

improved radio frequency identification (RFID) systems in the 433.5–434.5 MHz (“433 MHz”) band. The rule in § 15.240 required Office of Management and Budget approval and the Commission stated in its previous **Federal Register** publication that it would announce the effective date of that section when approved. This document announces the effective date of § 15.240.

**DATES:** The amendment to 47 CFR 15.240 published at 69 FR 29459, May 24, 2004, became effective on June 23, 2004.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Brooks, (202) 418–2454, Office of Engineering and Technology.

**SUPPLEMENTARY INFORMATION:** The FCC published a document in the **Federal Register** 69 FR 29459, May 24, 2004, that sets forth an effective date of June 23, 2004, except for amendment to § 15.240, which contained an information collection requirement that had not been approved by the Office of Management and Budget. The document stated that the Commission will publish a document in the **Federal Register** announcing the effective date for § 15.240 and the information collection contained therein. On March 18, 2005, the Office of Management and Budget (OMB) approved the information collection requirements contained 47 CFR 15.240 pursuant to OMB Control No. 3060–1079. Accordingly, the information collection requirement contained in this rule became effective on March 18, 2005. The expiration date for the information collection requirement will be March 31, 2008.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WT Docket Nos. 02–381, 01–14, and 03–202; FCC 04–166]

#### Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** The Federal Communications Commission (Commission) announces

that a certain rule adopted in its Rural Services proceeding (WT Docket Nos. 02–381, 01–14, and 03–202; FCC 04–166) in 2004, to the extent it contained an information collection requirement that required approval by the Office of Management and Budget (OMB) was approved, and became effective March 10, 2005, following approval by OMB.

**DATES:** 47 CFR 1.919(c) published at 69 FR 75144 (December 15, 2004) and contained an information collection requirement that became effective March 10, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Allen A. Barna, Wireless Telecommunications Bureau, at (202) 418–0620, or at [Allen.Barna@fcc.gov](mailto:Allen.Barna@fcc.gov). For additional information concerning the information collection contained in this document, contact Judith-B. Herman at (202) 418–0214, or at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

#### Announcement of Effective Date of a Certain Commission Rule

1. On July 8, 2004, the Commission adopted a *Report and Order* (*Report and Order*) in WT Docket Nos. 02–381, 01–14, and 03–202; FCC 04–166, a summary of which was published at 69 FR 75144 (Dec. 15, 2004). In that *Report and Order*, the Commission stated that, upon OMB approval, it would publish in the **Federal Register** a document announcing the effective date of the change to 47 CFR 1.919(c).

2. On March 10, 2005, OMB approved the public information collection associated with this rule change under OMB Control No. 3060–0799. Therefore, the change to 47 CFR 1.919(c) became effective on March 10, 2005.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05–8213 Filed 4–26–05; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 90

[ET Docket No. 04–243; FCC 05–69]

#### Narrowbanding for Private Land Mobile Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document specifies the procedures by which forty Private Land Mobile Radio (PLMR) channels, which are located in frequency bands that are allocated primarily for Federal use, are

to transition to narrower, more spectrally efficient channels in a process commonly known as “narrowbanding.” We take this action because the National Telecommunications and Information Administration (NTIA) has adopted a more rapid narrowbanding schedule in the 150.05–150.8 MHz, the 162.0125–173.2 MHz and 173.4–174 MHz (162–174 MHz), and the 406.1–420 MHz bands (collectively, the Federal bands) than the Commission has required for its licensees.

**DATES:** Effective May 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Tom Mooring, Policy and Rules Division, Office of Engineering and Technology, (202) 418–2450, [Tom.Mooring@fcc.gov](mailto:Tom.Mooring@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Report and Order*, ET Docket No. 04–243, FCC 05–69, adopted on March 10, 2005, and released on March 11, 2005. The full text of this document is available on the Commission’s Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission’s duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

#### Summary of the Report and Order

1. The Commission amended parts 2 and 90 of its rules to revise our transition plan for primary and secondary PLMR operations in certain Federal bands. The Commission concluded that these actions will provide for an orderly transition from wideband (25 kHz channels) to narrowband (12.5 kHz channels) operations, increase spectrum efficiency, maintain compatibility with Federal operations, permit PLMR licensees to operate using existing equipment with greater confidence that their critical operations will not be suddenly required to cease transmissions, and significantly reduce the probability that wideband PLMR operations will interfere with new Federal operations. Specifically, the Commission narrowbanded 25 Hydrological and Meteorological (Hydro) channels, nine Forest Firefighting and Conservation channels (two of these channels are available to conservation agencies, while all nine are available for firefighting use), two Public Safety channels, three medical

radiocommunication system channels (MED channels), and one channel for Stolen Vehicle Recovery System (SVRS). In addition, the Commission added 23 Hydro channels to the rules, removed six Hydro channels (only four of which are currently licensed) from our rules, and will no longer license two MED channels.

2. The transition plan that was adopted today refines certain aspects of the Commission's larger narrowbanding policies, most recently modified in the *Narrowbanding Third MO&O in the Refarming Proceeding*, FCC 04-292, 19 FCC Rcd 25045 (2004), in the following ways:

#### Primary Operations

- As of the effective date of the *Report and Order*, the Commission limited new MED channel stations that use the frequencies 150.775 MHz and 150.790 MHz to a transmitter output power of 100 watts Effective Radiated Power (ERP). New wideband systems on these frequencies will be authorized on a primary basis until January 1, 2008. Wideband systems licensed prior to January 1, 2008, may be expanded until January 1, 2011, and may continue to operate on a primary basis until January 1, 2013, at which time wideband transmissions must cease;

- As of the effective date of the *Report and Order*, the Commission will not accept applications or issue licenses for new wideband systems that use the MED channel frequency 163.250 MHz. Existing wideband systems on this frequency may be expanded until January 1, 2011, and may continue to operate on a primary basis until January 1, 2013, at which time wideband transmissions must cease. The Commission will not narrowband the non-Federal MED channel paging frequency 152.0075 MHz;

- On a going-forward basis, new non-Federal operations on the three MED channel frequencies in the Federal band (150.775 MHz, 150.790 MHz, and 163.250 MHz) will be limited to medical radiocommunication systems;

- As of the effective date of the *Report and Order*, the Commission will no longer issue new licenses for the frequencies 150.7825 MHz and 150.7975 MHz. However, the Commission will continue to renew existing licenses on these channels indefinitely; and

- The existing SVRS system operated by the LoJack Corporation (LoJack) and police licensees may continue wideband operations until 14 years after the effective date of the *Report and Order*, at which time wideband transmissions must cease. Any new SVRS licensee that begins service after the effective date of

the *Report and Order* must operate a narrowband system.

#### Secondary Operations

- The Commission revised its Hydro channel plan by adding 23 channels and by deleting six channels in order to make it consistent with NTIA's plan, and the Commission included the Hydro channels in the 406.1-420 MHz band in our transition plan to 12.5 kHz channels;

- Existing Hydro channel licensees, which operate on frequencies that are being removed from the Hydro Plan (171.975 MHz, 409.675 MHz, 409.725 MHz, and 412.625 MHz), must migrate to a center frequency that is available under the new Hydro channel plan on a timetable that is recommended by the Hydro Committee, agreed to by NTIA, and approved by the FCC;

- As of the effective date of the *Report and Order*, the Commission will not accept applications or issue licenses for new wideband stations for channels whose operation is permitted on a secondary basis (Hydro, Forest Firefighting and Conservation, and the Public Safety channels) in the 162-174 MHz band.

- New wideband Hydro stations in the 406.1-420 MHz band will be authorized on a secondary basis until January 1, 2008.

