

CONNECTICUT-CARBON MONOXIDE—Continued

Designated Area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Hartford County (part) Hartland Township Litchfield County (part) All portions except cities and towns in Hartford, New Haven, and New York Areas				

¹ This date is November 15, 1990, unless otherwise noted.

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BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PARTS 2 AND 90

[WT Docket No. 96-86; FCC 98-191]

The Development of Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, Establishment of Rules and Requirements for Priority Access Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (Commission) adopted a *First Report and Order* ("First Report") contemporaneously with a *Third Notice of Proposed Rulemaking* that is summarized elsewhere in this edition of the Federal Register. In the *First Report*, the Commission amends its rules relating to public safety communications in the 764-806 MHz band ("700 MHz band") that the Commission previously reallocated for public safety services and in general. This action commences the process of assigning licenses for frequencies in the 700 MHz band and addresses an urgent need for additional public safety radio spectrum and the need for nationwide interoperability among local, state, and federal entities. By this action, the Commission also takes additional steps toward achieving its goals of developing a flexible regulatory framework to meet vital current and future public safety communications needs and ensuring that sufficient spectrum to accommodate efficient, effective telecommunications facilities and services will be available to satisfy public safety communications needs into the 21st century.

DATES: Effective January 4, 1999, except for §§ 90.523, 90.527, 90.545, and

90.551 which contain information collection requirements that are not effective until approved by the Office of Management and Budget. FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Written comments on these revised and modified information collection requirements should be submitted on or before December 2, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments on the revised information collection requirements to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov., and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, D.C. 20503, or via the internet to fain_t@eop.gov.

FOR FURTHER INFORMATION CONTACT: Peter Daronco or Michael Pollak, at the Public Safety & Private Wireless Division, (202) 418-0680. For additional information concerning the information collections contained in this *First Report*, contact Judy Boley at (202) 418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Report* in WT Docket No. 96-86, adopted on August 6, 1998, and released on September 29, 1998, contemporaneously with a *Third Notice of Proposed Rulemaking* ("Third Notice") in WT Docket No. 96-86 (collectively FCC 98-191). The *Third Notice* is summarized elsewhere in this edition of the **Federal Register**. The full text of the *First Report* and *Third Notice* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International

Transcription Services, 1231 20th Street, NW, Washington, DC 20036, 202-857-3800. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or at mcontee@fcc.gov. The complete (but unofficial) text is also available under the name "fcc98191.wp" on the Commission's Internet site at <<http://www.fcc.gov/Bureaus/Wireless/Orders/1998/index.html>>.

Paperwork Reduction Act

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060-0221.

Title: 90.155 Time in which station must be placed in operation.

Form No.: N/A.

Type of Review: Revision of a previously approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,055.

Estimated Time Per Response: 1 hours.

Total Annual Burden: 2,055 hours.

Frequency of Response: On occasion.

Total Annual Cost: No annual cost burden on respondents from either capital or start-up costs.

Needs and Uses: The information collection requirement contained in § 90.155 is needed to provide flexibility to state and local governments that would normally be unable to meet the requirement of placing their radio station in operation within 8 months or 12 months, as applicable. The information is used to evaluate if the exception to construction and operation requirement is warranted. If the information was not collected the Commission's information regarding actual loading of frequencies would be inaccurate. As a result of the record developed in response to the *Second Notice of Proposed Rulemaking*, 62 FR 60199, November 7, 1997 (*Second Notice*), the Commission decided in the *First Report* to extend the scope of the flexibility provisions of § 90.155 to state and local governmental licensees in the 700 MHz band. As this decision modifies the information collection for § 90.155 as previously approved by OMB, the Commission is now revising the total burden hours to approximately 2,055 respondents that would take an average of one hour to comply with the rules.

OMB Approval Number: 3060-0805.

Title: 90.527 Regional plan requirements, 90.523 Eligibility, & 90.545 TV/DTV interference protection criteria.

Form No.: N/A.

Type of Review: Revision of a previously approved collection.

Respondents: State or local governmental entities.

Number of Respondents: There is a potential of 65,656 respondents but it is anticipated that there will only be 26,656 responses.

Estimated Time Per Response: 24.3 hours.

Total Annual Burden: 647,675.

Frequency of Response: On occasion.

Total Annual Cost: No annual cost burden on respondents from either capital or start-up costs.

Needs and Uses: The *First Report* in WT Docket No. 96-86 amended service rules to make the spectrum available for licensing to public safety entities in accordance with the 1997 Budget Act. In order to satisfy local and regional needs and preferences, the Commission required submission of regional plans

drafted by planning committees made up of representatives from the public safety community. Creation of these plans will necessarily impose some burden, both on the eligible entities that make their needs known, and on the planners who seek to accommodate them. The Commission also established a National Coordination Committee that will develop and recommend national standards for the operation and use of the spectrum allocated for nationwide interoperability. These requirements differ from those proposed in the *Second Notice*, in that the Commission established a National Coordination Committee instead of two national committees to develop national standards for the operation and use of the spectrum allocated for nationwide interoperability. To be eligible for licensing, the Commission also required nongovernmental organizations to be specifically authorized by appropriate state or local governmental agencies. Additionally, the Commission is requiring public safety applicants to select one of three methods to meet TV/DTV interference protection criteria. These changes increase the total burden hours requested at the Notice of Proposed Rulemaking stage.

Synopsis of the First Report and Order

1. In 1993, Congress directed the Commission to develop a framework to ensure that public safety communications needs are met through the year 2010. Pursuant to that directive, the Commission issued a report to Congress identifying a need to gather additional information on the present and future communications requirements of public safety agencies. In 1995, the Commission, together with the National Telecommunications and Information Administration (NTIA), established the Public Safety Wireless Advisory Committee (PSWAC), pursuant to the Federal Advisory Committee Act (FACA), to provide advice and recommendations regarding the communications needs of public safety agencies through the year 2010. Shortly thereafter, the Commission sought comment on a wide variety of public safety communications issues, see *Notice of Proposed Rule Making*, 61 FR 25185, May 20, 1996 (*First Notice*), and in September 1996 the *PSWAC Final Report* was submitted to the Commission as part of the record in this proceeding. Briefly, the *PSWAC Final Report* found that the spectrum then allocated to public safety was insufficient to support the current and projected voice and data needs of the public safety community, did not provide adequate capacity for obtaining

interoperability, and was inadequate to meet future needs, based on projected population growth and demographic changes.

2. In the 1997 Budget Act, Congress directed the Commission to reallocate 24 megahertz of spectrum (recovered from TV channels 60-69 as a result of digital television implementation) for public safety services. The Commission adopted this reallocation on December 31, 1997. See ET Docket No. 97-157, *Report and Order*, 63 FR 6669, February 10, 1998, (*recon. denied*) *Memorandum Opinion and Order*, FCC 98-161 (rel. Oct. 9, 1998).

3. In the *Second Notice* in this proceeding (WT Docket 96-86), the Commission continued its inquiry into the present and future public safety communications needs and how best to use the newly reallocated 24 megahertz of spectrum in the 700 MHz band. It sought comment on a broad range of options to promote the efficient and effective use of the 700 MHz band to meet those needs. The Commission also noted that the *Second Notice* did not address all the issues raised in the *First Notice* or in the *PSWAC Final Report* and that, to the extent that important issues remain, they would be addressed in future proceedings. Fifty comments, forty reply comments, and numerous *ex parte* presentations were received in response to the *Second Notice*.

