with respect to expenditures for medical assistance furnished to individuals unless the State has obtained satisfactory documentary evidence of citizenship or national status, as described in § 436.407 that complies with the requirements of section 1903(x) of the Act. This requirement does not apply with respect to individuals declaring themselves to be citizens or nationals who are eligible for medical assistance and who are either entitled to benefits or enrolled in any parts of the Medicare program under title XVIII of the Social Security Act.

#### **Technical Amendments**

#### **§ 436.1005 [Amended]**

■ 17. In newly redesignating § 436.1005, in paragraph (a)(1), “§ 435.1009” is revised to read “§ 435.1010 of this chapter.”

#### **§ 436.1006 [Amended]**

■ 18. In newly redesignating § 436.1006, “§ 435.1009 of this subchapter” is revised to read “§ 435.1010 of this chapter.”

#### **PART 440—SERVICES: GENERAL PROVISIONS**

■ 19. The authority citation for part 440 continues to read as follows:

**Authority:** Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

#### **§ 440.2 [Amended]**

■ 20. In § 440.2, in paragraph (a), in the definition of “Patient,” “§ 435.1009 of this subchapter” is revised to read “§ 435.1010 of this chapter.”

#### **§ 440.140 [Amended]**

■ 21. In § 440.140, in paragraph (b), “§ 435.1009 of this chapter” is revised to read “§ 435.1010 of this chapter.”

#### **§ 440.180 [Amended]**

■ 22. In § 440.180, in paragraph (d)(2)(i), “§ 435.1008(a)(2) of this subchapter” is revised to read “§ 435.1009(a)(2) of this chapter.”

#### **§ 440.185 [Amended]**

■ 23. In § 440.185, in paragraph (b), “§ 435.1009” is revised to read “§ 435.1010 of this chapter.”

#### **PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES**

■ 24. The authority citation for part 441 continues to read as follows:

**Authority:** Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

#### **§ 441.13 [Amended]**

■ 25. In § 441.13, in paragraph (a)(1), “§ 435.1009 of this subchapter” is revised to read “§ 435.1010 of this chapter.”

#### **PART 457—ALLOTMENTS AND GRANTS TO STATES**

■ 26. The authority citation for part 457 continues to read as follows:

**Authority:** Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

#### **§ 457.310 [Amended]**

■ 27. In § 457.310, in paragraphs (c)(2)(i) and (c)(2)(ii), “§ 435.1009 of this chapter” is revised to read “§ 435.1010 of this chapter.”

#### **PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES**

■ 28. The authority citation for part 483 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

#### **§ 483.5 [Amended]**

■ 29. In § 483.5, in paragraph (a), “§ 435.1009 of this chapter” is revised to read “§ 435.1010 of this chapter.”

#### **§ 483.20 [Amended]**

■ 30. In § 483.20, in paragraph (m)(2)(ii), “42 CFR 435.1009” is revised to read “§ 435.1010 of this chapter.”

#### **§ 483.102 [Amended]**

■ 31. In § 483.102, in paragraph (b)(3)(ii), “§ 435.1009 of this chapter” is revised to read “§ 435.1010 of this chapter.”

#### **§ 483.136 [Amended]**

■ 32. In § 483.136, in paragraph (a), “§§ 435.1009 and 483.440 of this chapter” is revised to read “§ 435.1010 of this chapter and § 483.440.”

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: June 23, 2006.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: June 30, 2006.

**Michael O. Leavitt,**

*Secretary.*

[FR Doc. 06–6033 Filed 7–6–06; 5:00 pm]

BILLING CODE 4120–01–P

#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Part 15**

[ET Docket No. 03–122; FCC 06–96]

#### **Unlicensed Devices in the 5 GHz Band**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document addresses petitions for reconsideration and clarification of the Commission's rules for 5 GHz U–NII devices adopted in the *Report and Order* in ET Docket No. 03–122 and revises the measurement procedures for certifying U–NII devices in the 5 GHz band. Our action will ensure that all applications for equipment certification of U–NII devices comply with the U–NII requirements.

**DATES:** Effective August 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Shameeka Hunt, Policy and Rules Division, Office of Engineering and Technology, (202) 418–2062, e-mail: [Shameeka.Hunt@fcc.gov](mailto:Shameeka.Hunt@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, ET Docket No. 03–122, FCC 06–96, adopted June 29, 2006, and released June 30, 2006. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (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, Best Copy and Printing Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

## Summary of the Memorandum Opinion and Order

1. In the Memorandum Opinion and Order, the Commission granted a request by the Wi-Fi Alliance to clarify the Transmit Power Control (TPC) requirements in § 5.407(h)(1), dismissed a request by the Wi-Fi Alliance to clarify the channel availability check time requirement in § 15.407(h)(2)(ii), denied a request by Globespan Virata to revise the rules to state that U-NII devices are not required to detect and void frequency hopping radar signals, and dismissed a request by Extreme Networks to modify the definition of a U-NII central controller that must include Dynamic Frequency Selection (DFS) capability. The Memorandum Opinion and Order also issues a revised measurement procedure for certifying U-NII devices for compliance with the DFS requirements in the 5.25–5.35 GHz and 5.47–5.725 GHz bands. Our action will ensure that all applications for equipment certification of U-NII devices filed on or after July 20, 2006 will comply with the U-NII requirements for these bands.