- Existing wideband systems in the 162-174 MHz band that operate on a secondary basis may be expanded until January 1, 2011, and may continue to operate until January 1, 2013, at which time wideband operations must cease. However, these licensees must modify or discontinue their operations if, at any time, their operations cause interference to new Federal operations,

- Existing wideband Hydro systems in the 406.1-420 MHz band may be expanded until January 1, 2011, and may continue to operate until January 1, 2013, at which time wideband operations must cease. However, these licensees must modify or discontinue their operations if, at any time after January 1, 2008, their operations cause interference to new Federal operations; and

#### Coordination With Radio Astronomy

- The Commission revised the list of radio astronomy observatories and the associated areas where prior coordination for fixed operations is required, and modified the power limit for stations in the fixed and mobile services in order to better protect the radio astronomy service (RAS) in the 406.1-410 MHz band.

#### 3. Refining the Commission's Narrowbanding Procedures for the

*Federal Bands*. The Commission adopted proposals, as modified to reflect the narrowbanding dates as modified by the *Narrowbanding Third MO&O*. As an initial matter, the Commission included the 406.1-420 MHz band in our transition plan to narrowband channels. No commenters addressed this proposal. The Commission concluded that action is necessary to address the federal narrowbanding matters in a complete and comprehensive manner, and because secondary users in these bands will be directly affected by the Federal narrowbanding efforts and Hydro channel plan modifications. Also, by providing a narrowbanding procedure for existing non-Federal Hydro operations in the band, the Commission will aid the Hydro Committee in its efforts to make the most efficient use of the new channel plan. Those actions that we proposed to take effect on January 1, 2005, will necessarily instead be tied to the effective date of the *Report and Order*.

4. For new stations in the Federal bands the Commission adopted deadlines, as proposed in this proceeding, *Notice of Proposed Rule Making* (NPRM), FCC 04-156, 69 FR 46462, August 3, 2004, that align with Federal narrowbanding requirements: As of the effective date of this *Report and Order*, the Commission will not accept applications or issue licenses for new wideband Hydro, Forest Firefighting and Conservation, Public Safety, and MED channel systems in the 162-174 MHz band. The Commission will authorize new wideband operations for the MED channel frequencies 150.775 MHz and 150.790 MHz and Hydro channels in the 406.1-420 MHz band only until January 1, 2008. Although, the Commission does not believe that NTIA will generally agree to waiver requests for wideband operations in the Federal bands, we will consider granting wideband applications after these dates, if accompanied by a waiver request, in the following circumstances: for Forest Firefighting and Conservation channels, if a waiver has been recommended by a sponsoring Federal agency and if NTIA agrees with the recommendation; and for public safety use of the frequency 166.25 MHz and 170.15 MHz, if NTIA agrees to the grant of the waiver application. In addition, the Commission recognizes the role of the Hydro Committee in promoting efficient use of the Hydro channels by both Federal agencies and non-Federal licensees, and realizes that the Hydro Committee is in the best position to recommend the narrowband transition

cycle for specific Hydro channel users. As such, the Commission intend to support applications for new wideband channels after the Federal wideband cut-off dates, if such a grant is recommended by the Hydro Committee and is accompanied by NTIA's concurrence.

5. The Commission concluded that the deadlines are necessary and appropriate for the class of Commission licensees that maintain operations on these Federal bands, particularly in light of NTIA's policy to no longer authorize wideband assignments. Although the International Municipal Signal Association and the International Association of Fire Chiefs, Inc. (IMSA/IAFC) request that the Commission employ a 2018 cut-off date for new wideband applications in the two primary MED channels might have short-term financial benefits for budget-constrained agencies, doing so would compromise NTIA's efforts to expand the band by adding efficient new narrowband channels, would create even greater disparities between Federal and non-Federal operations in the band, and would not change the ultimate transition to narrowband channels. Moreover, the 2008 cut-off for new wideband stations still allows applicants for Commission licenses in the band to take account of the narrowbanding requirement adopted today prior to deciding whether to seek use of those two channels for new facilities.

6. For existing wideband systems operating in the Federal bands, the Commission will maintain the January 1, 2011 deadline for system expansions and the January 1, 2013 as the date by which all licensees must migrate completely to 12.5 kHz narrowband technology. This action reflects the deadlines recently adopted in the *Narrowbanding Third MO&O*.

7. The Commission will continue to recognize primary status for MED channels in the Federal bands that are listed in footnote US216 (150.775 MHz, 150.790 MHz and 163.250 MHz) and it will continue to treat these MED channels in a similar manner to all other primary land mobile licensees under the Commission's jurisdiction. Users of these channels still must narrowband their operations by the same January 1, 2013 deadline the Commission has established for all other licensees in the Federal bands. Our approach preserves our traditional first-in-time policy by which the first licensed entity does not have to modify its operations but instead maintains a primary status in relation to subsequently licensed entities. Under this policy, an existing

wideband MED channel operation is entitled to protection from interference from new Federal operations and non-Federal licensees that subsequently begin operations in the band, and will not need to modify existing operations to prevent interference to these new entrants. The Commission expects that NTIA will protect these wideband operations from harmful interference from new or modified Federal operations in the band until the January 1, 2013, narrowbanding date.

8. For existing licensees operating in the Federal bands on a secondary basis "specifically, users of the Hydro, Forest Firefighting and Conservation, and the Public Safety channels—the Commission notes that NTIA may now authorize new Federal operations in the 162–174 MHz band on channels that are only 12.5 kHz away from the center frequencies of non-Federal licenses. After January 1, 2008, NTIA may authorize new Federal operations in the 406.1–420 MHz bands that are only 12.5 kHz away from the center frequencies of non-Federal Hydro stations that operate on a secondary basis. Thus, while the Commission will permit these licensees to continue to operate on wideband channels on a non-interference basis until as late as 2013, it emphasize that they must modify or discontinue wideband operations if, at any time (for the 162–174 MHz band), and at any time after January 1, 2008 (for the 406–416 MHz band), they cause interference to new Federal operations. Once a Federal agency begins narrowband operations, these non-Federal licensees must be prepared to accept harmful interference, and will be subject to termination if harmful interference is caused to Federal operations. Termination of operations will be required regardless of the length of advance notice, as well as in cases where we are unable to provide advance notice. The Commission will, of course, closely work with NTIA under the auspices of the FAS of the IRAC to provide as much advance notice as possible to non-Federal licensees that a proposed Federal assignment has been filed with NTIA.

9. Consistent with the Commission's decision in the *Narrowbanding Third MO&O*, we will not narrowband the MED channel at 152.0075 MHz, which is used for paging. This channel is within a band that is allocated primarily for non-Federal use, is not subject to NTIA's narrowbanding efforts, and thus will continue to follow the Commission's Rules regarding paging operations. In the *Narrowbanding Third MO&O*, the Commission stated that paging channels are neither congested nor do they typically create interference

problems given, for example, their relatively short duty cycle. The Commission agree with the 152 MHz Paging Commenters that there are benefits to retaining wideband operations on this channel, and conclude that such benefits outweigh any benefits that would be realized from narrowbanding all frequencies used by medical radiocommunication systems.

10. The Commission will, include the MED channel at 163.250 MHz in its narrowbanding requirements. The Commission distinguished this channel from other paging channels because it operates within the Federal bands, and note that NTIA did not grant Federal agencies a paging exemption in its narrowbanding plan. The Department of Veterans Affairs (VA) is currently moving to narrowband its paging operations to meet NTIA's mandated narrowbanding schedule. Given our desire to limit the potential for interference between existing licensees and new NTIA-approved operations on a channel used for important medical paging applications, the Commission concluded that it is appropriate for us to apply the January 1, 2013 narrowbanding deadlines to this channel. The Commission noted, however, that any wideband operations on this channel are subject to termination if harmful interference is caused to Federal operations.

