

entities. Operators of small to medium sized recreational and commercial craft will benefit from the proposal by having easier access through the drawbridges. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see addresses) explaining why you think it qualifies and how to what degree this proposed rule would economically affected it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this proposed rule under Executive Order 12612, and have determined that this rule does not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

Unfunded Mandates Reform Act

The unfunded Mandates Reform Act of 1995 (2 U.S.C.) (1531-1538) and Executive Order 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093, October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal

government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

§ 117.299 [Removed]

- Section 117.299 is removed.
- Revise § 117.311 to read as follows:

§ 117.311 New Pass

The draw of the State Road 789 bridge, mile 0.5 at Sarasota, shall open on signal; except that, from 6 p.m. to 6 a.m., the draw shall open on signal if at least three hours notice is given.

Dated: August 10, 2000.

Thad W. Allen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 00-21823 Filed 8-24-00; 8:45 am]

BILLING CODE 4910-15-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 96-86; FCC 00-271]

Public Safety 700 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this *Fourth Notice of Proposed Rulemaking (4thNPRM)*, the Commission proposes rules concerning various technical and operational issues regarding the use of interoperability frequencies in the 764-776 MHz and 794-806 MHz frequency bands (the 700 MHz band). Previously, the Commission charged the Public Safety National Coordination Committee (NCC) with preparing a report on the technical and operational standards for interoperability frequencies in the 700 MHz band. The NCC issued its report to the Commission on February 25, 2000. The Commission seeks comment on the rules proposed in response to recommendations contained in the NCC's report.

DATES: Comments are due September 25, 2000. Reply comments are due October 10, 2000.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room 4-C207, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bertram Weintraub or Nancy Zaczek, Wireless Telecommunications Bureau, Public Safety & Private Wireless Division, Policy and Rules Branch, (202) 418-0680, or via E-mail to "bweintraub@fcc.gov" or "nzaczek@fcc.gov".

SUPPLEMENTARY INFORMATION:

1. This document summarizes the Commission's *4thNPRM* in WT Docket No. 96-86, FCC 00-271, adopted on July 25, 2000 and released on August 2, 2000. The full text of the *4thNPRM* is available for inspection and duplication

during regular business hours in the FCC Reference Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The full text of the *4thNPRM* may also be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW, Washington, DC 20036, (202) 857-3800. The full text of the *4thNPRM* may also be downloaded at www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

Summary of the Fourth Notice

2. The Commission directed the NCC to make a timely recommendation concerning whether the Commission should require trunking on nationwide interoperability spectrum. After considering the advantages and disadvantages of requiring the use of trunking on the interoperability channels, the NCC recommends that the Commission not mandate trunking. Accordingly, the Commission proposes to allow trunking only on ten of the interoperability channel sets on a strict secondary basis. Additionally, the Commission proposes the discontinuance of trunked operation whenever any channel sets are needed for interoperability communications or whenever a trunked system interferes with any interoperability communication, *e.g.*, communications conducted on a unit-to-unit basis or using conventional repeaters. The Commission invites comment on these proposals.

3. Additionally, the Commission seeks comment on accommodating 25 kHz operations on the interoperability channels. Specifically, the Commission requests comment on allocating the temporary guard channels pursuant to the NCC's recommendations. The options for allocating the temporary guard channels include: (a) Moving the interoperability channels so that they are adjacent to each other, thereby eliminating the need for temporary guard channels, or (b) designating those channels immediately where trunking is permitted for interoperability use, thus permitting the aggregation of 25 kHz bandwidths on some interoperability channels, or (c) allocating all of the channels for interoperability use, thereby doubling the total number of interoperability channels.

4. The Commission solicits comment, pursuant to the NCC's recommendation, on the states administering the interoperability channels with oversight of the interoperability infrastructure by the Regional Planning Committees

(RPCs). In addition, the Commission requests comment on (a) the formation of State Interoperability Executive Committees (SIECs) to handle the administration of interoperability channels for the states; (b) Commission licensing of "subscriber equipment" (mobile and portable units) operating on interoperability channels; and (c) the adoption of standardized templates for Memoranda of Understanding between SIECs and sharing agreements between jurisdictions.

