

Administration, 400 7th St., SW.,  
Washington, DC 20590.

\* \* \* \* \*

(h) *Determination of compliance with service obligation contract; deferment; waiver; and appeal procedures.*

(1) A designated official of the Administration shall:

(i) Determine whether a student or graduate has breached his or her service obligation contract;

(ii) Grant or deny a deferment of the service obligation, except for obligations otherwise a part of the graduate's commissioned officer status; and,

(iii) Grant or deny a waiver of the requirements of the service obligation contract in cases of undue hardship or impossibility of performance due to accident, illness or other justifiable reason.

(2)(i) If a student or graduate disagrees with the decision of the designated official, the student or graduate may appeal that decision to the Maritime Administrator. The appeal will set forth all the legal and factual grounds on which the student or graduate bases the appeal. Any grounds not set forth in the appeal are waived.

(ii) Appeals must be filed with the Maritime Administrator within thirty (30) calendar days of the date of receipt by such student or graduate of the written decision of the designated official. Appeals must be filed at the Office of the Maritime Administrator, Maritime Administration, Room 7210, 400 7th St., SW., Washington, DC 20590. Each decision will include a notice of appeal rights.

(iii) A decision is deemed to be received by a student or graduate five (5) working days after the date it is mailed by first class mail, postage prepaid, to the address for such student or graduate listed with the Office of Policy and Plans. It is the responsibility of such student or graduate to ensure that their current mailing address is on file with the Office of Policy and Plans, Maritime Administration, 400 7th St., SW., Washington, DC 20590. Students and graduates can determine the current address on file with the Office of Policy and Plans by logging into the service obligation contract compliance Web site at <http://mscs.marad.dot.gov>. Changes in the address listed can be made through the Internet.

\* \* \* \* \*

(i) *Remedies.* To aid in the recovery of the Cost of Education Provided the Maritime Administrator may request the

Attorney General to begin court proceedings, and the Maritime Administrator also may make use of the Federal debt collection procedures in chapter 176 of title 28, United States Code, and other applicable administrative remedies.

\* \* \* \* \*

By Order of the Maritime Administrator.

Dated: June 2, 2004.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 04-12765 Filed 6-7-04; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 73, 74 and 90

[ET 03-158; MB 03-159; FCC 04-80]

### New York City Metropolitan Area Public Safety Agencies to Use Frequencies at 482-488 MHz

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the rules of the Federal Communications Commission (FCC) to reallocate television channel 16 to the land mobile service in order to permit the New York Police Department and New York Metropolitan Advisory Committee (NYMAC) to utilize the channel for public safety services.

**DATES:** The rule changes will become effective July 8, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th St., SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Dave Roberts (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC's Report and Order, (MO&O) FCC 04-80, adopted on March 31, 2004, and released on April 9, 2004. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at

(202) 418-7426 or TTY (202) 418-7365 or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

By this MO&O, the FCC reallocates television channel 16 to the land mobile service for use by the New York Police Department and NYMAC for public safety use in the New York metropolitan area.

The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Allotments, § 73.606(b) of the Commission's rules. See Certification That §§ 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

Accordingly, *it is ordered* that pursuant to the authority contained in sections 1, 4(i), 4(j), 301, 303, 308, 309(j), and 337 of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(j), 157(a), 301, 303, 308, 309(j), and 337 this Report and Order *is adopted*.

### List of Subjects in 47 CFR Parts 2, 73, 74 and 90

Television, Land mobile radio services.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 73, 74, and 90 as follows:

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

■ 1. The authority citation for part 2 continues to read as follows:

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

■ 2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

■ a. Revise page 37.

■ b. In the list of non-Federal Government (NG) footnotes, revise footnote NG66; and remove footnotes NG114 and NG127.

### § 2.106 Table of Frequency Allocations.

*The revisions read as follows:*

\* \* \* \* \*

**BILLING CODE 6712-01-P**

470-849 MHz (UHF)		Page 37		
International Table		United States Table		
Region 1	Region 2	Federal Government	Non-Federal Government	
BROADCASTING	470-512 BROADCASTING Fixed Mobile	470-608	470-512 FIXED LAND MOBILE BROADCASTING	
	5.292 5.293		NG66 NG115 NG128 NG149	
	512-608 BROADCASTING	5.291 5.298	512-608 BROADCASTING	
	5.297	585-610 FIXED MOBILE	NG115 NG128 NG149	
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)	608-614 BROADCASTING RADIO NAVIGATION 5.149 5.305 5.306 5.307	608-614 RADIO ASTRONOMY US74 LAND MOBILE US350	Personal (95)
	614-806 BROADCASTING Fixed Mobile	610-890 FIXED MOBILE 5.317A BROADCASTING	US246 614-890	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
			614-698 BROADCASTING	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
			NG115 NG128 NG149	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74) Private Land Mobile (90)
			698-764 FIXED MOBILE BROADCASTING NG159	
			NG115 NG128	Auxiliary Broadcasting (74) Private Land Mobile (90)
		764-776 FIXED MOBILE	Auxiliary Broadcasting (74) Private Land Mobile (90)	
		NG115 NG128 NG158 NG159		