2. In its Motion for Clarification, the Wi-Fi Alliance seeks clarification of the TPC requirements for U-NII devices, and the text in § 15.407(h)(2)(ii) regarding the DFS requirement for channel availability check time. The TPC requirement is intended to protect Earth Exploration-Satellite Service (active) (EESS) and Space Research Service (active) (SRS) operations by regulating a device's transmit power in response to an input signal or a condition (e.g., a command signal issued by a controller when the received signal falls below a predetermined threshold). We recognize that the first sentence of § 15.407(h)(1) states that all U-NII devices must employ a TPC mechanism, while the last sentence modifies the first sentence by indicating that TPC is not required for systems with an EIRP of less than 500 mW. Because the wording of the TPC requirement in § 15.407(h)(1) may be confusing, we clarify, as the Commission stated in the *Report and Order*, 69 FR 2677, January 20, 2005, that there is no need to require TPC for a low-power U-NII device and that TPC is only required for U-NII devices operating at power levels higher than 500 mW. A U-NII device with an EIRP less than 500 mW is exempt because the device will not interfere with other operations in the 5.25–5.35 GHz and 5.47–5.725 GHz bands. We also clarify that the TPC requirement applies to each U-NII device since a U-NII device's transmission output power

when combined with antenna gain produces an overall power referred to as "EIRP."

3. With regard to further clarification of § 15.407(h)(2)(ii) on DFS channel availability check time, the Project Team reached a consensus in the revised measurement procedure on a definition for channel availability check time that allows for fast channel changing. Since this issue is addressed in the revised measurement procedure that we issued with the MO&O, we dismiss this part of the Wi-Fi Alliance petition. Our action will allow industry to continue discussions with the Federal Government on this issue as needed, and the Commission's Laboratory may issue updated measurement procedures in the future if further modifications are needed.

4. Globespan requests that we clarify our rules to state that DFS-equipped U-NII devices are not required to detect and avoid frequency hopping radars in the 5.25–5.35 GHz and 5.47–5.725 GHz bands. We did not intend to exclude frequency hopping radars from the DFS requirement. In the *Report and Order*, we adopted DFS requirements to protect all Federal Government radar systems from interference from U-NII devices operating in the 5.25–5.35 GHz and 5.47–5.725 GHz bands. We made no distinction in the protection requirements between frequency hopping and other types of radars and Globespan points to no language that would support its contention. In fact, the interim test procedure appended to the *Report and Order* in this proceeding, which was developed by the Project Team, addresses the unique sharing challenges of how DFS should perform in the presence of frequency hopping radars.

5. The revised measurement procedure that we are endorsing with this MO&O addresses how DFS should perform in the presence of different types of radar systems, including frequency hopping radars. More specifically, section 6 of the revised measurement procedure provides the parameters for the required test waveforms, the minimum percentage of successful detections, and the minimum number of trials that must be used to determine DFS conformance. Accordingly, the DFS requirement is clearly intended to encompass frequency hopping radar systems.

6. Extreme Networks seeks clarification of the definition of a central controller that must have DFS capability. The intent of the DFS requirement in the rules is to ensure that all elements of a system (both master devices and client devices) are

capable of avoiding causing harmful interference to government radars by dynamically switching frequencies. Although Section 5 of the revised measurement procedure addresses DFS capability for U-NII devices operating in master-client configurations, it does not address the specific configuration suggested by Extreme Networks. Nonetheless, Extreme Networks does not question the DFS requirement or the compliance criteria in the revised measurement procedure.

7. All U-NII implementations will be tested individually as part of the equipment certification process. If a unique implementation of DFS in U-NII devices is not directly addressed by the revised measurement procedure, the application for U-NII device certification will be handled on a case-by-case basis. We thus decline to clarify at this time the definition of a central controller that must have DFS capability as Extreme Networks requests and dismiss its petition.

8. *Revised Measurement Procedure.* The Project Team has worked to develop new measurement procedures for performing DFS compliance measurement tests for U-NII equipment operating in the 5.25–5.35 GHz and 5.47–5.725 GHz bands. Recently, the Project Team reached a consensus on revised DFS measurement procedures that were presented by the NTIA to the Commission on March 30, 2006 as part of this proceeding.