5. The Commission also invites comment on the NCC's recommendations concerning channel designations, display labeling and access priority. Specifically, the Commission seeks comment on the NCC's proposed table and assignments. The proposed table assigns a particular purpose and name to each interoperability channel set. The Commission also seeks comment on the NCC's proposal that mobile units certificated for use under part 90 of the Commission's Rules must be capable of displaying interoperability channel labels alphanumerically if the radios are equipped with alphanumeric displays. In addition, the Commission seeks comment on the NCC's proposed priority access scheme. Furthermore, the Commission seeks comment on the NCC's recommendation to designate two interoperability channels as calling channels.

6. In anticipation of the development of spectrum-efficient equipment that would require only a 6.25 kHz bandwidth for one voice channel, previously, the Commission declined to adopt the Project 25 Phase I standard. However, since that time, the NCC recommended adoption of the Project 25 Phase I standard as the digital voice standard for interoperability channels. The Project 25 Phase I standard requires a 12.5 kHz bandwidth instead of the spectrum efficient 6.25 kHz bandwidth. The Commission tentatively concludes that it should adopt the NCC's recommendation of the Project 25 Phase I standard at this time and that it should develop and implement a "migration path" to 6.25 kHz technology. The Commission invites comment on the appropriate digital voice standard, and an appropriate migration path to spectrum efficient 6.25 kHz technology in the future. The Commission also declined to include a requirement for narrowband channels that transmitters for voice communications in the narrowband segment of the 700 MHz band meet a spectrum efficiency standard of one voice channel per 6.25

kHz of channel bandwidth, regardless of the data rate supplied.

7. The NCC recommends that the Commission adopt the data interoperability standard that is incorporated in the Project 25 suite of standards and is defined by one ANSI standard and four TIA/EIA standards. This data interoperability standard requires the use of a 12.5 kHz channel. The Commission solicits comment on the appropriate standard for narrowband data transmissions on interoperability channels.

8. The NCC recommends that the Commission adopt the latest Federal government encryption standard. The Commission requests comment on whether it should adopt the current Federal standard, and if so, the best method for updating the encryption standard in the future.

9. With regards to interference standards, the Commission invites comment on two related issues. First, the Commission invites comment on whether the interests of public safety and commercial licensees in the 700 MHz band would be served by establishing interference standards for receivers operating on public safety frequencies. Second, the Commission solicits comment on whether it should mandate receiver standards to address interference issues raised by public safety radio operators.

10. The Commission tentatively concludes that two recommendations by the NCC are unnecessary. First, the NCC requests sufficient flexibility to allow state and local authorities to enter contractual agreements with Federal authorities. However, the Commission tentatively concludes that an additional rule is not necessary to facilitate Federal sharing of the interoperability spectrum. Second, the NCC recommends requiring RPCs to use a regional planning "pre-coordination database," to choose interoperability channels in order to avoid co-channel and adjacent channel interference. However, the Commission tentatively concludes that it is not necessary to require by rule the use of a pre-coordination database. The Commission invites comment on its tentative conclusions.

Initial Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this *4thNPRM*. Written public comments are requested regarding this IRFA. Comments must be identified as responses to the IRFA and

must be filed by the deadlines for comments on the *4thNPRM* provided in the item. The Commission will send a copy of the *4thNPRM* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *4thNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

I. Need for, and Objectives of, the Proposed Rules

12. In the *4thNPRM*, we continue our evaluation of rules applicable to the use of public safety spectrum in the frequencies at 764–776 MHz and 794–806 MHz (the 700 MHz band). Specifically, the *4thNPRM* summarizes and seeks comment on the recommendations of the NCC concerning technical and operational standards for public safety interoperability frequencies in the 700 MHz band. We seek comment on a number of issues including: Primary and secondary trunking on the interoperability channels; establishment and role of RPCs and SIECs; administration of the interoperability channels by state or local entities; licensing of end-users; standardized display labeling for interoperability units; access priority scheme for the interoperability channels; designation and use of calling channels; use of encryption on the interoperability channels; digital voice standards and efficiency standards for the interoperability channels; digital data standards and channel reservation for the interoperability channels; federal use of the interoperability spectrum; and use of a pre-coordination database to assign the interoperability channels. The proposed rules and actions should help achieve our goal of seamless interoperability on a nationwide basis, thereby improving critical public safety communications.

II. Legal Basis

13. Authority for issuance of this item is contained in sections 1, 4(i), 7, 301, 302, 303, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 301, 302, 303, 337.

III. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

14. 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. The RFA defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,”

and “small business concern” under Section 3 of the Small Business Act. A small business concern is one that: (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. 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 ninety-six 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 (ninety-one 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.