4. The *First Report* fulfills the Congressional mandate expressed in the Balanced Budget Act of 1997, Public Law 105-33, § 3004, 111 Stat. 251 (1997) (1997 Budget Act), codified at 47 U.S.C. 337(a)(1), to establish the terms and conditions that will govern use of the 24 megahertz of spectrum recently reallocated from broadcast to public safety services. The statute defines in detail the services for which Congress intends this spectrum to be used and requires the Commission to establish service rules, by September 30, 1998, that will commence the process of assigning licenses for this spectrum. The legislative history reflects that the licensing commencement date was added to the statute in light of the critical need for public safety spectrum in some markets. As such, the service rules are balanced to give effect to each provision of the statutory definition of public safety services for which the spectrum is allocated, in order to commence licensing expeditiously, and with minimal information submission requirements or similar regulatory burdens. With these aims in mind, the Commission also concluded that Congress expected it to draw on its extensive, relevant experience in allocating and licensing other Private

Land Mobile Radio (PLMR) spectrum designated for public safety-related activities.

5. The *First Report* establishes a band plan, eligibility criteria, and other service rules necessary to commence the licensing process for the new public safety spectrum in the 700 MHz band. The Commission's band plan designates approximately 10 percent of the 700 MHz public safety spectrum (a total of 2.6 megahertz) for nationwide interoperable communications. Interoperability is the ability of units from two or more government agencies to effectively interact with one another and exchange the full range of information needed for public safety entities to apply their best efforts to resolution of even the most critical situations. As a result of the interaction of numerous political, technological, financial and regulatory obstacles that work to inhibit attempts to establish universal public safety interoperability, this deficiency has persisted despite many years of efforts to eradicate it. In view of this situation, we believe that it is necessary for the Commission to dedicate sufficient spectrum to nationwide interoperability, and charter a federal advisory committee (The National Coordinating Committee [NCC]) that will develop operational and technical recommendations. The operational recommendations (e.g., protocols for prioritizing user access) of the NCC will, however, be subject to Commission approval. Because the NCC or a working group to develop and recommend technical standards will be required to become American National Standards Institute-certified, the Commission will not unnecessarily disturb technical standards recommended through this open and neutral process.

6. The band plan also designates approximately 53 percent of the new 700 MHz band (a total of 12.6 megahertz of spectrum) for general (i.e., local, regional or state) use. Regional Planning Committees (RPCs) will determine the specific uses of these channels, and they may begin the planning process to use these channels upon release of the *First Report*. This action is taken as part of the Commission's compliance with its mandate under the Balanced Budget Act of 1997. The *First Report* designates the remainder of the band (approximately 37 percent of the band or a total of 8.8 megahertz of spectrum) as "reserve spectrum" during the pendency of the *Third Notice*.

7. The band plan also accommodates all of the existing operational modes that we described in the *Second Notice* (voice, data, image/HSD, and video) but

is also flexible enough to allow deployment of the technologies of tomorrow. As recommended by some of the commenters, the Commission divided the band into separate segments for narrowband and wideband communications. To promote efficient spectrum usage and flexibility, the Commission's band plan incorporates a "building block" channelization approach, based on the smallest practical channel sizes for narrowband and wideband public safety communications. The RPCs will be allowed to combine these minimum size standard channels, to create larger channels as needed to accommodate transitional technology, such as 12.5 kHz voice and data, or communications requiring wider bandwidths, such as 19.2 kilobits per second (kbps) data. The Commission also adopted technical specifications that enhance spectrum efficiency, promote nationwide interoperability, and minimize harmful interference.

8. By establishing a flexible regulatory framework for public safety use of the 700 MHz band, the Commission seeks to enable public safety organizations to effectively use this new allocation for a variety of operational modes (voice, data, image/high speed data (HSD), and video), to promote competition in the equipment markets through flexible technical standards, and to promote development of innovative public safety technologies. The band plan is supported by a direct outgrowth of the record and will provide some technical features common to the entire band, while allowing local public safety entities, through RPCs, the discretion to configure channels to meet their individual needs. This band plan strikes an appropriate balance between the standardization necessary to achieve nationwide interoperability, the development of competitive equipment markets, and the degree of regional flexibility necessary to allow entities the opportunity to fashion approaches tailored to meet the individual needs of diverse regional communities. The Commission also adopted technical regulations sufficient to establish a general framework for seamless nationwide interoperability, facilitate spectrum management, encourage efficient and effective spectrum use, promote competition and avoid undue delays in equipment development.

9. The *First Report* also establishes a three-pronged test for determining eligibility to hold a license in the 700 MHz band which follows the 1997 Budget Act definition of "public safety services." The three prongs for determining eligibility are: (a) Purpose

of use; (b) identity of licensee; and (c) noncommercial *proviso*. Based on this criteria, the Commission concluded that entities eligible to be licensed in the 700 MHz band public safety spectrum are: (1) State and local governments and (2) non-governmental organizations (NGOs) expressly authorized by a state or local governmental entity whose mission is the oversight of or provision of services to protect the safety of life, health or property. In situations where a state or local governmental licensee needs to communicate by radio with a public safety service provider that is not licensed in the 700 MHz band, the licensee may permit the unlicensed provider to share the use of its system for noncommercial public safety services under 47 CFR 90.179 of the Commission's Rules.

10. Federal public safety providers may be authorized to use the public safety spectrum in the 700 MHz band pursuant to the existing NTIA/FCC process for Federal government use of non-Federal government spectrum, as set forth in part 2 of the Commission's Rules, 47 CFR 2.103. In sum, if a state or local governmental licensee desires for a Federal public safety entity to receive access to some or all of its licensed frequencies, the licensee can join in the request, under the NTIA/FCC process, to authorize Federal use of its non-government frequencies for noncommercial public safety services. The Commission adopted conforming revisions to § 2.103 to clarify the standards for this process for spectrum governed by section 337 of the Act. Federal use of the nationwide interoperability channels will be addressed in the recommendations to the Commission made by the NCC.

11. The Commission will charter the NCC in accordance with the procedural steps contained in the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988) (FACA) that will seek American National Standards Institute (ANSI) certification and provide a national structure for use of the 700 MHz band nationwide interoperability spectrum. The major responsibilities of this committee will be to: (1) Formulate and submit for Commission review and approval an operational plan to achieve national interoperability that includes a shared or priority system among users of the interoperability spectrum, for both day-to-day and emergency operations, and recommendations regarding Federal users' access to the interoperability spectrum; (2) recommend interoperability technical standards for Commission review and approval; (3) provide voluntary assistance in the development of coordinated regional

plans; and (4) provide general recommendations to the Commission on operational plans of the public safety community.

12. The regional planning process to spectrum management adopted for specific channels throughout the 700 MHz band designated as "General Use" (a total of 12.6 megahertz of spectrum) will be similar to that which governs management of public safety spectrum in the 821–824 MHz and the 866–869 MHz bands. *See, e.g.*, 47 CFR 90.16. To allow for additional flexibility, however, the Commission provides a mechanism that allows states that either are included in multi-state regions or have portions of their states included in more than one region to opt out of their current regions and to form new regions along geographical lines conforming to state boundaries. Thus, a state split among more than one RPC may opt, through consensus of the state representatives, to reform RPC boundaries so that the state participates in a single RPC. Similarly, all representatives to RPCs from the same state may, by consensus, create a new RPC that conforms to the boundaries of that state.

13. The Commission will allow all of the certified public safety frequency coordinators to provide coordination in the 700 MHz band, so that competition among coordinators will provide incentives for lower coordination fees and better quality services. The four Commission certified public safety coordinators are: Association of Public-Safety Communications Officials-International, Inc. (APCO) International Association of Fire Chiefs, Inc. (IAFC)/International Municipal Signal Association (IMSA); Forestry Conservation Communications Association (FCCA); and American Association of State Highway and Transportation Officials (AASHTO).