\* \* \* \* \*

Non-Federal Government (NG)  
Footnotes

\* \* \* \* \*

NG66 The band 470–512 MHz (TV channels 14–20) is allocated to the broadcasting service on an exclusive basis throughout the United States and its insular areas, except as described below:

(a) In the urbanized areas listed in the table below, the indicated frequency bands are allocated to the land are allocated to the land mobile service on an exclusive basis for assignment to eligibles in the Public Mobile Services, the Public Safety Radio Pool, and the Industrial/Business Radio Pool, except that:  
(1) Licensees in the land mobile service that are regulated as Commercial Mobile

Radio Service (CMRS) providers may also use their assigned spectrum to provide fixed service on a primary basis.  
(2) The use of the band 482–488 MHz (TV channel 16) is limited to eligibles in the Public Safety Radio Pool in or near (i) the Los Angeles urbanized area; and (ii) New York City; Nassau, Suffolk, and Westchester Counties in New York State; and Bergen County, New Jersey.

Urbanized area	Bands (MHz)	TV channels
Boston, MA .....	470–476, 482–488 .....	14, 16
Chicago, IL-Northwestern Indiana .....	470–476, 476–482 .....	14, 15
Cleveland, OH .....	470–476, 476–482 .....	14, 15
Dallas-Fort Worth, TX .....	482–488 .....	16
Detroit, MI .....	476–482, 482–488 .....	15, 16
Houston, TX .....	488–494 .....	17
Los Angeles, CA .....	470–476, 482–488, 506–512 .....	14, 16, 20
Miami, FL .....	470–476 .....	14
New York, NY-Northeastern New Jersey .....	470–476, 476–482, 482–488 .....	14, 15, 16
Philadelphia, PA-New Jersey .....	500–506, 506–512 .....	19, 20
Pittsburgh, PA .....	470–476, 494–500 .....	14, 18
San Francisco-Oakland, CA .....	482–488, 488–494 .....	16, 17
Washington, DC-Maryland-Virginia .....	488–494, 494–500 .....	17, 18

(b) In the Gulf of Mexico offshore from the Louisiana-Texas coast, the band 476–494 MHz (TV channels 15–17) is allocated to the fixed and mobile services on a primary basis for assignment to eligibles in the Public Mobile and Private Land Mobile Radio Services.  
(c) In Hawaii, the band 488–494 MHz (TV channel 17) is allocated exclusively to the fixed service for use by common carrier control and repeater stations for point-to-point inter-island communications only.

(d) The use of these allocations is further subject to the conditions set forth in 47 CFR parts 22 and 90.

Authority: 47 U.S.C. 154, 303, 334 and 336.

■ 4. The table in 73.623(e) is amended by revising the entry for New York and by adding entries for Cleveland and Detroit to read as follows:

\* \* \* \* \*

**PART 73—RADIO BROADCAST SERVICES**

**§ 73.623 DTV applications and changes to the DTV allotments.**

■ 3. The authority citation for Part 73 continues to read as follows:

\* \* \* \* \*

(e) \* \* \*

City	Channels	Latitude	Longitude
Cleveland, OH .....	14, 15 .....	41° 29' 51.2"	081° 41' 49.5"
Detroit, MI .....	15, 16 .....	42° 19' 48.1"	083°02' 56.7"
New York, NY .....	14, 15, 16 .....	40° 45' 06"	073°59' 39"

\* \* \* \* \*

■ 5. Section 73.6020 is amended by revising the last sentence to read as follows:

**§ 73.6020 Protection of stations in the land mobile radio service.**

• \* \* In addition to the protection requirements specified in § 74.709(a) of this chapter, Class A TV stations must not cause interference to land mobile stations operating on channel 16 in New

York City; Nassau, Suffolk, and Westchester counties in New York State; and Bergen County, New Jersey.

**PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCASTING AND OTHER PROGRAM DISTRIBUTIONAL SERVICES**

■ 6. The authority citation for Part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

■ 7. Section 74.709(a) is amended by revising the entries for Los Angeles and New York City in the table to read as follows:

**§ 74.709 Land Mobile station protection.**

(a) \* \* \*

City	Channels	Coordinates	
		Latitude	Longitude
Los Angeles, CA	14, 16, 20	34° 03' 15"	118° 18' 28"
New York, NY	14, 15, 16	40° 45' 06"	073° 59' 39"

**PART 90—PRIVATE LAND MOBILE RADIO SERVICES**

■ 8. The authority citation for Part 90 continues to read as follows:

**Authority:** Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of

1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 9. Section 90.303 is amended to read as follows:

**§ 90.303 Availability of frequencies.**

(a) Frequencies in the band 470–512 MHz are available for assignment as

described below. Note: coordinates are referenced to the North American Datum 1983 (NAD83).

