



**United States  
General Accounting Office  
Washington, D.C. 20548**

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**Office of the General Counsel**

B-281044

September 29, 1998

The Honorable John McCain  
Chairman  
The Honorable Ernest F. Hollings  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Thomas J. Bliley, Jr.  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Commerce  
House of Representatives

**Subject: Federal Communications Commission: Geographic Partitioning and  
Spectrum Disaggregation for the 220-222 MHz Service**

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "Geographic Partitioning and Spectrum Disaggregation for the 220-222 MHz Service" (PR Docket No. 89-552; GN Docket No. 93-252; FCC 98-186). We received the rule on September 11, 1998. It was published in the Federal Register as a final rule on September 15, 1998. 63 Fed. Reg. 49291.

The final rule amends the FCC's rules to allow the holders of licenses in the 220-222 MHz band to partition their licensed geographic area and disaggregate their licensed spectrum.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Federal Communications Commission is Judy England-Joseph,

Director for Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Robert P. Murphy  
General Counsel

Enclosure

cc: Ms. Kathy Fagan  
AMD-Performance Evaluation and  
Records Management  
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY  
THE FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
"GEOGRAPHIC PARTITIONING AND SPECTRUM DISAGGREGATION  
FOR THE 220-222 MHZ SERVICE"  
(PR Docket No. 89-552; GN Docket No. 93-252; FCC 98-186)

(i) Cost-benefit analysis

The FCC, in its report to our Office, states that it was not required to prepare and did not prepare a cost-benefit analysis of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The FCC prepared an Initial Regulatory Flexibility Analysis in connection with the proposed rule and a Final Regulatory Flexibility Analysis, which is published in the Federal Register in the preamble to the final rule.

The analyses comply with the requirements of the Regulatory Flexibility Act, including the number and description of the small entities affected by the rule, the steps taken to minimize the burdens on small entities, and alternatives that were considered.

The FCC, in discussing the steps taken to minimize the burden on small entities, states that allowing non-restricted partitioning and disaggregation will facilitate market entry by parties who may lack the financial resources for participation in the auctions. This action should allow small entities to obtain licenses for smaller service areas and smaller amounts of spectrum at presumably reduced costs, thereby allowing more small entities to enter the marketplace.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to title II of the Unfunded Mandates Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was promulgated using the notice and comment procedures contained in 5 U.S.C. § 553. On April 3, 1997, the FCC published a Notice of Proposed Rulemaking in the Federal Register. 62 Fed. Reg. 16004. The FCC received comments and reply comments from six firms, and the comments are responded to in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any new or modified information collections which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was issued pursuant to the authority of Sections 4(i), 303(g), 303(r), and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(g), 303(r), and 332(a).

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.