15. *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. Non-Federal governmental entities, as well as private businesses, are licensees for these services. As indicated above, all governmental entities with populations of less than 50,000 fall within the definition of a small entity. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward public service licensees. Therefore, the applicable definition of small business is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small business is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were public safety licensees, nearly all would be small businesses under the SBA’s definition, if independently owned and operated.

16. *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 Small Business Administration’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. Motorola and Ericsson, however, are major, nationwide radio equipment manufacturers, and thus, we conclude that they would not qualify as small businesses.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. The *4thNPRM* proposes a number of rules and solicits comments that will entail reporting, recordkeeping, and/or third-party consultation. The Commission believes, however, that these requirements are the minimum needed. The licensing methods under consideration in the *4thNPRM* include the possibility of imposing recordkeeping and reporting requirements on applicants for public safety licenses that may be required to make submissions to planning committees justifying their request for spectrum. These entities will be required to submit applications for spectrum licenses on Form 601.

18. The *4thNPRM* also seeks comment on recommendations to MOUs and model sharing agreements to govern use of interoperability channels. Entities would be responsible for gathering the information necessary to complete an MOU or sharing agreement.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

19. The RFA requires an agency to describe any significant alternatives that it has considered reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design,

standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603.

20. The NCC, comprised of representatives from government, the public safety community, and the communications equipment manufacturing industry, was chartered by the FCC as a Federal Advisory Committee, effective February 25, 1999. The NCC made recommendations concerning various issues addressed in this *4thNPRM*. We note that in several instances, to benefit all entities, including small entities, we did not propose a particular recommendation. For instance, see the discussion in paragraphs 25–28 and 60–62, in the *4thNPRM*.

21. In formulating the proposals in the *4thNPRM*, we have reduced economic burdens wherever possible. The regulatory burdens that we have proposed are necessary to ensure that the public receives the public safety benefits of innovative new services in a prompt and efficient manner. For example, we have proposed technical and operational rules that should promote competition in the equipment market. We believe that the rules we adopt must be as competitively and technologically neutral as possible, in order to allow for competing equipment designs and to avoid hindering future innovative technological developments. We note that tighter technical specifications generally allow more intense spectrum use, but may result in higher equipment costs. Conversely, although wider tolerances may allow manufacturers to use less costly component parts in transmitting equipment, they also may result in less efficient spectrum use. With these considerations in mind, we believe that the technical regulations we propose herein provide a reasonable balance of these concerns.

22. Under the regional planning process, frequency coordination is competitive. Frequency coordination is the process by which a private organization recommends to the Commission the most appropriate frequencies for private land mobile radio service applicants. Frequency coordinators provide a valuable service to the Commission by eliminating common application errors, thereby improving the quality of the applications and resolving potential interference problems at the source. We continue to believe that the encouragement of competition among coordinators promotes cost-based pricing of coordination services and provides incentives for enhancing service quality. Therefore, we will

continue to allow any of the certified public safety coordinators to provide coordination in the 700 MHz band.

23. Recognizing the budgetary constraints that public safety entities face as a matter of course, we have proposed rules that encourage broad-based efforts, such as projects on the state and regional level, to coordinate and consolidate operations that are critical to meeting the needs of public safety with cost effective, spectrally-efficient radio systems. For example, we have proposed trunking on certain public safety channels in the 700 MHz band. Trunked systems would provide service to many governmental entities in a specific geographic area and offer a higher degree of efficiency than some smaller, non-trunked systems. A difficulty in establishing these types of shared systems is that they require individual agencies to surrender some autonomy in return for the efficiencies and better coverage of a larger system. In addition, the funding required to develop the infrastructure necessary to support some of the newer technologies is often too great to permit small public safety agencies to participate in new, sophisticated, spectrum efficient, wireless radio systems. These same agencies, however, might be able to participate in a county-wide or state-wide system. For these, and other, reasons, we encourage the use of shared systems in the public safety community.

24. We believe that flexible licensing policies are necessary to encourage the use of the most spectrally efficient technology to meet user-defined needs. Recognizing the budgetary constraints that small public safety entities face, the *4thNPRM* seeks comment on a variety of proposals regarding the interoperability spectrum in the 700 MHz public safety band. Any significant alternatives presented in comments will be considered.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

25. None.

List of Subjects in 47 CFR Part 90

Advisory committees,
Communications equipment, Radio.