11. Lastly, the Commission found that it is unnecessary and potentially detrimental to our narrowbanding efforts to require that non-Federal licensees to use 6.25 kHz channels in the Federal bands in advance of Federal agencies at this time, and will modify our rules accordingly. The Commission see no advantage to this requirement in the Federal bands, given the uncertainty as to if or when Federal entities will begin using 6.25 kHz channels.

12. *MED Channels (US216)*. The Commission will no longer license non-Federal stations on the frequencies 150.7825 MHz and 150.7975 MHz. These frequencies, which were never incorporated into footnote US216, lie within the Federal military band and additional authorizations would limit the future deployment of vital military systems. IMSA/IAFC objects to this proposal, noting that these channels have been used by public safety licensees in many large cities and concluding that such use "far outweighs" the public gain in limiting use of the channels. The Commission disagree. Because these channels were not part of the original 1974 agreement with NTIA, but were instead only recently licensed to non-Federal applicants as part of the *Refarming*

*Proceeding*, and because of NTIA's interest in making the band available for narrowband Federal systems—including those used by the military—the Commission conclude that the discontinuance of new licensing of these frequencies will benefit the public good by allowing vital new Federal systems to deploy. The Commission will permit the existing mobile stations that are authorized as of effective date of this *Report and Order* to use the frequencies 150.7825 MHz and 150.7975 MHz indefinitely with their current usage designation.

13. The Commission adopted its proposal to revise footnote US216 to list the available frequencies (152.0075 MHz and 163.250 MHz) in lieu of the 152–152.0150 MHz and 163.2375–163.2625 MHz bands. No party commented on this proposal. It also revised, in concurrence with NTIA, the two non-Federal bands at 460 MHz in footnote US216 in order to align the non-Federal 460 MHz bands in footnote US216 with the Commission's revised Rules and to formally provide Federal agencies access to all 30 of the new MED channels in the 463 MHz and 468 MHz bands. These revisions to footnote US216 are included in the final rules.

14. With respect to new licenses on the mobile channels 150.775 MHz and 150.790 MHz and the paging channel 163.250 in the Federal band, the Commission adopted its proposal to implement, on a going forward basis, the footnote US216 requirement that the use of these channels be limited to medical radiocommunications systems. This action will support Federal users that have made and implemented spectrum usage plans based on the text of the footnote, and will have the added benefit of harmonizing use of these channels with the concept of medical radiocommunications systems as it was first adopted in 1974. The Commission notes that several commenters opposed this change. While it recognizes that the current usage practice is beneficial in that it permits a broad range of medical and public safety uses of the frequencies, the Commission cannot reconcile an expansion of such use with our obligation to Federal users that it license these frequencies in the Federal bands on a limited basis for medical radiocommunications systems, as reflected in footnote US216. The Commission will, with the concurrence of NTIA, permit existing licensees to continue even if such operations are not restricted to medical radiocommunications systems operations. Also, the Commission will not change the existing frequency

coordinator for the paging channel frequencies, as proposed in the *NPRM*.

15. The Commission is limiting all operations on the mobile channels for licenses issued after the effective date of this *Report and Order* to a maximum output power of 100 watts ERP. IMSA/IAFC objected to the Commission's proposal to limit the transmitter output power of the mobile channels to 2.5 watts, arguing that these channels provide needed frequency separation from the primary Public Safety allocation for two-frequency repeater operations. A general review of our licensing data indicates that mobile stations operating on these frequencies have been authorized an output power between 2.5 and 200 watts ERP, but with the majority in the range of 30 to 100 watts. The Commission continues to believe that we must take steps to harmonize non-Federal use of the mobile channels, and that it should work to complement rather than frustrate NTIA's narrowbanding efforts in the Federal bands. However, the Commission is also cognizant of the difficult funding challenges faced by public safety users of these frequencies, recognize the important work these entities routinely undertake, and appreciate the intensive use of these bands as described in IMSA/IAFC's comments. The 100 watt limit established for new licenses caps these channels at a lower power level than other channels in the 150–174 MHz band, and will promote wider availability of these channels for both new Federal and non-Federal users. However, the 100 watt limit that was set is substantially larger than the 2.5 watt proposal, and is consistent with the majority of current use in the band. The Commission will allow licensees to continue existing operations under their existing authorizations, subject only to the more general narrowbanding requirements it adopted. The Commission, explicitly prohibit airborne operations by both existing and future mobile channel licensees. Such operations have the potential to cause wide-area interference, and adoption of the prohibition will promote continued cooperative use of the band by both Federal and non-Federal entities and is consistent with § 4.3.11 of the *NTIA Manual*.

16. Finally, with respect to the non-Federal paging channel 150.0075 MHz—the Commission is not narrowbanding—it is removing limitation 19. The Commission concludes that this limitation, which reserved the frequency 150.0075 MHz for assignment to stations for intersystem operations only and which required that these

operations be primarily base-mobile communications, overly limits widespread use of the band. In addition, because this paging channel is within a non-Federal band, the Commission will continue to make it available for a full range of medical and public safety uses and will not restrict its future use to medical radiocommunications systems exclusively.

17. *Stolen Vehicle Recovery Systems (US312)*. LoJack, the only commenter to address this issue, supports creation of a narrowbanding plan for SVRS systems. In order to preserve the substantial utility of the existing wideband SVRS for consumers and law enforcement agencies, LoJack requests that the Commission provide at least a 14 year transition period from the effective date of final rules in this proceeding. LoJack states that this schedule would give it four years to develop and deploy a narrowband system and would give ten years for police departments and consumers relying on the installed base of wideband equipment to continue to receive service once the narrowband system is deployed.

18. The Commission finds LoJack's proposal persuasive. Given the need to develop and test new equipment, as well as the scope of the transition, a fourteen-year transition provides sufficient time for SVRS to adopt narrowband technology in a manner that does not jeopardize the public benefits associated with the service. The Commission notes LoJack's claims that it will not be able to continue serving its wideband customers during the transition period if Federal agencies begin operating on the new adjacent narrowband frequencies of 173.0625 MHz and 173.0875 MHz. The Commission will work with NTIA to prevent Federal entities from being assigned new narrowband channels that are spaced only 12.5 kHz away from the SVRS center frequency until after the end of the transition period (*i.e.*, approximately 2019), and will use our role as a voting member of the FAS to ensure that the primary status afforded to SVRS continues to be recognized during the Federal frequency assignment process. As previously noted, LoJack is currently the only SVRS licensee. Because subsequent SVRS licensees will have to deploy equipment to begin service, all new licensees will be required to employ narrowband operations without the benefit of a transition period. To reflect these new narrowband requirements in the SVRS, the Commission amended—in concurrence with NTIA—footnote US312, which is shown in the final

rules. Accordingly, the Commission amended § 90.20 by revising paragraph (e)(6) to reflect the 12.5 kHz maximum authorized bandwidth for SVRS and associated transition plan.

19. *Hydro Channels and Protection for Radio Astronomy (US13 and US117)*. The Commission did not receive any comments that addressed our proposals for the Hydro channels. The Commission adopted its proposals and revised its Rules to reflect an updated Hydro channel plan that is consistent with the channel plan shown in the *NTIA Manual*. Consistency between Federal and non-Federal band plans furthers the public interest and safety by maintaining a ready flow of hydrologic and meteorological data between non-Federal and Federal entities. This decision also recognizes the fact that non-Federal Hydro stations operation is closely coordinated the Hydro Committee. The Commission note, for example, that the Hydro Committee has begun encouraging the use of narrowband equipment by non-Federal applicants, and a review of our licensing database indicates that while many non-Federal Hydro operations still use wideband channels, some narrowband use is prevalent among the more newly licensed channels.

