

unfairly increase the fees for other MDS operators.

IV. Discussion

5. Based on our review of the record in this proceeding, we find that Bennet's petition fails to provide sufficient grounds for us to depart summarily from the Commission's previous analysis regarding this matter. The Commission's decision to subject LMDS and MDS to identical regulatory fees stemmed largely from the fact that LMDS was operationally similar to MDS and MMDS.² In this regard, we note, for example, that we have previously noted that LMDS is competitive with MMDS.³ Moreover, as the Commission has permitted licensees increasing flexibility in the use of their spectrum, the pattern has been for distinctions between LMDS and MMDS to erode.⁴ While Bennet attempts to illustrate that LMDS more closely parallels certain microwave services, it does not dispute the similarities which we have previously noted between LMDS and MMDS. We also concur with Sprint's argument that licensing costs, which are covered by application fees assessed under section 8 of the Act, 47 U.S.C. 158, are not recovered through section 9 regulatory fees of the Act, 47 U.S.C. 159, and, therefore, have no bearing on our decision. We note, moreover, that, pending changes to the statutory schedule of fees in section 8, LMDS services have not been assessed any section 8 application fees. Consequently, we continue to believe, based on the record before us, that LMDS should be included in the MDS category for regulatory fees for FY 2001. As to the increase in the MDS fee, we believe that we have thoroughly explained this matter in the 2001 Fee Order. No further discussion of this point is warranted. Moreover, the public interest would not be served by

² *Assessment of Regulatory Fees for Fiscal Year 2001*, 16 FCC Rcd 13525, 13532 para. 22 (2001).
³ *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 15 FCC Rcd 11857, 11868 para. 25 (2000).
⁴ For example, the Commission has authorized MMDS providers, like LMDS licensees, to offer two-way communications. *Amendments of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, MM Docket No. 97-217, 13 FCC Rcd 19112 (1998), *recon.* 14 FCC Rcd 12764 (1999), *further recon.*, 15 FCC Rcd 14566 (2000). Moreover, as a result of the Commission's reorganization, MMDS matters, like LMDS matters, now are handled by the Wireless Telecommunications Bureau. *Wireless Bureau to Assume All Regulatory Duties Associated with ITFS and MDS/MMDS Services*, Public Notice (Mar. 18, 2002).

disrupting the current fee process, which has been completed by numerous entities, pending resolution of this matter, particularly given that many of Bennet's arguments were raised for the first time on reconsideration.

6. While an insufficient record exists to lead us to modify our decision with respect to LMDS services in FY 2001, we plan to develop a more complete record on these issues in the next regulatory fee proceeding. In addition, in light of continuing technological convergence, innovation, and evolving service offerings in the marketplace, we will provide parties in an upcoming wireless bureau proceeding the opportunity to address our existing fixed wireless regulatory fee assessments and their application to similarly situated service providers. The development of a comprehensive record on these issues will enable us to review our existing classifications for certain services and identify the need, if any, for modifications in the regulatory fee amounts assessed for particular service categories.

7. *Accordingly, it is ordered*, that the petition for reconsideration of Bennet & Bennet, PLLC on behalf of its LMDS clients, filed August 10, 2001, is denied.

Federal Communications Commission.
Marlene H. Dortch,
Secretary.
 [FR Doc. 02-31711 Filed 12-16-02; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 01-66]

Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** of Tuesday, April 16, 2002 (67 FR 18502). The regulations related to the technical and operational requirements for the Emergency Alert System (EAS) contained in part 11 of the rules.

DATES: Effective December 17, 2002.

FOR FURTHER INFORMATION CONTACT: Kathy Berthot, Enforcement Bureau, Technical and Public Safety Division, at (202) 418-7454.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections revised the technical and operational requirements for the EAS. The revisions were intended to enhance the capabilities and performance of the EAS during state and local emergencies, thereby promoting public safety.

Need for Correction

As published, the final regulations inadvertently omitted the existing State and Territory FIPS number codes used in transmitting EAS messages.

List of Subjects in 47 CFR Part 11

Radio, Television
 Federal Communications Commission.
Marlene H. Dortch,
Secretary.

Accordingly, 47 CFR part 11 is corrected by making the following corrective amendments:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

2. Section 11.31 is amended by revising paragraph (f) as follows:

§ 11.31 EAS Protocol.

* * * * *

(f) The State, Territory and Offshore (Marine Area) FIPS number codes (SS) are as follows. County FIPS numbers (CCC) are contained in the State EAS Mapbook.

| | FIPS# |
|----------|-------|
| State: | |
| AL | 01 |
| AK | 02 |
| AZ | 04 |
| AR | 05 |
| CA | 06 |
| CO | 08 |
| CT | 09 |
| DE | 10 |
| DC | 11 |
| FL | 12 |
| GA | 13 |
| HI | 15 |
| ID | 16 |
| IL | 17 |
| IN | 18 |
| IA | 19 |
| KS | 20 |
| KY | 21 |
| LA | 22 |
| ME | 23 |
| MD | 24 |
| MA | 25 |
| MI | 26 |
| MN | 27 |
| MS | 28 |