Federal Communications Commission.
William F. Caton,
Deputy Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

Authority: Secs. 4, 251–52, 303, 309, 332 and 337 of the Communications Act of 1934, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 251–52, 303, 309, 332 and 337, unless otherwise noted.

2. A new § 90.524 is added to read as follows:

§ 90.524 Administration of interoperability channels.

(a) States are responsible for administration of the interoperability channels in the 764–776 MHz and 794–806 MHz frequency bands. Base and control stations must be licensed individually. A public safety entity may operate mobile or portable units on the interoperability channels in the 764–776 MHz and 794–806 MHz frequency bands without an individual license if: the entity is eligible to hold a license in the 764–776 MHz and 794–806 MHz frequency bands; or the entity otherwise is licensed under part 90 of these Rules. All persons operating mobile or portable units are responsible for compliance with part 90 of these Rules and other applicable federal laws.

(b) License applications for interoperability channels in the 764–776 MHz and 794–806 MHz frequency bands must be approved by a state-level agency or organization responsible for administering state emergency communications. States may hold the licenses for interoperability channels or approve other qualified entities to hold such licenses. States may delegate the approval process for interoperability channels to another entity, such as regional planning committees.

3. Section 90.531 is amended by adding paragraphs (b)(1)(i) through (b)(1)(iv) to read as follows:

§ 90.531 Band plan.

* * * * *

(b) * * *

(1) * * *

(i) *Primary narrowband interoperability channels.* The following channels are designated as primary narrowband interoperability channels. [Note: channels dependent upon guard band decision].

(ii) *Narrowband data interoperability channels.* The following channels are dedicated for the express purpose of nationwide data transmission only. [Note: channels dependent upon guard band decision].

(iii) *Narrowband calling interoperability channels.* The following channels are dedicated for the express

purpose of nationwide interoperability calling only [Note: channels dependent upon guard band decision]. Trunking and encryption are prohibited on the two designated calling channel sets.

(iv) *Narrowband trunking interoperability channels.* The following channels are available for nationwide interoperability trunking purposes. [Note: channels dependent upon guard band decision].

* * * * *

4. Section 90.537 is revised to read as follows:

§ 90.537 Trunking requirement.

(a) *General use channels.* 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 described in paragraph (b) of this section.

(b) *Interoperability channels.* Trunking is permitted on ten of the channels designated for nationwide interoperability use, as designated in § 90.531(b)(1)(iv). The following requirements apply to interoperability channels where trunking is permitted, but not required: Trunked use must be conducted on a strict secondary, non-interference basis; 6.25 kHz, 12.5 kHz, and 25 kHz trunked operations are permitted; and routine (day-to-day) communications are permitted if the

channel(s) are not needed for emergency communications. Trunking is prohibited on the remainder of the interoperability channels, including any channels reserved as calling channels, because such channels are reserved for conventional operations.

5. Section 90.547 is revised to read as follows:

§ 90.547 Interoperability channel capability requirement.

(a) 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. Subscriber units designed for data-only applications are not required to have voice capability. Subscriber units designed for voice-only applications are not required to have data transmission capability.

(b) Transmitters operating on those narrowband channels in the 764–776 and 794–806 MHz band designated for interoperability (*See* § 90.531 shall conform to the following technical standards):

(1) Transmitters designed for voice operation within a 12.5 kHz or 6.25 kHz bandwidth shall conform to the

following standards: ANSI/TIA/EIA102.BAAA–1 (common air interface); ANSI/TIA/EIA102.BABA (vocoder).

(2) Transmitters designed for data transmission within a 12.5 kHz or 6.25 kHz bandwidth shall conform to the following standards, as applicable: ANSI/TIA/EIA 102.BAEA (data overview); ANSI/TIA/EIA 102.BAEB (packet data specification); ANSI/TIA/EIA102.BAEC (circuit data description); ANSI/TIA/EIA 102.BAEA (radio control protocol); and ANSI/TIA/EIA 102.BABA (vocoder).

(c) Copies of the standards listed in this § 90.547 that are incorporated by reference can be purchased from the American National Standards Institute, Washington, DC Headquarters, 1819 L Street, NW., 6th Floor, Washington, DC 20036.

(d) Copies of the standards listed in this § 90.547 that are incorporated by reference may be inspected at the Federal Communications Commission, 445 12th Street, SW., Washington, DC (Reference Information Center) or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington.

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