14. The Commission adopted geographic separation requirements based on a 40 dB Desired-to-Undesired signal strength ratio (D/U) to protect the TV/DTV stations and public safety spectrum users from harmful interference to each other and to comply with the requirements of the 1997 Budget Act. The Commission emphasized that the necessity for public safety licensees to share this 24 megahertz of spectrum with both analog and digital TV broadcast stations until December 31, 2006 will require the utmost cooperation between the TV stations and the public safety community.

15. The Commission adopted rules requiring that licenses for public safety facilities proposed to be located within

75 miles of the U.S.-Canada border or the U.S.-Mexico border be conditioned on avoiding harmful interference to television station receivers in those countries. The Commission also noted that additional licensing conditions governing cross-border sharing between public safety and television operations may be required after final agreements with the governments of those countries are signed.

Administrative Matters

16. The *First Report* in WT Docket No. 96–86 also contained a Final Regulatory Flexibility Act Analysis pursuant to the Regulatory Flexibility Act, 5 U.S.C. 604. It is substantially as follows:

As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), Initial Regulatory Flexibility Analyses (IRFA) were incorporated in the Notice of Proposed Rule Making (Public Safety Notice) and the Second Notice of Proposed Rule Making (Second Notice) in WT Docket 96–86. The Commission sought written public comments on the proposals in the Public Safety Notice and Second Notice, including on the IRFAs. The Commission's Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended by the Contract With America Advancement Act of 1996. 5 U.S.C. 604 Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

Need For and Objective of the Rules

Our objective is to establish a band plan and adopt service rules for 24 megahertz of spectrum in the 746–776 MHz and 794–806 MHz bands ("700 MHz band"). The spectrum, which previously has been allocated for use by television (TV) broadcasting on TV Channels 60–69, is now being made available to meet various public safety communications needs in accordance with 47 U.S.C. 337. Additionally, with these rules, we designate 2.6 megahertz of spectrum in the 700 MHz band for interoperability purposes. This will enable different agencies to communicate across jurisdictions and with each other. With these rules, we also adopt certain technical specifications that enhance spectrum efficiency, promote nationwide interoperability, and minimize harmful interference.

We sought comments on a broad range of options to achieve these goals. The Second Notice contained a section, prompted by a Petition for Rule Making filed by the National Communications System (NCS), seeking comment on the

establishment of Cellular Priority Access Service (CPAS) designed to meet the communications needs of public safety services in emergency and disaster situations. Second Notice, 12 FCC Rcd at 17,779–17,800. We have deferred action on this matter to a later notice. In the First Report and Order section of this combined First Report and Order and Third Notice of Proposed Rule Making (hereinafter First Report and Third Notice as applicable), we continue to progress toward our goal of developing a flexible regulatory framework designed to provide sufficient spectrum for public safety purposes and to ensure that efficient, effective telecommunications facilities and services will be available to satisfy public safety communications needs into the 21st century. Our actions herein also continue the process of addressing the public safety spectrum insufficiency cited by the Public Safety Wireless Advisory Committee (PSWAC) in its Final Report.

In the First Report herein, we establish a band plan and adopt service rules necessary to commence the process of assignment of licenses for public safety stations to operate in the newly reallocated spectrum at 746–776 MHz and 794–806 MHz (hereinafter "the 700 MHz band"). This new public safety spectrum allocation is the largest single allocation ever made for public safety communications and represents a significant public benefit that is derived from the upcoming evolution of television broadcasting in the United States from analog technology of the 1950s to state of the art digital technology. In the 1997 Budget Act, Congress directed the Commission to commence assignment of licenses for public safety services in the 700 MHz band no later than September 30, 1998. Balanced Budget Act of 1997, Public Law 105–33, Sec. 3004, 111 Stat. 251 (1997) (1997 Budget Act), codified at 47 U.S.C. 337(b)(1). Our action herein will allow us to fulfill that mandate.

Additionally, we designate a portion of the 700 MHz band for interoperability purposes, provide for national, state, and local roles in the administration and channel coordination of the new band, adopt eligibility and licensing rules, establish fundamental technical criteria such as transmitting power limits, and adopt rules to protect the service of transitional television broadcast stations from interference.

Summary of Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analyses

In the IRFA, the Commission found that the rules we proposed to adopt in

this proceeding may have a significant impact on a substantial number of small businesses. The IRFA solicited comment on alternatives to our proposed rules that would minimize the impact on small entities consistent with the objectives of this proceeding. No comments were submitted directly in response to the IRFAs. However, as described below, we have taken into account the comments submitted generally by small entities.

Description and Estimate of the Small Entities Involved

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 1992, there were approximately 275,801 small organizations. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

Public Safety Radio Pool Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337 which includes non-Federal governmental

entities as well as certain private businesses as potential licensees for this spectrum. As indicated above in this FRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

Radio and Television Equipment Manufacturers. We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities. We do not have information that indicates how many of the six radio equipment manufacturers associated with this proceeding are among these 778 firms. However, Motorola and Ericsson are major, nationwide radio equipment manufacturers, and, thus, we conclude that these manufacturers would not qualify as small businesses.

Television Stations. This First Report will affect full service TV station licensees (Channels 60-69), TV translator facilities, and low power TV (LPTV) stations. The Small Business Administration defines a TV broadcasting station that has no more than \$10.5 million in annual receipts as a small business. TV broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by TV to the public, except cable and other pay TV services. Included in this industry are commercial, religious, educational, and other TV stations. Also included are establishments primarily engaged in TV broadcasting and which produce taped TV program materials. Separate establishments primarily engaged in producing taped TV program materials are classified under another SIC number.

There were 1,509 TV stations operating in the Nation in 1992. That number has remained fairly constant as indicated by the approximately 1,551 operating TV broadcasting stations in the Nation as of February 28, 1997. For 1992 the number of TV stations that produced less than \$10.0 million in revenue was 1,155 establishments, or approximately 77 percent of the 1,509 establishments. There are currently 95 full service analog TV stations, either operating or with approved construction permits on channels 60-69. In the DTV

Proceeding, we adopted a DTV Table which provides only 15 allotments for DTV stations on channels 60-69 in the continental United States. There are seven DTV allotments in channels 60-69 outside the continental United States. Thus, the rules will affect approximately 117 TV stations; approximately 90 of those stations may be considered small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-TV affiliated companies. We recognize that the rules may also impact minority-owned and women-owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0 percent) of 1,221 commercial TV stations in the United States. According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9 percent) of 1,342 commercial and non-commercial TV stations in the United States.

There are currently 4,977 TV translator stations and 1,952 LPTV stations. Approximately 1,309 low power TV and TV translator stations are on channels 60-69 which could be affected by policies in this proceeding. The Commission does not collect financial information of any broadcast facility and the Department of Commerce does not collect financial information on these broadcast facilities. We will assume for present purposes, however, that most of these broadcast facilities, including LPTV stations, could be classified as small businesses. As indicated earlier, approximately 77 percent of TV stations are designated under this analysis as potentially small businesses. Given this, LPTV and TV translator stations would not likely have revenues that exceed the SBA maximum to be designated as small businesses.