20. The Commission discussed the process for Commission licensees to narrowband the existing Hydro channels that are to be retained by NTIA. It now also require licensees operating on the Hydro channels that are being removed from the Hydro channel plan to modify their equipment and station licenses and migrate to a center frequency under the new Hydro channel plan on a timetable as advised by the Hydro Committee and approved by NTIA and the Commission. As of January 1, 2005, licensees of stations transmitting on the frequency 169.575 MHz should be prepared to cease or relocate operations, if their wideband operations cause harmful interference to Federal operations. As of January 1, 2008, licensees of stations transmitting on the frequencies 409.675 MHz, 409.725 MHz, or 412.625 MHz should be prepared to cease or relocate operations, if their wideband operations cause harmful interference to Federal operations. Finally, all licensees must cease operating on these channels after January 1, 2013.

21. To implement these proposals, the Commission revised its Rules to reflect the new Hydro channel plan and our plan for transitioning to narrowband channels, as well as to make other necessary modifications to reflect the Hydro operations. Also, in concurrence with NTIA, the Commission revised

footnote US117 to provide more effective protection of RAS reception in the 406.1–410 MHz band. These revisions are included in the final rules.

22. *Forest Firefighting and Conservation Channels (US8)*. The Commission did not receive any comments that addressed our proposals. The Commission has adopted a requirement that applications for use of these channels be accompanied by a letter of concurrence. Based on our experience with past applications that included such a letter, the Commission believes that this practice aids the coordination of assignments between NTIA and the Commission. The Commission is also moving the existing limitations that are contained in § 90.20 of the Commission's rules into a new subsection of § 90.265. Section 90.265 of the rules already describes procedures by which the Commission license two services permitted on Federal bands pursuant to United States footnotes—Hydro operations and wireless microphones. The Commission concludes it would be convenient and consistent to expand this section to include similarly situated services including, *inter alia*, the Forest Firefighting and Conservation channels.

23. *Public Safety Channels (US11)*. IMSA/IAFC is the only party to address the proposals dealing with the two Public Safety channels. IMSA/IAFC states that these Public Safety channels are widely assigned to agencies in the New York City metropolitan area and nearby environs that are expected to provide critical support to homeland security operations. IMSA/IAFC states that the current coordination procedures between Public Safety and Federal agencies are sufficient to address any concerns regarding possible interference, and urges us to “tread cautiously” to implement a policy so that Federal agencies would implement narrowband operations on the new channels adjacent to the Public Safety channels only as an absolute last resort when other acceptable channels are not available, and to work to expedite timely frequency coordination procedures for these channels.

24. The Commission recognizes the unique needs and critical nature of public safety communications in the New York City metropolitan area and the funding difficulties that many of these licensees face, and have worked with NTIA to limit the possibility that it will assign the new narrowband channels that are immediately adjacent to the two Public Safety channels in the New York City area until the conclusion of our transition period to mandatory narrowband operations. The

Commission will continue to work in cooperation with NTIA, and within the Federal frequency coordination process, to be sure this remains the case.

25. The Commission created a new paragraph in § 90.265 of the rules to describe these public safety channels, revising the existing limitation contained in § 90.20(d)(47) of the Commission's rules to serve as a cross-reference, and updated footnote US11 in concurrence with NTIA to remove an outdated reference to wideband operations and to simplify the description of public safety and remote pickup broadcast operations in the band. The Commission stated in its rules that these operations are on a secondary basis to any Federal station, in order to give effect to the restriction embodied in footnote US11 that non-Federal operations on 166.250 MHz and 170.150 MHz operate on the condition that no harmful interference is caused to “present or future” Federal stations. Finally, the Commission will not require a letter of concurrence by a sponsoring Federal agency in conjunction with an application for use of these channels. The Commission is persuaded by IMSA/IAFC's claims that such a requirement would “entail an unneeded and time consuming step” in a coordination process that it describes as “more than sufficient.”

26. *Public Coast Station Channels (US223)*. Footnote US223 makes a channel available for public coast station use in limited areas near the Canadian border. Because ship and public coast operations do not fall under the same rules as PLMR operations, footnote US223 does not need to be modified to support NTIA's narrowbanding timetable, and therefore the Commission proposed no changes to these frequencies as part of this proceeding.

27. *Wireless Microphone Channels (US300)*. Footnote US300 specifies eight frequencies that are available for wireless microphone operations on a secondary basis to Federal and non-Federal operations. Because wireless microphones operate at very low power (50 mW output power), there is a minimal likelihood that they will cause interference to high-power land mobile operations. Thus, the Commission proposed no changes to the frequencies allocated for wireless microphones as part of footnote US300. No comments were received on these proposals. Accordingly, the Commission will not narrowband these operations.

#### Final Regulatory Flexibility Analysis

28. As required by the Regulatory Flexibility Act of 1980, as amended

(RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (“IRFA”) was incorporated in the *Notice of Proposed Rule Making* (“NPRM”) <sup>2</sup> in ET Docket No. 04–243. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No written public comments were received concerning the initial regulatory flexibility analysis. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

#### A. Need for, and Objectives of, the Report and Order

29. In the 150.05–150.8 MHz, 162–174 MHz, and 406.1–420 MHz bands, the National Telecommunications and Information Administration (NTIA) is transitioning Federal operations in the fixed and land mobile services from wideband (25 kHz) to narrowband (12.5 kHz) channels at a more rapid schedule than the Commission has adopted for Private Land Mobile Radio (PLMR) operations in these bands. Because there could be extended periods during which existing PLMR wideband operations may not be compatible with narrowband Federal operations, the Commission has revised its current narrowbanding plan for these bands to take into account that many PLMR operations in the above Federal bands are authorized on the condition that they not cause interference to Federal operations.

30. The Commission’s objectives are to provide for a more orderly transition from wideband to narrowband operations, increase spectrum efficiency, maintain compatibility with Federal operations, permit licensees to operate using existing equipment for the maximum amount of time possible, and significantly reduce the probability that wideband operations will interfere with new Federal operations.

#### B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA.

31. There were no comments filed that specifically addressed the rules and policies addressed in the IRFA.

#### C. Description and Estimate of the Number of Small Entities To Which the Final Rule Will Apply

32. 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 rules adopted herein.<sup>4</sup> 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, unless the Commission has developed one or more definitions that are appropriate for its activities.<sup>5</sup> Under 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 (SBA).<sup>6</sup>

33. A small organization is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>7</sup> Nationwide, there are approximately 1.6 million small organizations.<sup>8</sup> “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.”<sup>9</sup> As of 1997, there were approximately 87,453 governmental entities in the United States.<sup>10</sup> This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000 and 1,498 have populations of 500,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be approximately 84,098 or fewer.

34. PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee’s primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as

defined by the SBA, we could use the definition for “Cellular and Other Wireless Telecommunications.” This definition provides that a small entity is any such entity employing no more than 1,500 persons.<sup>11</sup> The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. Moreover, because PLMR licensees generally are not in the business of providing cellular or other wireless telecommunications services but instead use the licensed facilities in support of other business activities, we are not certain that the Cellular and Other Wireless Telecommunications category is appropriate for determining how many PLMR licensees are small entities for this analysis. Rather, it may be more appropriate to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.<sup>12</sup>

35. The final rules adopted in the R&O affect the following PLMR licensees: (1) Industrial/Business Pool and state and local government licenses that are authorized to make hydrological and meteorological (Hydro) measurements under footnote US13; (2) forest firefighting agencies, which are primarily state government licensees, and forest conservation agencies that are authorized under footnote US8; (3) Public Safety Pool licensees that are authorized under footnote US11; and (4) hospital, medical centers, nursing homes, *etc.* that operate medical radiocommunication systems, which are authorized under footnote US216. These United States footnotes are fully discussed in the R&O.