(b) The following table lists frequency bands that are available for assignment in specific urban areas. The available frequencies are listed in § 90.311 of this part.

Urbanized area	Geographic center		Banks (MHz)	TV channels
	North latitude	West longitude		
Boston, MA	42° 21' 24.4"	71° 03' 23.2"	470–476, 482–488	14, 16
Chicago, IL <sup>1</sup>	41° 52' 28.1"	87° 38' 22.2"	470–476, 476–482	14, 15
Cleveland, OH <sup>2</sup>	41° 29' 51.2"	81° 49' 49.5"	470–476, 476–482	14, 15
Dallas/Fort Worth, TX	32° 47' 09.5"	96° 47' 38.0"	482–488	16
Detroit, MI <sup>3</sup>	42° 19' 48.1"	83° 02' 56.7"	476–482, 482–488	15, 16
Houston, TX	29° 45' 26.8"	95° 21' 37.8"	488–494	17
Los Angeles, CA <sup>4</sup>	34° 03' 15.0"	118° 14' 31.3"	470–476, 482–488, 506–512	14, 16, 20
Miami, FL	25° 46' 38.4"	80° 11' 31.2"	470–476	14
New York/NE NJ	40° 45' 06.4"	73° 59' 37.5"	470–476, 476–482, 482–488	14, 15, 16
Philadelphia, PA	39° 56' 58.4"	75° 09' 19.6"	500–506, 506–512	19, 20
Pittsburgh, PA	40° 26' 19.2"	79° 59' 59.2"	470–476, 494–500	14, 18
San Francisco/Oakland, CA	37° 46' 38.7"	122° 24' 43.9"	482–488, 488–494	16, 17
Washington, DC/MD/VA	38° 53' 51.4"	77° 00' 31.9"	488–494, 494–500	17, 18

<sup>1</sup> In the Chicago, IL, urbanized area, channel 15 frequencies may be used for paging operations in addition to low power base/mobile usages, where applicable protection requirements for ultrahigh frequency television stations are met.

<sup>2</sup> Channels 14 and 15 are not available in Cleveland, OH, until further order from the Commission.

<sup>3</sup> Channels 15 and 16 are not available in Detroit, MI, until further order from the Commission.

<sup>4</sup> Channel 16 is available in Los Angeles for use by eligibles in the Public Safety Radio Pool.

(c) The band 482–488 MHz (TV Channel 16) is available for use by eligibles in the Public Safety Radio Pool in the following areas: New York City; Nassau, Suffolk, and Westchester counties in New York State; and Bergen County, New Jersey. All part 90 rules shall apply to said operations, except that:

(1) *Location of stations.* Base stations shall be located in the areas specified in this paragraph (c). Mobile stations may operate throughout the areas specified in this paragraph (c) and may additionally operate in areas not specified in this paragraph (c) provided that the distance from the Empire State Building (40° 44' 54.4" N, 73° 59' 8.4" W) does not exceed 48 kilometers (30 miles).

(2) *Protection criteria.* In order to provide co-channel television protection, the following height and power restrictions are required:

(i) Except as specified in paragraph (c)(2)(ii) of this section, base stations shall be limited to a maximum effective

radiated power (ERP) of 225 watts at an antenna height of 152.5 meters (500 feet) above average terrain (AAT). Adjustment of the permitted power will be allowed provided it is in accordance with the "169 kilometer Distance Separation" entries specified in Table B in 47 CFR 90.309(a) or the "LM/TV Separation 110 miles (177 km)" curve in Figure B in 47 CFR 90.309(b).

(ii) For base stations located west of the Hudson River, Kill Van Kull, and Arthur Kill, the maximum ERP and antenna height shall be limited to the entries specified in Table B in 47 CFR 90.309(a) or in Figure B in 47 CFR 90.309(b) for the actual separation distance between the base station and the transmitter site of WNEP-TV in Scranton, PA (41° 10' 58.0" N, 75° 52' 20.0" W).

(iii) Mobile stations shall be limited to 100 watts ERP in areas of operation extending eastward from the Hudson River and to 10 watts ERP in areas of

operation extending westward from the Hudson River.

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**DEPARTMENT OF DEFENSE**

**48 CFR Part 206**

[DFARS Case 2002–D023]

**Defense Federal Acquisition Regulation Supplement; Follow-On Production Contracts for Products Developed Pursuant to Prototype Projects**

**AGENCY:** Department of Defense (DoD).  
**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide an exception from competition requirements to apply to contracts awarded under the authority of section 822 of the National Defense