9. In order to allow for immediate implementation of U-NII devices in accordance with the rules adopted in the *Report and Order* of this proceeding, we are issuing the revised measurement procedures recommended by NTIA for certifying U-NII devices as an Appendix to this MO&O. Because these revised procedures represent a consensus agreement of industry and government participants, we are not making the substantive changes suggested by CCS since they may materially affect the implementation of the measurement procedures. We encourage industry and government entities to continue discussions on these procedures, as needed, and note that the Commission's Laboratory may issue further updates to the measurement procedures in the future as equipment is developed and as testing methodologies are refined. The revised measurement procedure that we are issuing with this MO&O does include non-substantive editorial changes submitted by CCS. As for the other concern, with respect to the certification process, applications for certification of U-NII devices will be processed in the order in which they are received. Further, with respect to

industry readiness to test DFS capabilities, we note that the criteria for DFS and TPC compliance in U-NII devices have been acknowledged and recognized since the adoption of the *Report and Order* in this proceeding. Therefore, manufacturers were aware of these new rules for U-NII devices well in advance of the July 20, 2006 implementation date.

#### Regulatory Flexibility Certification Analysis

10. The Report and Order<sup>1</sup> included a Final Regulatory Flexibility Certification pursuant to the Regulatory Flexibility Act (RFA).<sup>2</sup> We received no petitions for reconsideration of that Final Regulatory Flexibility Certification.

11. The Commission will send a copy of the Memorandum Opinion and Order, including a copy of this Regulatory Flexibility Certification Analysis, in a report to Congress pursuant to the Congressional Review Act.<sup>3</sup> In addition, the Memorandum Opinion and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA.<sup>4</sup>

#### Ordering Clauses

12. The Congressional Review Act (CRA), was addressed in the *Report and Order* released by the Commission on November 18, 2003, in “*In the Matter of Revision of Parts 2 and 15 of the Commission’s rules to permit Unlicensed National Information Infrastructure (U-NII) devices in the 5 GHz band*” in this proceeding. This Memorandum Opinion and Order does not change any rules, it only issues updated measurement procedures for certifying unlicensed U-NII devices in accordance with the rules adopted in the *Report and Order*. Therefore, the CRA requirements have already been fulfilled.

13. Pursuant to sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), and 303(r), and section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Memorandum Opinion and Order is hereby adopted.

14. The Motion for Clarification filed by The Wi-Fi Alliance is granted in part and dismissed in part, consistent with the terms of the Memorandum Opinion and Order.

15. The Request for Clarification filed by Extreme Networks, Inc. and the Petition for Clarification or Reconsideration filed by Globespan Virata, Inc. are denied.

#### List of Subjects in 47 CFR Part 15

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–10794 Filed 7–11–06; 8:45 am]

BILLING CODE 6712–01–P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 06–1367]

#### Radio Broadcasting Services; East Liverpool, OH and Moon Township, PA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; denial of petition for reconsideration.

**SUMMARY:** The Audio Division has denied the petition for reconsideration of Keymarket Licenses, LLC (“Keymarket”), seeking reconsideration of the Audio Division’s return of Keymarket’s petition for rulemaking to reallocate Channel 282B from East Liverpool, Ohio, to Moon Township, Pennsylvania. Keymarket filed a petition for rule making proposing change of community for Station WOGF (FM) from East Liverpool, Ohio, to Moon Township, Pennsylvania. Keymarket also proposed to change the transmitter site of Station WOGF (FM). The proposal was returned as unacceptable, because it would exacerbate an existing short-spacing. In this *Memorandum Opinion and Order*, the Audio Division denied Keymarket’s petition for reconsideration of the return of Keymarket’s petition for rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s *Memorandum Opinion and Order*, adopted June 28, 2006, and released June 30, 2006.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also

may be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company’s Web site, <http://www.bcpweb.com>. This document is not subject to the Congressional Review Act. The Commission is, therefore, not required to send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see U.S.C. 801(a)(1)(A), because the petition for reconsideration was denied.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–10934 Filed 7–11–06; 8:45 am]

BILLING CODE 6712–01–P

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 06–1368]

#### Radio Broadcasting Services; Various Locations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission’s Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), *Amendment of the Commission’s Rules to permit FM Channel and Class Modifications by Applications*, 8 FCC Rcd 4735 (1993) and *Streamlining of Radio Technical Rules in Part 73 and 74 of the Commission’s Rules*, 15 FCC Rcd 21649 (2000).

**DATES:** Effective July 12, 2006.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Report and Order*, adopted June 28, 2006, and released June 30, 2006. The full text of this Commission decision is available for inspection and copying during

<sup>1</sup> See Appendix A: Final Regulatory Flexibility Analysis of the Report and Order.

<sup>2</sup> See 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 857 (1996).

<sup>3</sup> See 5 U.S.C. 801(a)(1)(A).

<sup>4</sup> See 5 U.S.C. 605(b).