36. *Hydro Channel Users.* The Commission has authorized 9 licensees to operate 219 fixed stations on the six channels that would be removed from the Hydro channel plan: (1) One licensee (the State of California) is authorized to operate 15 fixed stations on the frequency 169.575 MHz; (2) five licensees are authorized to operate 83 fixed stations at 409.675 MHz; (3) three licensees are authorized to operate ten fixed stations at 409.725 MHz; (4) four licensees are authorized to operate 97 fixed stations at 412.625 MHz; and (5) there are no licensees authorized to operate on the frequencies 170.375 MHz and 171.975 MHz. The Commission has issued 1053 licenses (there is at least one station per license) for the remaining Hydro channels that are

<sup>4</sup> *Id.* at 604(a)(3).

<sup>5</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register.**”

<sup>6</sup> *Id.* at 632.

<sup>7</sup> 5 U.S.C. 601(4).

<sup>8</sup> Independent Sector, *The New Nonprofit Almanac and Desk Reference* (2002).

<sup>9</sup> 5 U.S.C. 601(5).

<sup>10</sup> U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, Section 9, pages 299–300, Tables 490 and 492.

<sup>11</sup> See 13 CFR 121.201, NAICS code 517212.

<sup>12</sup> See generally 13 CFR 121.201.

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> 19 FCC Rcd 12690, 2004, ET Docket No. 04–243.

<sup>3</sup> 5 U.S.C. 604.

being narrowbanded. We believe that some of the Hydro channel licensees are small businesses or small governmental entities.

37. *Forest Firefighting and Conservation Agencies.* The Commission has authorized 21 licensees to operate 414 fixed stations and 45,630 mobile stations on the nine channels that are available to forest firefighting agencies; two of these frequencies are also available for use by conservation agencies. By Commission Rule, these frequencies are reserved primarily for assignment to state licensees.

Assignments to other licensees may be made only where the frequencies are required for coordinated operation with the state system to which the frequency is assigned. The 21 licensees consist of 19 states and state agencies, the County of Los Angeles, and a non-profit organization. This small organization may be impacted by our actions.

38. *Public Safety Licensees.* The Commission has granted 27 licensees authorization to operate wideband equipment on the frequencies 166.25 MHz and 170.15 MHz. By Commission Rule, these frequencies are to be assigned to stations in the Public Safety Pool that are at points within 240 kilometers of New York City. Specifically, the Commission has granted 15 licensees authorization to operate 1295 mobile stations, 95 pagers, and 30 fixed stations using the frequency 166.25 MHz. The Commission has granted 12 licensees authorization to operate 899 mobile stations, 165 pagers, and 22 fixed stations on the frequency 170.15 MHz. We believe that many of these public safety licensees are small governmental entities.

39. *Medical Radiocommunication Systems.* The Commission has issued 510 licenses for the frequency 150.775 MHz and 424 licenses for the frequency 150.790 MHz. By Commission Rule, these 150 MHz channels are used only by mobile stations. For example, these frequencies may be used for voice transmissions from a portable (hand-held) unit to an ambulance. The Commission has issued 524 licenses for the frequency 163.250 MHz. By Commission Rule, the frequency 163.250 MHz can be assigned only for one-way paging. We believe that most of the hospitals, medical centers, and nursing homes that operate medical radiocommunication systems are small businesses or small governmental entities.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

40. The final rules require that:

- PLMR licensees employing wideband channels for Hydro, Forest Firefighting and Conservation, and public safety operations modify or discontinue operations if, after May 27, 2005, these wideband operations cause interference to new Federal operations in the 162–174 MHz band, or if, after January 1, 2008, these wideband operations cause interference to new Federal operations in the 150.05–150.8 MHz and 406.1–420 MHz bands;
- Hydro channel licensees operating on the center frequencies 169.575 MHz, 409.675 MHz, 409.725 MHz, and 412.625 MHz cease operations not later than January 1, 2013;
- PLMR applicants requesting authority to operate Hydro, Forest Firefighting and Conservation, public safety, and medical radiocommunication stations in the 162–174 MHz band use narrowband channels after January 1, 2005; and that these applicants use narrowband channels after January 1, 2008 in the 150.05–150.8 MHz and 406–416 MHz bands; and
- New Hydro stations that would operate on the center frequencies 406.125 MHz and 406.175 MHz be limited to a transmitter output power of 125 watts and required to coordinate with the Radio Astronomy Observatory at Socorro, New Mexico.

41. If a licensee is required to modify its operations, we believe that the licensee would either buy new narrowband equipment or that the licensee would hire a vendor to modify some or all of its wideband equipment. We are uncertain of the exact costs relating to the narrowbanding requirements.

#### *E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

42. The RFA requires an agency to describe any significant alternatives that it has considered in 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.<sup>13</sup>

43. So long as incompatibilities are not created with Federal narrowband operations, we are permitting incumbent licensees to use existing equipment until January 1, 2013. We are requiring that the 9 licensees of the six Hydro channels being deleted from the Hydro channel plan modify their equipment and station licenses and migrate to a center frequency listed in the new Hydro channel plan on a timetable as advised by the Hydro Committee and approved by NTIA and the Commission.

44. We are grandfathering those incumbent stations that operate on the frequencies 150.7825 MHz and 150.7975 MHz indefinitely. We are exempting equipment designed for use in the Federal bands from our current 6.25 kHz equipment certification requirement.

45. Report to Congress: The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>14</sup> In addition, the Commission will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA.

#### **Ordering Clauses**

46. Pursuant to sections 1, 4(i), 7(a), 301, 302(a), 303(a)–(c), 303(f), 303(g), 303(r), 307, 308, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154(i), 157(a), 301, 302(a)–(c), 303(f), 303(g), 303(r), 307, 308, and 332, this *report and order* is hereby *adopted*.

47. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *report and order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### **List of Subjects in 47 CFR Parts 2 and 90**

Radio.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

#### **Rule Changes**

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

<sup>13</sup> 5 U.S.C. 603(c).

<sup>14</sup> See 5 U.S.C. 801(a)(1)(A).

**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 is amended by revising footnotes US11, US13, US117, US216, and US312 in the list of United States footnotes and footnote G5 in the list of Federal Government footnotes to read as follows:

**§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

**United States (US) Footnotes**

\* \* \* \* \*

US11 On the condition that harmful interference is not caused to present or future Federal stations in the band 162–174 MHz, the frequencies 166.25 MHz and 170.15 MHz may be authorized to non-Federal stations, as follows: (1) Eligibles in the Public Safety Radio Pool may be authorized to operate in the fixed and land mobile services for locations within 150 miles (241.4 kilometers) of New York City; and (2) remote pickup broadcast stations may be authorized to operate in the land mobile service for locations within the continental United States, excluding Alaska, locations within 150 miles of New York City, and the Tennessee Valley Authority Area (TVA

Area). The TVA Area is bounded on the west by the Mississippi River, on the north by the parallel of latitude 37° 30' N., and on the east and south by that arc of the circle with center at Springfield, Illinois, and radius equal to the airline distance between Springfield, Illinois, and Montgomery, Alabama, subtended between the foregoing west and north boundaries.