Summary of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

The First Report and Order adopts a number of rules that will entail reporting, recordkeeping, and/or third party consultation. However, the Commission believes that these requirements are the minimum needed. The *First Report and Order* establishes a 700 MHz band plan, and establishes and requires planning committees to develop and submit to the Commission organizational and operational plans for the use of this spectrum. Accordingly, this *First Report and Order* imposes recordkeeping and reporting requirements on individuals or organizations involved in establishing

the national and regional planning processes including the nationwide interoperability plan, and on individuals and organizations that assist us in developing technical standards, and on entities such as applicants and licensees, that are subject to these plans, including small government agencies who may request extended implementation. Additionally, in accordance with 47 U.S.C. 337(f)(1)(B)(ii), nongovernmental organizations (NGO) are required to submit, along with their request to operate in the 700 MHz band, a written statement by the authorizing state or local government entity supporting the NGO's application.

Steps Taken by Agency To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

We have reduced economic burdens wherever possible. The regulatory burdens we have retained, such as filing applications on appropriate forms, are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner.

We have incorporated technical rules that promote competition in the equipment market. We believe that the rules we adopt must be as competitively and technologically-neutral as possible to allow for competing equipment designs and to avoid hindering or precluding future innovative technological developments. We note that tighter technical specifications generally allow more intense spectrum use, but may result in higher equipment costs. Conversely, while wider tolerances may allow manufacturers to use less costly component parts in transmitting equipment, they may also result in less efficient spectrum use. With these considerations in mind, we believe the technical regulations we adopt herein provide a reasonable balance of these concerns.

Under the regional planning process, frequency coordination is now competitive. Frequency coordination is the process by which a private organization recommends to the Commission the most appropriate frequencies for private land mobile radio (PLMR) service applicants. Frequency coordinators provide a valuable service to the Commission by eliminating common application errors, thereby improving the quality of the applications, resolving potential interference problems at the source. There are currently four frequency coordinators certified to coordinate frequencies for public safety applicants.

We have authorized, for the general use portion of this band, each of the four currently certified frequency coordinators to coordinate public safety spectrum, whereas in the 800 MHz National Plan, coordination is limited to APCO, the sole frequency coordinator. We continue to believe that by encouraging competition among coordinators, we will promote cost-based pricing of coordination services and provide incentives for enhancing service quality. Therefore, we will allow any of the certified public safety coordinators to provide coordination in the 700 MHz band.

To minimize any negative impact from the licensing plan we adopt for the 700 MHz band, we have offered each state and local governments the option of utilizing the existing infrastructure of the regional planning process. Of the nation's 55 public safety regional planning committees, most were designed along state boundaries. There were, however, states that were divided into different regions and states in multi-state regions; 700 MHz band committee memberships within each of these states will have the option to agree to be part of only one multistate region, or to form a region designated along state boundaries.

Report to Congress: The Commission will send a copy of this *First Report and Order and Third Notice of Proposed Rule Making*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this *First Report and Order and Third Notice of Proposed Rule Making*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

17. Authority for issuance of this *First Report and Order and Third Notice of Proposed Rule Making* is contained in Sections 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(f) and (r), 332, 337.

18. Accordingly, it is ordered that Part 90 of the Commission's Rules, 47 CFR Part 90, is amended effective January 4, 1999, except for §§ 90.523, 90.527, 90.545, and 90.551 which contain information collection requirements that are not effective until approved by the Office of Management and Budget. FCC will publish a document in the **Federal Register** announcing the effective date for those sections.

19. It is further ordered that the Wireless Telecommunications Bureau

shall take all necessary steps, pursuant to the Federal Advisory Committee Act, 5 U.S.C., App., to establish a Public Safety National Coordination Committee, and charge the Committee with the duty, among others to be set forth in the Committee Charter, with recommending a national interoperability operational plan for review and approval by the Commission as well as the technical standards in accordance with American National Standards Institute process to apply to all public safety interoperability channel equipment.

20. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *First Report and Order and Third Notice of Proposed Rule Making* including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 90

Administrative practice and procedure, Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 90 as follows:

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

1. The authority citation for part 2 is revised to read as follows:

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

2. Section 2.103 is revised to read as follows:

§ 2.103 Government use of non-Government frequencies.

(a) Government stations may be authorized to use non-Government frequencies in the bands above 25 MHz (except the 764–776 MHz and 794–806 MHz public safety bands) if the Commission finds that such use is necessary for coordination of Government and non-Government activities: Provided, however, that:

(1) Government operation on non-Government frequencies shall conform with the conditions agreed upon by the Commission and the National Telecommunications and Information

Administration (the more important of which are contained in paragraphs (a)(2), (a)(3) and (a)(4) of this section);

(2) Such operations shall be in accordance with Commission rules governing the service to which the frequencies involved are allocated;

(3) Such operations shall not cause harmful interference to non-Government stations and, should harmful interference result, that the interfering Government operation shall immediately terminate; and

(4) Government operation has been certified as necessary by the non-Government licensees involved and this certification has been furnished, in writing, to the Government agency with which communication is required.

(b) Government stations may be authorized to use channels in the 764–776 MHz and 794–806 MHz public safety bands with non-Government

entities if the Commission finds such use necessary; where:

(1) The stations are used for interoperability or part of a Government/non-Government shared or joint-use system;

(2) The Government entity obtains the approval of the non-Government (State/local government) licensee(s) or applicant(s) involved;

(3) Government operation is in accordance with the Commission's Rules governing operation of this band and conforms with any conditions agreed upon by the Commission and the National Telecommunications and Information Administration; and

(4) Interoperability, shared or joint-use systems are the subject of a mutual agreement between the Government and non-Government entities. This section does not preclude other arrangements or agreements as permitted under part 90

of the rules. See 47 CFR 90.179 and 90.421 of this chapter.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

3. The authority citation for Part 90 is revised to read as follows:

Authority: Secs. 4, 251–2, 303, 309, 332 and 337, 48 Stat 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309 and 337, unless otherwise noted.

4. Section 90.20 is amended by adding two entries to the table in paragraph (c)(3) and by adding a new paragraph (d)(77), to read as follows:

§ 90.20 Public Safety Pool.

*	*	*	*	*
(c)	*	*	*	
(3)	*	*	*	

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
* * * * *	* * * * *	* * * * *	* * * * *
764 to 776	Base, mobile	77	PX
794 to 806	Mobile	77	PX
* * * * *	* * * * *	* * * * *	* * * * *

(d) * * *

(77) Subpart R of this part contains rules for assignment of channels in the 764–776 MHz and 794–806 MHz bands.

* * * * *

5. Section 90.205 is amended by revising paragraph (i) to read as follows:

§ 90.205 Power and antenna height limits.

* * * * *

(i) 764–776 MHz, 794–824 MHz, 851–869 MHz, 896–901 MHz and 935–940 MHz. Power and height limitations are specified in § 90.635.

* * * * *

6. A new Subpart R is added to read as follows:

Subpart R—Regulations Governing the Licensing and Use of Frequencies in the 764–776 and 794–806 MHz Bands

Sec.

90.521 Scope.

90.523 Eligibility.

90.527 Regional plan requirements.

90.531 Band plan.

90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.

90.535 Modulation and spectrum usage efficiency requirements.

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90.539 Frequency stability.

90.541 Transmitting power limits.

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Subpart R—Regulations Governing the Licensing and Use of Frequencies in the 764–776 and 794–806 MHz Bands

§ 90.521 Scope.

This subpart sets forth the regulations governing the licensing and operations of all systems operating in the 764–776 MHz and 794–806 MHz frequency bands. It includes eligibility, operational, planning and licensing requirements and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands.

§ 90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. § 337(f)(1). The following are eligible to hold Commission authorizations for systems

operating in the 764–776 MHz and 794–806 MHz frequency bands:

(a) *State or local government entities.* Any territory, possession, state, city, county, town, or similar State or local governmental entity is eligible to hold authorizations in the 764–776 MHz and 794–806 MHz frequency bands.