| | FIPS# | FIPS# |
|------------------------------------|-------|---|
| MO | 29 | St. Lawrence River above St. |
| MT | 30 | Regis |
| NE | 31 | |
| NV | 32 | 1 Effective May 16, 2002, broadcast stations, |
| NH | 33 | cable systems and wireless cable systems |
| NJ | 34 | may upgrade their existing EAS equipment to |
| NM | 35 | add these marine area location codes on a |
| NY | 36 | voluntary basis until the equipment is re- |
| NC | 37 | placed. All models of EAS equipment manu- |
| ND | 38 | factured after August 1, 2003, must be capa- |
| OH | 39 | ble of receiving and transmitting these marine |
| OK | 40 | area location codes. Broadcast stations, cable |
| OR | 41 | systems and wireless cable systems which re- |
| PA | 42 | place their EAS equipment after February 1, |
| RI | 44 | 2004, must install equipment that is capable of |
| SC | 45 | receiving and transmitting these location |
| SD | 46 | codes. |
| TN | 47 | [FR Doc. 02-31712 Filed 12-16-02; 8:45 am] |
| TX | 48 | BILLING CODE 6712-01-P |
| UT | 49 | |
| VT | 50 | FEDERAL COMMUNICATIONS |
| VA | 51 | COMMISSION |
| WA | 53 | 47 CFR Parts 22 and 24 |
| WV | 54 | [WT Docket No. 01-108; FCC 02-229 and |
| WI | 55 | FCC 02-247] |
| WY | 56 | Public Mobile Services and Personal |
| Terr.: | | Communications Services |
| AS | 60 | AGENCY: Federal Communications |
| FM | 64 | Commission. |
| GU | 66 | ACTION: Final rule. |
| MH | 68 | |
| MH | 68 | SUMMARY: In this <i>Report and Order</i> and |
| PR | 72 | <i>Second Report and Order</i> , the |
| PW | 70 | Commission makes significant |
| UM | 74 | modifications to its rules that cover the |
| VI | 78 | Cellular Radiotelephone and other |
| Offshore (Marine Areas) 1: | | services as part of its Biennial Review |
| Eastern North Pacific Ocean, and | | of rules. The Commission modifies or |
| along U.S. West Coast from | | eliminates various rules that have |
| Canadian border to Mexican | 57 | become outdated due to supervening |
| border | | rules, technological change, or increased |
| North Pacific Ocean near Alaska, | | competition among providers of |
| and along Alaska coastline, in- | | Commercial Mobile Radio Services |
| cluding the Bering Sea and the | | (CMRS). The actions that the |
| Gulf of Alaska | 58 | Commission takes in these items |
| Central Pacific Ocean, including | | amends its rules to modify the |
| Hawaiian waters | 59 | requirement that cellular carriers |
| South Central Pacific Ocean, in- | | provide analog service compatible with |
| cluding American Samoa waters | 61 | Advanced Mobile Phone Service |
| Western Pacific Ocean, including | | (AMPS) specifications by establishing a |
| Mariana Island waters | 65 | five-year transition period after which |
| Western North Atlantic Ocean, | | the analog standard will not be required, |
| and along U.S. East Coast, | | but may still be provided. |
| from Canadian border south to | | DATES: Effective February 18, 2003. The |
| Currituck Beach Light, N.C. | 73 | incorporation by reference of certain |
| Western North Atlantic Ocean, | | publications listed in the regulations is |
| and along U.S. East Coast, | | approved by the Director of the FEDERAL |
| south of Currituck Beach Light, | | REGISTER as of February 18, 2003. |
| N.C., following the coastline into | | FOR FURTHER INFORMATION CONTACT: |
| Gulf of Mexico to Bonita Beach, | | Roger Noel or Linda Chang, Wireless |
| FL., including the Caribbean | 75 | Telecommunications Bureau, at (202) |
| Gulf of Mexico, and along the | | 418-0620. |
| U.S. Gulf Coast from the Mexi- | | SUPPLEMENTARY INFORMATION: This is a |
| can border to Bonita Beach, FL | 77 | consolidated summary of the Federal |
| Lake Superior | 91 | Communications Commission's <i>Report</i> |
| Lake Michigan | 92 | |
| Lake Huron | 93 | |
| Lake St. Clair | 94 | |
| Lake Erie | 96 | |
| Lake Ontario | 97 | |

and Order (R&O), FCC 02-229, adopted August 8, 2002, and released September 24, 2002, and *Second Report and Order (2nd R&O)*, FCC 02-247, adopted September 10, 2002, and released September 24, 2002. The full text of the R&O and 2nd R&O is available for public inspection during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY-A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Qualex International, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail at qualexint@aol.com.

Synopsis of Report and Order

I. Background

1. In June 2001, the Commission issued a *Notice of Proposed Rulemaking* seeking to identify and address outdated rule sections of part 22. See Year 2000 Biennial Regulatory Review—Amendment of part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services, *Notice of Proposed Rulemaking*, 66 FR 31589 (June 12, 2001) (*NPRM*). As the Commission observed in the *NPRM*, technological advances have allowed cellular carriers to increase the capacity of their systems, and to provide advanced services to their customers in the form of enhanced service quality and advanced calling features. Moreover, the mobile telephony industry has become much more competitive with the entry of CMRS providers using technologies other than analog cellular into the market. Many of the Commission's cellular rules, however, do not reflect these developments, and continue to be more applicable to the earlier forms of cellular than the more advanced digital services available today. Accordingly, the Commission concluded in the *NPRM* that it is appropriate to re-examine its original cellular rules to determine whether certain rules should be eliminated or modified.

II. Discussion

A. Section 11 of the Communications Act

2. In 1996, Congress anticipated that the development of competition would lead market forces to reduce the need for regulation and amended the Communications Act of 1934 to permit and encourage competition in various communications markets. See Telecommunications Act of 1996, Pub.