US13 The following center frequencies, each with a channel bandwidth not greater than 12.5 kHz, are available for assignment to non-Federal fixed stations for the specific purpose of transmitting hydrological and meteorological data in cooperation with Federal agencies, subject to the condition that harmful interference will not be caused to Federal stations:

**HYDRO CHANNELS (MHZ)**

169.425 .....	170.2625	171.100	406.1250
169.4375 .....	170.275	171.1125	406.1750
169.450 .....	170.2875	171.125	412.6625
169.4625 .....	170.300	171.825	412.6750
169.475 .....	170.3125	171.8375	412.6875
169.4875 .....	170.325	171.850	412.7125
169.500 .....	171.025	171.8625	412.7250
169.5125 .....	171.0375	171.875	412.7375
169.525 .....	171.050	171.8875	412.7625
170.225 .....	171.0625	171.900	412.7750
170.2375 .....	171.075	171.9125	415.1250
170.250 .....	171.0875	171.925	415.1750

New assignments on the frequencies 406.125 MHz and 406.175 MHz are to be primarily for paired operations with the frequencies 415.125 MHz and 415.175 MHz, respectively.

\* \* \* \* \*

US117 In the band 406.1–410 MHz: stations in the fixed and mobile services shall be limited to a transmitter output power of 125 watts, and new authorizations for stations, other than mobile stations, shall be subject to prior coordination by the applicant in the following areas:

(1) *Arecibo Observatory of the National Astronomy and Ionosphere Center*. Within Puerto Rico and the U.S. Virgin Islands, contact: Spectrum Manager, Arecibo Observatory, HC3 Box 53995, Arecibo, Puerto Rico 00612. Phone: 787–878–2612, Fax: 787–878–1816.

(2) *Very Large Array (VLA) of the National Radio Astronomy Observatory (NRAO)*. Within a 350 kilometer radius that is centered on 34° 04' 44" North Latitude, 107° 37' 04" West Longitude, contact: Spectrum Manager, National Radio Astronomy Observatory, P.O. Box O, 1003 Lopezville Road, Socorro, New Mexico 87801. Phone: 505–835–7000, Fax: 505–835–7027.

(3) *Table Mountain Observatory of the Department of Commerce (407–409 MHz only)*. Within a 10 kilometer radius that is centered on 40° 07' 50" North Latitude, 105° 14' 40" West Longitude, contact: Radio Frequency Coordinator, Department of Commerce, 325 Broadway, Boulder, Colorado 80303. Phone: 303–497–6548, Fax: 303–497–3384.

The non-Federal use of this band is limited to the radio astronomy service and as provided by footnote US13.

\* \* \* \* \*

US216 The frequencies 150.775 MHz, 150.790 MHz, 152.0075 MHz, and 163.250 MHz, and the bands 462.94688–463.19688 MHz and 467.94688–468.19688 shall be authorized for the purpose of delivering or rendering medical services to individuals (medical radiocommunication systems), and shall be authorized on a primary basis for Federal and non-Federal use. The frequency 152.0075 MHz may also be used for the purpose of conducting public safety radio communications that include, but are not limited to, the delivering or rendering of medical services to individuals.

(a) The use of the frequencies 150.775 MHz and 150.790 MHz are limited to mobile stations transmitting a maximum of 100 watts Effective Radiated Power (ERP). Airborne operations are prohibited.

(b) The use of the frequencies 152.0075 MHz and 163.250 MHz are limited to base stations that are authorized only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on these frequencies shall not be authorized.

(c) Non-Federal licensees in the Public Safety Radio Pool holding a valid authorization on May 27, 2005, to operate on the frequencies 150.7825 MHz and 150.7975 MHz may, upon proper renewal application, continue to be authorized for such operation; provided that harmful interference is not caused to present or future Federal stations in the band 150.05–150.8 MHz and, should

harmful interference result, that the interfering non-Federal operation shall immediately terminate.

\* \* \* \* \*

US312 The frequency 173.075 MHz may also be authorized on a primary basis to non-Federal stations in the Public Safety Radio Pool, limited to police licensees, for stolen vehicle recovery systems (SVRS). As of May 27, 2005, new SVRS licenses shall be issued for an authorized bandwidth not to exceed 12.5 kHz. Stations that operate as part of a stolen vehicle recovery system that was authorized and in operation prior to May 27, 2005 may operate with an authorized bandwidth not to exceed 20 kHz until April 27, 2019. After that date, all SVRS shall operate with an authorized bandwidth not to exceed 12.5 kHz.

\* \* \* \* \*

**Federal Government (G) Footnotes**

\* \* \* \* \*

G5 In the bands 162.0125–173.2, 173.4–174, 406.1–410 and 410–420 MHz, use by the military services is limited by the provisions specified in the channeling plans shown in Sections 4.3.7 and 4.3.9 of the NTIA Manual.

\* \* \* \* \*

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

■ 3. 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).

■ 4. Section 90.20 is amended to read as follows:

■ a. Revise the following 15 entries to the table in paragraph (c)(3);

- b. Add an entry for the 406 to 416 frequency bands to the table in paragraph (c)(3);
- c. Revise paragraphs (d)(47), (d)(48), and (d)(49);
- d. Remove and reserve paragraphs (d)(50) and (d)(51);
- e. Add paragraphs (d)(87) and (d)(88); and

■ f. Revise paragraph (e)(6) introductory text.

**§ 90.20 Public Safety Pool.**

\* \* \* \* \*  
(c) \* \* \*  
(3) *Frequencies.*

**PUBLIC SAFETY POOL FREQUENCY TABLE**

Frequency or band	Class of station(s)	Limitations	Coordinator
* * * * *	* * * * *	* * * * *	* * * * *
<b>Megahertz</b>			
150.775 .....	Mobile .....	87	PM.
150.7825 .....	...do .....	88	PM.
150.790 .....	...do .....	87	PM.
150.7975 .....	...do .....	88	PM.
152.0075 .....	Base .....	13, 30	PS.
169 to 172 .....	Mobile or operational fixed .....	48	
170.425 .....	...do .....	9, 49	PO.
170.475 .....	...do .....	9, 49	PO.
170.575 .....	...do .....	9, 49	PO.
171.425 .....	...do .....	9, 49	PO.
171.475 .....	...do .....	9, 49	PO.
171.575 .....	...do .....	9, 49	PO.
172.225 .....	...do .....	9, 49	PO.
172.275 .....	...do .....	9, 49	PO.
172.375 .....	...do .....	9, 49	PO.
406 to 416 .....	Operational fixed .....	48	

(d) \* \* \*  
\* \* \* \* \*

(47) This frequency may be assigned to stations in the Public Safety Pool in accordance with the provisions of § 90.265.

(48) Frequencies in this band will be assigned only for transmitting hydrological or meteorological data or for low power wireless microphones in accordance with the provisions of § 90.265.

(49) This frequency may be assigned only for forest firefighting and conservation activities in accordance with the provisions of § 90.265.  
\* \* \* \* \*

(87) The use the frequencies 150.775 MHz and 150.790 MHz are limited to a transmitter output power of 100 watts Effective Radiated Power (ERP) as of May 27, 2005.