(b) *Nongovernmental organizations.* A nongovernmental organization (NGO) that provides services, the sole or principal purpose of which is to protect the safety of life, health, or property, is eligible to hold an authorization for a system operating in the 764–776 MHz and 794–806 MHz frequency bands for transmission or reception of communications essential to providing such services if (and only for so long as) the NGO applicant/licensee:

(1) Has the written, ongoing support (to operate such system) of a state or local governmental entity whose mission is the oversight of or provision of services, the sole or principal purpose of which is to protect the safety of life, health, or property; and

(2) Operates such authorized system solely for transmission of communication essential to providing services the sole or principal purpose of which is to protect the safety of life, health, or property.

(c) *All NGO authorizations are conditional.* NGOs assume all risks associated with operating under conditional authority. Authorizations issued to NGOs to operate systems in the 764–776 MHz and 794–806 MHz frequency bands include the following condition: If at any time the supporting governmental entity (see paragraph (b)(1)) notifies the Commission in writing of such governmental entity's termination of its authorization of a NGO's operation of a system in the 764–776 MHz and 794–806 MHz frequency bands, the NGO's application shall be dismissed automatically or, if authorized by the Commission, the NGO's authorization shall terminate automatically.

(d) Paragraphs (a) and (b) notwithstanding, no entity is eligible to hold an authorization for a system operating in the 764–776 MHz and 794–806 MHz frequency bands on the basis of services, the sole or principal purpose of which is to protect the safety of life, health or property, that such entity makes commercially available to the public.

§ 90.527 Regional plan requirements.

Each regional planning committee must submit a regional plan for approval by the Commission.

(a) *Common elements.* Regional plans must incorporate the following common elements:

(1) Identification of the document as the regional plan for the defined region with the names, business addresses, business telephone numbers, and organizational affiliations of the chairpersons and all members of the planning committee.

(2) A summary of the major elements of the plan and an explanation of how all eligible entities within the region were given an opportunity to participate in the planning process and to have their positions heard and considered fairly.

(3) A general description of how the spectrum would be allotted among the various eligible users within the region with an explanation of how the requirements of all eligible entities within the region were considered and, to the degree possible, met.

(4) An explanation as to how needs were assigned priorities in areas where not all eligible entities could receive licenses.

(5) An explanation of how the plan had been coordinated with adjacent regions.

(6) A detailed description of how the plan put the spectrum to the best possible use by requiring system design with minimum coverage areas, by

assigning frequencies so that maximum frequency reuse and offset channel use may be made, by using trunking, and by requiring small entities with minimal requirements to join together in using a single system where possible.

(7) A detailed description of the future planning process, including, but not limited to, amendment process, meeting announcements, data base maintenance, and dispute resolution.

(8) A certification by the regional planning chairperson that all planning committee meetings, including subcommittee or executive committee meetings, were open to the public.

(b) *Modification of regional plans.* Regional plans may be modified by submitting a written request, signed by the regional planning committee, to the Chief, Wireless Telecommunications Bureau. The request must contain the full text of the modification, and must certify that successful coordination of the modification with all adjacent regions has occurred and that all such regions concur with the modification.

§ 90.531 Band plan.

This section sets forth the band plan for the 764–776 MHz and 794–806 MHz public safety bands.

(a) *Base and mobile use.* The 764–776 MHz band may be used for base, mobile or fixed (repeater) transmissions. The 794–806 MHz band may be used only for mobile or fixed (control) transmissions.

(b) *Narrowband segments.* There are four band segments that are designated for use with narrowband emissions. Each of these narrowband segments is divided into 480 channels having a channel size of 6.25 kHz as follows:

Frequency range	Channel Nos.
764–767 MHz	1–480
773–776 MHz	481–960
794–797 MHz	961–1440
803–806 MHz	1441–1920

(1) *Narrowband nationwide interoperability channels.* The following narrowband channels are designated for nationwide interoperability licensing and use: 55, 56, 59, 60, 67, 68, 135, 136, 139, 140, 147, 148, 215, 216, 219, 220, 227, 228, 295, 296, 299, 300, 307, 308, 375, 376, 379, 380, 387, 388, 467, 468, 535, 536, 539, 540, 547, 548, 615, 616, 619, 620, 627, 628, 695, 696, 699, 700, 707, 708, 775, 776, 779, 780, 787, 788, 855, 856, 859, 860, 867, 868, 947, 948, 1015, 1016, 1019, 1020, 1027, 1028, 1095, 1096, 1099, 1100, 1107, 1108, 1175, 1176, 1179, 1180, 1187, 1188, 1255, 1256, 1259, 1260, 1267, 1268, 1335, 1336, 1339, 1340, 1347, 1348,

1427, 1428, 1495, 1496, 1499, 1500, 1507, 1508, 1575, 1576, 1579, 1580, 1587, 1588, 1655, 1656, 1659, 1660, 1667, 1668, 1735, 1736, 1739, 1740, 1747, 1748, 1815, 1816, 1819, 1820, 1827, 1828, 1907, 1908.

(2) *Reserved narrowband channels.* The following narrowband channels are reserved pending further Commission action in WT Docket No. 96–86

(*proceeding pending*): 53, 54, 57, 58, 61–66, 69–80, 133, 134, 137, 138, 141–146, 149–160, 213, 214, 217, 218, 221–226, 229–240, 293, 294, 297, 298, 301–306, 309–320, 373, 374, 377, 378, 381–386, 389–400, 453–466, 469–480, 533, 534, 537, 538, 541–546, 549–560, 613, 614, 617, 618, 621–626, 629–640, 693, 694, 697, 698, 701–706, 709–720, 773, 774, 777, 778, 781–786, 789–800, 853, 854, 857, 858, 861–866, 869–880, 933–946, 949–960, 1013, 1014, 1017, 1018, 1021–1026, 1029–1040, 1093, 1094, 1097, 1098, 1101–1106, 1109–1120, 1173, 1174, 1177, 1178, 1181–1186, 1189–1200, 1253, 1254, 1257, 1258, 1261–1266, 1269–1280, 1333, 1334, 1337, 1338, 1341–1346, 1349–1360, 1413–1426, 1429–1440, 1493, 1494, 1497, 1498, 1501–1506, 1509–1520, 1573, 1574, 1577, 1578, 1581–1586, 1589–1600, 1653, 1654, 1657, 1658, 1661–1666, 1669–1680, 1733, 1734, 1737, 1738, 1741–1746, 1749–1760, 1813, 1814, 1817, 1818, 1821–1826, 1829–1840, 1893–1906, 1909–1920.

(3) *Narrowband general use channels.* All narrowband channels established in paragraph (b), other than those listed in paragraphs (b)(1) and (b)(2), are designated for exclusive assignment to public safety eligibles subject to Commission-approved regional planning committee regional plans.

(c) *Wideband segments.* There are two band segments that are designated for use with wideband emissions. Each of these wideband segments is divided into 120 channels having a channel size of 50 kHz as follows:

Frequency range	Channel Nos.
767–773 MHz	1–120
797–803 MHz	121–240.

(1) *Wideband nationwide interoperability channels.* The following wideband channels are designated for nationwide interoperability licensing and use: 7–9, 34–36, 58–63, 85–87, 112–114, 127–129, 154–156, 178–183, 205–207, 232–234.

(2) *Reserved wideband channels.* The following wideband channels are reserved pending further Commission action in WT Docket No. 96–86 (*proceeding pending*): 1–6, 37–57, 64–

84, 115–126, 157–177, 184–204, 235–240.

(3) *Wideband general use channels.* All wideband channels established in paragraph (c), except for those listed in paragraphs (c)(1) and (c)(2), are designated for shared assignment to public safety eligibles subject to Commission-approved regional planning committee regional plans.

(d) *Combining channels.* At the discretion of the appropriate regional planning committee, contiguous channels may be used in combination in order to accommodate requirements for larger bandwidth emissions, in accordance with this paragraph. As an exception to this general rule, channels designated for nationwide interoperability use must not be combined with channels that are not designated for nationwide interoperability use.

(1) *Narrowband.* Two or four contiguous narrowband (6.25 kHz) channels may be used in combination as 12.5 kHz or 25 kHz channels, respectively. The lower (in frequency) channel for two channel combinations must be an odd (i.e., 1, 3, 5, 8 * * *) numbered channel. The lowest (in frequency) channel for four channel combinations must be a channel whose number is equal to $1+(4 \times n)$, where n = any integer between 0 and 479, inclusive (e.g., channel number 1, 5, * * * 1917). Channel combinations are designated by the lowest and highest channel numbers separated by a hyphen, e.g., “1–2” for a two channel combination and “1–4” for a four channel combination.

(2) *Wideband.* Two or three contiguous wideband (50 kHz) channels may be used in combination as 100 kHz or 150 kHz channels, respectively. The lower (in frequency) channel for two channel combinations must be a channel whose number is equal to $1+(3 \times n)$ or $2+(3 \times n)$, where n = any integer between 0 and 79, inclusive (e.g., channel number 1, 2, 5, 6, * * * 238, 239). The lowest (in frequency) channel for three channel combinations must be a channel whose number is equal to $1+(3 \times n)$, where n = any integer between 0 and 79, inclusive (e.g., channel number 1, 5, * * * 238). Channel combinations are designated by the lowest and highest channel numbers separated by a hyphen, e.g., “1–2” for a two channel combination and “1–3” for a three channel combination.

(e) *Channel pairing.* In general, channels must be planned and assigned in base/mobile pairs that are separated by 30 MHz. However, until December 31, 2006, channels other than those listed in paragraphs (b)(1) and (c)(1),

may be planned and assigned in base/mobile pairs having a different separation, where necessary because 30 MHz base/mobile pairing is precluded by the presence of one or more co-channel or adjacent channel TV/DTV broadcast stations.

§ 90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.

This section applies to each license to operate one or more public safety transmitters in the 764–776 MHz and 794–806 MHz bands, at a location or locations North of Line A (see § 90.7) or within 120 kilometers (75 miles) of the U.S.-Mexico border, until such time as agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, become effective governing border area non-broadcast use of these bands. Public safety licenses are granted subject to the following conditions:

(a) Operation of public safety transmitters must not cause harmful interference to the reception of television broadcasts transmitted by UHF TV broadcast stations located in Canada or Mexico. In addition, public safety base, control, and mobile transmitters must comply with the interference protection criteria in § 90.545 for TV/DTV stations in Canada and Mexico.

(b) Public safety facilities must accept any interference that may be caused by operations of UHF television broadcast transmitters in Canada and Mexico.

(c) Conditions may be added during the term of the license, if required by the terms of international agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, regarding non-broadcast use of the 764–776 MHz and 794–806 MHz bands.

§ 90.535 Modulation and spectrum usage efficiency requirements.

Transmitters designed to operate in 764–776 MHz and 794–806 MHz frequency bands must meet the following modulation standards:

(a) All transmitters in the 764–776 MHz and 794–806 MHz frequency bands must use digital modulation. Mobile and portable transmitters may have analog modulation capability only as a secondary mode in addition to its primary digital mode.

(b) Transmitters designed to operate in the narrowband segment using digital modulation must be capable of maintaining a data throughput of not

less than 4.8 kbps in a 6.25 kHz bandwidth.

(c) Transmitters designed to operate in the wideband segment using digital modulation must be capable of maintaining a data throughput of not less than 384 kbps in a 150 kHz bandwidth.

§ 90.537 Trunking requirement.

All systems using six or more narrowband channels in the 764–776 MHz and 794–806 MHz frequency bands must be trunked systems, except for those using the designated nationwide interoperability channels.

§ 90.539 Frequency stability.

Transmitters designed to operate in 764–776 MHz and 794–806 MHz frequency bands must meet the frequency stability requirements in this section.

(a) Mobile, portable and control transmitters must normally use automatic frequency control (AFC) to lock on to the base station signal.

(b) The frequency stability of base transmitters operating in the narrowband segment must be 100 parts per billion or better.

(c) The frequency stability of mobile, portable and control transmitters operating in the narrowband segment must be 400 parts per billion or better when AFC is locked to a base station, and 2.5 parts per million or better when AFC is not locked.

(d) The frequency stability of base transmitters operating in the wideband segment must be 1 part per million or better.

(e) The frequency stability of mobile, portable and control transmitters operating in the wideband segment must be 1.25 parts per million or better when AFC is locked to a base station, and 5 parts per million or better when AFC is not locked.

§ 90.541 Transmitting power limits.

The transmitting power of base, mobile, portable and control stations operating in the 764–776 MHz and 794–806 MHz frequency bands must not exceed the maximum limits in this section, and must also comply with any applicable effective radiated power limits in § 90.545.

(a) The transmitting power of base transmitters must not exceed the limits given in paragraphs (a), (b) and (c) of § 90.635.

(b) The transmitter output power of mobile and control transmitters must not exceed 30 Watts.

(c) The transmitter output power of portable (hand-held) transmitters must not exceed 3 Watts.

(d) Mobile and portable transmitters must be designed to employ automatic power control.

§ 90.543 Emission limitations.

Transmitters designed to operate in 764–776 MHz and 794–806 MHz frequency bands must meet the emission limitations in this section.

(a) The adjacent channel coupled power (ACCP) requirements for transmitters designed for various channel sizes are shown in the following tables. Mobile station requirements apply to handheld, car mounted and control station units. The tables specify a maximum value for the ACCP relative to maximum output power as a function of the displacement

from the channel center frequency. In addition, the ACCP for a mobile station transmitter at the specified frequency displacement must not exceed the value shown in the tables. For transmitters that have power control, the latter ACCP requirement can be met at maximum power reduction. In the following charts, “(s)” means a swept measurement is to be used.

6.25 KHZ MOBILE TRANSMITTER ACCP REQUIREMENTS

Offset from Center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
6.25	6.25	–40	(¹)
12.5	6.25	–60	–45
18.75	6.25	–60	–45
25	6.25	–65	–50
37.5	25	–65	–50
62.5	25	–65	–50
87.5	25	–65	–50
150	100	–65	–50
250	100	–65	–50
>400 to receive band	30(s)	–75	–55
in the receive band	30(s)	–100	–70

¹ Not specified.

12.5 KHZ MOBILE TRANSMITTER ACCP REQUIREMENTS

Offset from center frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP relative (dBc)	Maximum ACCP absolute (dBm)
9.375	6.25	–40	(¹)
15.625	6.25	–60	–45
21.875	6.25	–60	–45
37.5	25	–65	–50
62.5	25	–65	–50
87.5	25	–65	–50
150	100	–65	–50
250	100	–65	–50
>400 to receive band	30(s)	–75	–55
in the receive band	30(s)	–100	–70

¹ Not specified.