(88) Use of this frequency is limited to stations licensed as of May 27, 2005.  
(e) \* \* \*  
\* \* \* \* \*

(6) The frequency 173.075 MHz is available for stolen vehicle recovery systems on a shared basis with Federal stations in the fixed and mobile services. Stolen vehicle recovery systems are limited to recovering stolen vehicles and are not authorized for general purpose vehicle tracking or monitoring. Mobile transmitters operating on this frequency are limited to 2.5 watts power output and base transmitters are limited to 300 watts ERP. F1D and F2D emissions may be used within a maximum authorized bandwidth of 12.5 kHz, except that stations that operate as part of a stolen vehicle recovery system that was authorized and that was in operation prior to May 27, 2005 may operate with

a maximum authorized bandwidth of 20 kHz until April 27, 2019. Transmissions from mobiles shall be limited to 200 milliseconds every 10 seconds, except that when a vehicle is being tracked actively transmissions may be 200 milliseconds every second. Alternatively, transmissions from mobiles shall be limited to 1800 milliseconds every 300 seconds with a maximum of six such messages in any 30 minute period. Transmissions from base stations shall be limited to a total time of one second every minute. The FCC shall coordinate applications for base stations operating on this frequency with NTIA. Applicants shall perform an analysis for each base station located within 169 km (105 miles) of a TV Channel 7 transmitter of potential interference to TV Channel 7 viewers. Such stations will be authorized if the applicant has limited the interference

contour to fewer than 100 residences or if the applicant:

\* \* \* \* \*

■ 5. Section 90.35 is amended by removing the entry for the frequency

bands "406 to 413" and adding in its place the entry for "406 to 416" to the table in paragraph (b)(3) to read as follows:

**§ 90.35 Industrial/Business Pool.**

\* \* \* \* \*

(b) \* \* \*

(3) *Frequencies.*

**INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE**

Frequency or band	Class of station(s)	Limitations	Coordinator
* * * * *	* * * * *	* * * * *	* * * * *
<b>Megahertz</b>			
* * * * *	* * * * *	* * * * *	* * * * *
406 to 416 .....	Operational fixed .....	53	
* * * * *	* * * * *	* * * * *	* * * * *

\* \* \* \* \*

■ 6. Section 90.203 is amended by revising paragraphs (j) introductory text, (j)(3), (j)(4) introductory text, (j)(5), and (j)(7) to read as follows:

**§ 90.203 Certification required.**

\* \* \* \* \*

(j) Except where otherwise specially provided for, transmitters operating on frequencies in the 150–174 MHz and 406–512 MHz bands must comply with the following:

\* \* \* \* \*

(3) Applications for part 90 certification of transmitters designed to operate on frequencies in the 150.8–162.0125 MHz, 173.2–173.4 MHz, and/or 421–512 MHz bands, received on or after February 14, 1997, must include a certification that the equipment meets a spectrum efficiency standard of one voice channel per 12.5 kHz of channel bandwidth. Additionally, if the equipment is capable of transmitting data, has transmitter output power greater than 500 mW, and has a channel

bandwidth of more than 6.25 kHz, the equipment must be capable of supporting a minimum data rate of 4800 bits per second per 6.25 kHz of channel bandwidth.

(4) Applications for part 90 certification of transmitters designed to operate on frequencies in the 150.8–162.0125 MHz, 173.2–173.4 MHz, and/or 421–512 MHz bands, received on or after January 1, 2005, except for handheld transmitters with an output power of two watts or less, will only be granted for equipment with the following channel bandwidths:

\* \* \* \* \*

(5) Applications for part 90 certification of transmitters designed to operate on frequencies in the 150.8–162.0125 MHz, 173.2–173.4 MHz, and/or 421–512 MHz bands, received on or after January 1, 2005, must include a certification that the equipment meets a spectrum efficiency standard of one voice channel per 6.25 kHz of channel bandwidth. Additionally, if the equipment is capable of transmitting

data, has transmitter output power greater than 500 mW, and has a channel bandwidth of more than 6.25 kHz, the equipment must be capable of supporting a minimum data rate of 4800 bits per second per 6.25 kHz of channel bandwidth.

\* \* \* \* \*

(7) All transmitters that are designed for one-way paging operations, except those operating on the frequency 163.250 MHz, will be certified with a 25 kHz channel bandwidth and are exempt from the spectrum efficiency requirements of paragraphs (j)(3) and (j)(5) of this section.

\* \* \* \* \*

■ 7. Section 90.209 is amended by removing the entry for the frequency band "421–512" and adding in its place the entry for "406–512" to the table in paragraph (b)(5) to read as follows:

**§ 90.209 Bandwidth limitations.**

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

**STANDARD CHANNEL SPACING BANDWIDTH**

Frequency band (MHz)	Channel spacing (kHz)	Authorized bandwidth (kHz)
* * * * *	* * * * *	* * * * *
406–512 <sup>2</sup> .....	<sup>1</sup> 6.25	<sup>1,3</sup> 20/11.25/6
* * * * *	* * * * *	* * * * *

\* \* \* \* \*

■ 8. Section 90.217 is amended by adding paragraph (e) to read as follows:

**§ 90.217 Exemption from technical standards.**

\* \* \* \* \*

(e) Transmitters used for wireless microphone operations and operating on frequencies allocated for Federal use must comply with the requirements of § 90.265(b).

■ 9. Section 90.265 is amended by revising the section heading and

paragraph (a) introductory text and the list of frequencies in paragraph (a), and by adding paragraphs (a)(5) through (a)(9), (c), (d), and (e) to read as follows:

**§ 90.265 Assignment and use of frequencies in the bands allocated for Federal use.**

(a) The following center frequencies are available for assignment to fixed

stations in the Public Safety Pool or the Industrial/Business Pool, subject to the provisions of this section:

**HYDRO CHANNELS (MHZ)**

169.4250 .....	170.2625	171.1000	406.1250
169.4375 .....	170.2750	171.1125	406.1750
169.4500 .....	170.2875	171.1250	412.6625
169.4625 .....	170.3000	171.8250	412.6750
169.4750 .....	170.3125	171.8375	412.6875
169.4875 .....	170.3250	171.8500	412.7125
169.5000 .....	171.0250	171.8625	412.7250
169.5125 .....	171.0375	171.8750	412.7375
169.5250 .....	171.0500	171.8875	412.7625
170.2250 .....	171.0625	171.9000	412.7750
170.2375 .....	171.0750	171.9125	415.1250
170.2500 .....	171.0875	171.9250	415.1750

\* \* \* \* \*

(5) After May 27, 2005, for the 169–172 MHz band and January 1, 2008 for the 406–416 MHz band, channels for new operations are limited to an authorized bandwidth not to exceed 11.25 kHz. After those dates, existing systems with an authorized bandwidth of greater than 11.25 kHz (including those systems that expand existing operations) may continue to operate with a bandwidth greater than 11.25 kHz until January 1, 2013. Such operations are limited by paragraphs (a)(6) and (a)(7) of this section.

(6) After May 27, 2005, if a licensee of a channel in the band 169–172 MHz which uses equipment with an authorized bandwidth greater than 11.25 kHz cannot resolve an interference complaint to the satisfaction of an impacted Federal agency or is advised to do so by the Hydro Committee as approved by the FCC, then the licensee must cease operation on the frequency upon notification by the Commission.

(7) After January 1, 2008, if a licensee of a channel in the band 406.1–420 MHz which uses equipment with an authorized bandwidth greater than 11.25 kHz cannot resolve an interference complaint to the satisfaction of an impacted Federal agency or is advised to do so by the Hydro Committee as approved by the FCC, then the licensee must cease operation on the frequency upon notification by the Commission.

(8) After May 27, 2005, new assignments on the frequencies 406.125 MHz and 406.175 MHz are to be primarily for paired operations with the frequencies 415.125 MHz and 415.175 MHz, respectively and limited to an authorized bandwidth not to exceed 11.25 kHz when paired.