25 KHZ MOBILE TRANSMITTER ACCP REQUIREMENTS

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
15.625	6.25	–40	(¹)
21.875	6.25	–60	–45
37.5	25	–65	–50
62.5	25	–65	–50
87.5	25	–65	–50
150	100	–65	–50
250	100	–65	–50
> 400 to receive band	30(s)	–75	–55
in the receive band	30(s)	–100	–70

¹ Not specified.

150 KHZ MOBILE TRANSMITTER ACCP REQUIREMENTS

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
100	50	–40	(¹)
200	50	–50	–35
300	50	–50	–35
400	50	–50	–35
600 to 1000	30(s)	–60	–45
1000 to receive band	30(s)	–70	–55

150 KHZ MOBILE TRANSMITTER ACCP REQUIREMENTS—Continued

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP Relative (dBc)	Maximum ACCP Absolute (dBm)
in the receive band	30(s)	- 100	- 75

¹ Not specified.

6.25 KHZ BASE TRANSMITTER ACCP REQUIREMENTS

Offset from center frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
6.25	6.25	- 40
12.5	6.25	- 60
18.75	6.25	- 60
25	6.25	- 65
37.5	25	- 65
62.5	25	- 65
87.5	25	- 65
150	100	- 65
250	100	- 65
>400 to receive band	30(s)	(¹)
In the receive band	30(s)	-100

¹ - 80 (continues @ -6dB/oct)

12.5 KHZ BASE TRANSMITTER ACCP REQUIREMENTS

Offset from center Frequency (kHz)	Measurement Bandwidth (kHz)	Maximum ACCP (dBc)
9.375	6.25	- 40
15.625	6.25	- 60
21.875	6.25	- 60
37.5	25	- 60
62.5	25	- 65
87.5	25	- 65
150	100	- 65
250	100	- 65
>400 to receive band	30(s)	(¹)
In the receive band	30(s)	- 100

¹ - 80 (continues @ -6dB/oct)

25 kHz Base Transmitter ACCP Requirements

Offset from center frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
15.625	6.25	- 40
21.875	6.25	- 60
37.5	25	- 60
62.5	25	- 65
87.5	25	- 65
150	100	- 65
250	100	- 65
>400 to receive band	30(s)	(¹)
In the receive band	30(s)	- 100

¹ - 80 (continues @ -6dB/oct)

150 KHZ BASE TRANSMITTER ACCP REQUIREMENTS

Offset from center Frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
100	50	- 40
200	50	- 50
300	50	- 55
400	50	- 60

150 KHZ BASE TRANSMITTER ACCP REQUIREMENTS—Continued

Offset from center Frequency (kHz)	Measurement bandwidth (kHz)	Maximum ACCP (dBc)
600 to 1000	30 (s)	-65
1000 to receive band	30 (s)	(¹)
In the receive band	30 (s)	-100

¹ -75 (continues @ -6dB/oct)

(b) *ACCP measurement procedure.* The following are procedures for making transmitter measurements. For time division multiple access (TDMA) systems, the measurements are to be made under TDMA operation only during time slots when the transmitter is on. All measurements must be made at the input to the transmitter's antenna. Measurement bandwidth used below implies an instrument that measures the power in many narrow bandwidths (e.g. 300 Hz) and integrates these powers across a larger band to determine power in the measurement bandwidth.

(1) *Setting reference level.* Using a spectrum analyzer capable of ACCP measurements, set the measurement bandwidth to the channel size. For example, for a 6.25 kHz transmitter, set the measurement bandwidth to 6.25 kHz; for a 150 kHz transmitter, set the measurement bandwidth to 150 kHz. Set the frequency offset of the measurement bandwidth to zero and adjust the center frequency of the spectrum analyzer to give the power level in the measurement bandwidth. Record this power level in dBm as the "reference power level".

(2) *Measuring the power level at frequency offsets <600kHz.* Using a spectrum analyzer capable of ACCP measurements, set the measurement bandwidth as shown in the tables above. Measure the ACCP in dBm. These measurements should be made at maximum power. Calculate the coupled power by subtracting the measurements made in this step from the reference power measured in the previous step. The absolute ACCP values must be less than the values given in the table for each condition above.

(3) *Measuring the power level at frequency offsets >600kHz.* Set a spectrum analyzer to 30 kHz resolution bandwidth, 1 MHz video bandwidth and sample mode detection. Sweep ± 6 MHz from the carrier frequency. Set the reference level to the RMS value of the transmitter power and note the absolute power. The response at frequencies greater than 600 kHz must be less than the values in the tables above.

(4) *Upper power limit measurement.* The absolute coupled power in dBm measured above must be compared to the table entry for each given frequency offset. For those mobile stations with power control, these measurements should be repeated with power control at maximum power reduction. The absolute ACCP at maximum power reduction must be less than the values in the tables above.

(c) *Out-of-band emission limit.* On any frequency outside of the frequency ranges covered by the ACCP tables in this section, the power of any emission must be reduced below the unmodulated carrier power (P) by at least $43 + 10 \log (P)$ dB.

(d) *Authorized bandwidth.* Provided that the ACCP requirements of this section are met, applicants may request any authorized bandwidth that does not exceed the channel size.

§ 90.545 TV/DTV interference protection criteria.

Public safety base, control, and mobile transmitters in the 764–776 MHz and 794–806 MHz frequency bands must be operated only in accordance with the rules in this section, to reduce the potential for interference to public reception of the signals of existing TV and DTV broadcast stations transmitting on TV Channels 62, 63, 64, 65, 67, 68 or 69.

(a) *D/U ratios.* Licensees of public safety stations must choose site locations that are a sufficient distance from co-channel and adjacent channel TV and DTV stations, and/or must use reduced transmitting power or transmitting antenna height such that the following minimum desired signal to undesired signal ratios (D/U ratios) are met:

(1) The minimum D/U ratio for co-channel stations is 40 dB at the hypothetical Grade B contour (64 dB μ V/m) (88.5 kilometers or 55.0 miles) of the TV station or 17 dB at the equivalent Grade B contour (41 dB μ V/m) (88.5 kilometers or 55.0 miles) of the DTV station.

(2) The minimum D/U ratio for adjacent channel stations is 0 dB at the hypothetical Grade B contour (64 dB μ V/m) (88.5 kilometers or 55.0 miles) of the TV station or -23 dB at the equivalent Grade B contour (41 dB μ V/m) (88.5 kilometers or 55.0 miles) of the DTV station.

(b) *Maximum ERP and HAAT.* The maximum effective radiated power (ERP) and the antenna height above average terrain (HAAT) of the proposed land mobile base station, the associated control station, and the mobile transmitters shall be determined using the methods described in this section.

(1) Each base station is limited to a maximum ERP of 1000 watts.

(2) Each control station is limited to a maximum ERP of 200 watts and a maximum HAAT of 61 m. (200 ft).

(3) Each mobile station is limited to a maximum ERP of 30 watts and a maximum antenna height of 6.1 m. (20 ft.).

(4) Each portable (handheld) transmitter is limited to a maximum ERP of 3 watts.

(5) All transmitters are subject to the power reductions given in Figure B of § 90.309 of this chapter, for antenna heights higher than 152 meters (500 ft).

(c) *Methods.* The methods used to calculate TV contours and antenna heights above average terrain are given in §§ 73.683 and 73.684 of this chapter. Tables to determine the necessary minimum distance from the public safety station to the TV/DTV station, assuming that the TV/DTV station has a hypothetical or equivalent Grade B contour of 88.5 kilometers (55.0 miles), are located in § 90.309 and labeled as Tables B, D, and E. Values between those given in the tables may be determined by linear interpolation. The locations of existing and proposed TV/DTV stations during the transition period are given in Part 73 of this chapter and in the final proceedings of MM Docket No. 87–268. The DTV allotments are:

State	City	NTSC TV Ch.	DTV Ch.	ERP (kW)	HAAT (m)
California	Stockton	64	62	63.5	874
California	Los Angeles	11	65	688.7	896
California	Riverside	62	68	180.1	723
California	Concord	42	63	61.0	856
Pennsylvania	Allentown	39	62	50.0	302
Pennsylvania	Philadelphia	6	64	1000.0	332
Pennsylvania	Philadelphia	10	67	791.8	354
Puerto Rico	Aguada	50	62	50.0	343
Puerto Rico	Mayaguez	16	63	50.0	347
Puerto Rico	Naranjito	64	65	50.0	142
Puerto Rico	Aguadilla	12	69	691.8	665

The transition period is scheduled to end on December 31, 2006. After that time, unless otherwise directed by the Commission, public safety stations will no longer be required to protect reception of co-channel or adjacent channel TV/DTV stations.

(1) Licensees of stations operating within the ERP and HAAT limits of paragraph (b) must select one of three methods to meet the TV/DTV protection requirements, subject to Commission approval:

(i) utilize the geographic separation specified in the tables referenced below;

(ii) submit an engineering study justifying the proposed separations based on the actual parameters of the land mobile station and the actual parameters of the TV/DTV station(s) it is trying to protect; or,

(iii) obtain written concurrence from the applicable TV/DTV station(s). If this method is chosen, a copy of the agreement must be submitted with the application.

(2) The following is the method for geographic separations.

(i) Base stations having an antenna height (HAAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table B (co-channel frequencies based on 40 dB protection) and Table E (adjacent channel frequencies based on 0 dB protection) in § 90.309 of this part. For base stations having an antenna height (HAAT) between 152–914 meters (500–3,000 ft.) the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure B in § 90.309 of this part. For heights of more than 152 m. (500 ft.) above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the hypothetical or equivalent Grade B contour of a co-channel TV/DTV station (*i.e.*, it exceeds the distance from the appropriate Table in § 90.309 to the relevant TV/DTV station) an authorization will not be

granted unless it can be shown in an engineering study (method 2) that actual terrain considerations are such as to provide the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m for DTV stations), or that the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m coverage contour for DTV stations) will be achieved. Directions for calculating powers, heights, and reduction curves are listed in § 90.309 for land mobile stations. Directions for calculating coverage contours are listed in §§ 73.683–685 for TV stations and in § 73.625 for DTV stations.

(ii) Control and mobile stations (including portables) are limited in height and power and therefore shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table D (co-channel frequencies based on 40 dB protection) in § 90.309 of this part and a minimum distance of 8 kilometers (5 miles) from all adjacent channel TV/DTV station hypothetical or equivalent Grade B contours (adjacent channel frequencies based on 0 dB protection for TV stations and –23 dB for DTV stations). Since control and mobile stations may affect different TV/DTV stations than the associated base station, particular care must be taken by applicants to ensure that all the appropriate TV/DTV stations are considered (*e.g.*, a base station may be operating on TV Channel 64 and the mobiles on TV Channel 69, in which case TV Channels 63, 64, 65, 68, and 69 must be protected). Control and mobile stations shall keep a minimum distance of 96.5 kilometers (60 miles) from all adjacent channel TV/DTV stations. Since mobiles and portables are able to move and communicate with each other, licensees or coordinators must determine the areas where the mobiles can and cannot roam in order to protect the TV/DTV stations, and advise the

mobile operators of these areas and their restrictions.

(iii) In order to protect certain TV/DTV stations and to ensure protection from these stations which may have extremely large contours due to unusual height situations, an additional distance factor must be used by all public safety base, control and mobile stations. For all co-channel and adjacent channel TV/DTV stations which have an HAAT between 350 and 600 meters, public safety stations must add the following DISTANCE FACTOR to the value obtained from the referenced Tables in § 90.309 and to the distance for control and mobile stations on adjacent TV/DTV channels (96.5 km).

DISTANCE FACTOR = (TV/DTV HAAT – 350) ÷ 14 in kilometers, where HAAT is the TV or DTV station antenna height above average terrain obtained from its authorized or proposed facilities, whichever is greater.

(iv) For all co-channel and adjacent channel TV/DTV stations which have an antenna height above average terrain greater than 600 meters, public safety stations must add 18 kilometers as the DISTANCE FACTOR to the value obtained from the referenced Tables in § 90.309 and to the distance for control and mobile stations on adjacent TV/DTV channels (96.5 km).

Note to § 90.545.—The 88.5 km (55.0 mi) Grade B service contour (64 dBμV/m) is based on a hypothetical TV station operating at an effective radiated power of one megawatt, a transmitting antenna height above average terrain of 610 meters (2000 feet) and the Commission's R-6602 F(50,50) curves. See § 73.699 of this chapter. Maximum facilities for TV stations operating in the UHF band are 5 megawatts effective radiated power at an antenna HAAT of 610 meters (2,000 feet). See § 73.614 of this chapter. The equivalent contour for DTV stations is based on a 41 dBμV/m signal strength and the distance to the F(50,90) curve. See § 73.625 of this chapter.

§ 90.547 Interoperability channel capability requirement.

Mobile and portable transmitters designed pursuant to standards adopted

by the National Coordination Committee to operate in the 764–776 MHz and 794–806 MHz frequency bands must be capable of operating on any of the designated nationwide narrowband interoperability channels approved by the Commission.

§ 90.549 Transmitter certification.

Transmitters operated in the 764–776 MHz and 794–806 MHz frequency bands must be certificated as required by § 90.203.

§ 90.551 Construction requirements.

Each station authorized under this subpart to operate in the 764–776 MHz and 794–806 MHz frequency bands must be constructed and placed into operation within 12 months from the date of grant of the authorization. However, licensees may request a longer construction period, up to but not exceeding 5 years, pursuant to § 90.155(b).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 102798A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Gulf of Alaska Statistical Area 620

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock for 72 hours in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of pollock in that area.

DATES: Effective 1200 hours, Alaska local time (A.L.T.), October 27, 1998, until 1200 hours, October 30, 1998.

FOR FURTHER INFORMATION CONTACT: Nick Hindman, 907–581–2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(ii)(A), the Final 1998 Harvest Specifications for Groundfish established the allowance for the pollock TAC apportioned to Statistical Area 620 in the GOA as 50,045 metric tons (mt) (63 FR 12027, March 12, 1998). The Acting Administrator, Alaska Region, NMFS (Acting Regional Administrator), has established a directed fishing allowance of 49,945 mt, and set aside 100 mt as bycatch to support other anticipated groundfish fisheries.

The fishery for pollock in Statistical Area 620 was closed to directed fishing under § 679.20(d)(1)(iii) on October 12, 1998 (63 FR 55342, October 15, 1998), in order to reserve amounts anticipated to be needed for incidental catch in other fisheries. NMFS has determined that as of October 23, 1998, 1,867 mt remain in the directed fishing

allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock in Statistical Area 620 of the GOA effective 1200 hrs, A.L.T., October 27, 1998.

In accordance with § 679.20(d)(1)(iii), the Acting Regional Administrator finds that this directed fishing allowance will soon be reached. Therefore, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 at 12 noon, A.L.T., October 30, 1998.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f). All other closures remain in full force and effect.

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to provide an opportunity to harvest the directed fishing allowance for pollock in Statistical Area 620 in the GOA and to prevent overharvesting the 1998 TAC. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in loss of fishing opportunity and potential overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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