(9) Existing stations may continue to use the center frequencies 169.575 MHz, 409.675 MHz, 409.725 MHz, and 412.625 MHz until January 1, 2013, subject to the requirements of paragraphs (a)(6) and (a)(7) of this section.

\* \* \* \* \*

(c) The following center frequencies are available for assignment to licensees engaged in forest firefighting and conservation activities, subject to the provisions of this section:

**FOREST FIREFIGHTING AND CONSERVATION CHANNELS (MHZ)**

170.425 .....	171.425	172.225
170.475 .....	171.475	172.275
170.575 .....	171.575	172.375

(1) These frequencies will be assigned on a secondary basis to any U.S. Government station.

(2) The frequencies 170.425 MHz, 170.475 MHz, 170.575 MHz, 171.425 MHz, 171.575 MHz, 172.225 MHz, and 172.275 MHz will be assigned only to licensees directly responsible for the prevention, detection, and suppression of forest fires.

(3) The frequencies 171.475 MHz and 172.275 MHz will be assigned to licensees directly responsible for the prevention, detection, and suppression of forest fires; or to licensees engaged in forest conservation activities for mobile relay operation only.

(4) The frequencies 170.425 MHz, 170.575 MHz, 171.475 MHz, 172.225 MHz, and 172.375 MHz will be assigned for use only in areas west of the Mississippi River.

(5) The frequencies 170.475 MHz, 171.425 MHz, 171.575 MHz, and 172.275 MHz will be assigned for use only in areas east of the Mississippi River.

(6) All applications for use of these frequencies must be accompanied by a letter of concurrence by the United States Department of Agriculture.

(7) After May 27, 2005, channels for new operations are limited to an authorized bandwidth not to exceed 11.25 kHz. Between May 27, 2005, and January 1, 2013, existing systems with an authorized bandwidth of greater than 11.25 kHz (including those systems that expand existing operations) may continue to operate with a bandwidth greater than 11.25 kHz, subject to the limitations set forth in paragraph (c)(8), of this section.

(8) After May 27, 2005, if a licensee that uses equipment with an authorized bandwidth greater than 11.25 kHz cannot resolve an interference complaint from an impacted Federal agency, then the licensee must cease operation on the frequency upon notification by the Commission.

(d) The frequencies 166.250 MHz and 170.150 MHz are available for assignment to licensees engaged in public safety activities, subject to the provisions of this section:

(1) These frequencies are available for assignment to stations in the Public Safety Pool, only at points within 241.4 km. (150 mi.) of New York, N.Y.;

(2) Operations on these channels is on a secondary basis to any Federal station; and

(3) After May 27, 2005, if a licensee that uses equipment with an authorized bandwidth greater than 11.25 kHz cannot resolve an interference complaint from an impacted Federal agency, then the licensee must cease operation on the frequency upon notification by the Commission.

(4) After May 27, 2005, channels for new operations are limited to an authorized bandwidth not to exceed 11.25 kHz. Between May 27, 2005, and

January 1, 2013, existing systems with an authorized bandwidth of greater than 11.25 kHz (including those systems that expand existing operations) may continue to operate with a bandwidth greater than 11.25 kHz, subject to the limitations set forth in paragraph (d)(3), of this section.

(e) The following frequencies are available for use by Medical Radiocommunication Systems:

(1) The frequencies 150.775 MHz, 150.790 MHz, and 163.250 MHz, subject to following provisions:

(i) After May 27, 2005, new assignments for these frequencies shall be authorized only for the purpose of delivering or rendering medical services to individuals (medical radiocommunication systems).

(ii) After May 27, 2005, new operations on the frequency 163.250 MHz are limited to an authorized bandwidth not to exceed 11.25 kHz.

(iii) After January 1, 2008, new operations on the frequencies 150.775 MHz and 150.790 MHz are limited to an authorized bandwidth not to exceed 11.25 kHz.

(iv) Existing systems with an authorized bandwidth of greater than 11.25 kHz (including those systems that expand existing operations) may continue to operate on a primary basis with a bandwidth greater than 11.25 kHz until January 1, 2013. After January 1, 2013, stations that use the frequencies 150.775 MHz, 150.790 MHz, or 163.250 MHz shall be limited to an authorized bandwidth not to exceed 11.25 kHz.

(2) The frequency 152.0075 MHz and frequencies within the bands 462.9375–463.1875 MHz and 467.9375 MHz–468.1875 MHz, subject to the limitations specified in § 90.20.

\* \* \* \* \*

[FR Doc. 05–8338 Filed 4–26–05; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 22

[WT Docket Nos. 03–103, 05–42; FCC 04–287]

#### Air-Ground Telecommunications Services; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Communications Commission (“Commission”) published in the *Federal Register* of Wednesday, April 13, 2005, a document, wherein

§ 22.857 was incorrectly amended. This document corrects that amendment.

**DATES:** Effective May 13, 2005.

**FOR FURTHER INFORMATION CONTACT:** Richard Arsenault, Chief Counsel, Mobility Division, Wireless Telecommunications Bureau, at 202–418–0920 or via e-mail at [Richard.Arsenault@fcc.gov](mailto:Richard.Arsenault@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a correction to the Commission’s Report and Order portion (*Report and Order*) of the Commission’s *Report and Order and Notice of Proposed Rulemaking*, FCC 04–287, in WT Docket Nos. 03–103 and 05–42, adopted December 15, 2004, and released February 22, 2005, as summarized and published at 70 FR 19293, April 13, 2005.

### PART 22—[CORRECTED]

■ In FR Doc. 05–6948 published on April 13, 2005, (70 FR 19293) make the following correction:

■ On page 19310, in the first column, instruction 55 is corrected to read as follows:

■ 55. Revise § 22.857 to read as follows: Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 05–8340 Filed 4–26–05; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 27 and 90

[WT Docket No. 96–86; FCC 05–09]

#### Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission takes certain actions intended to conform certain technical rules governing the 764–776 MHz and 794–806 MHz public safety bands (700 MHz Public Safety Band) to industry consensus standards.

**DATES:** Effective May 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Technical Information: Brian Marengo, [Brian.Marengo@FCC.gov](mailto:Brian.Marengo@FCC.gov), Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418–0680, or TTY (202) 418–7233. Legal Information: Roberto Mussenden, Esq., [Roberto.Mussenden@FCC.gov](mailto:Roberto.Mussenden@FCC.gov),

Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau (202) 418–0680, or TTY (202) 418–7233.

**SUPPLEMENTARY INFORMATION:** This is summary of the Federal Communications Commission’s *Sixth Report and Order*, FCC 05–9, adopted January 5, 2005 and released on January 7, 2005. 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 Commission’s copy contractor, Best Copy and Printing, Inc., 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 [Brian.Millin@fcc.gov](mailto:Brian.Millin@fcc.gov).

1. In the *Sixth Report and Order*, the Commission takes the following actions:

- Changes the terminology used in Sections 90.543 and 27.53 of the Commission’s rules from Adjacent Channel Coupled Power (ACCP) to Adjacent Channel Power (ACP); and
- Adopts recommended changes to the ACP limits in § 90.543 and 27.53 of the Commission’s rules.

#### I. Procedural Matters

##### A. Paperwork Reduction Act Analysis

2. The order does not contain any new or modified information collection.

##### B. Regulatory Flexibility Act

3. A Final Regulatory Flexibility Analysis has been prepared with respect to the *Sixth Report and Order* and is set forth below.

##### C. Report to Congress

4. The Commission will send a copy of this *Sixth Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

##### D. Supplemental Final Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act (RFA), a Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *Fifth Report and Order* in WT Docket 96–86. The Commission sought written public comment on the proposals in the *Fifth Notice of Proposed Rulemaking*.