

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 0, 4, 11, 22, 64, 90, and 97**

[FCC 06-35]

**Establishment of the Public Safety and Homeland Security Bureau**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On March 17, 2006, the Commission adopted an Order revising its rules to establish the Public Safety and Homeland Security Bureau. By establishing this bureau the Commission believes it will be better able to address and promote public safety and homeland security.

**DATES:** Effective September 25, 2006.

**FOR FURTHER INFORMATION CONTACT:** Timothy Peterson, Public Safety and Homeland Security Bureau, at 202-418-1575, or via the Internet at *timothy.peterson@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** To promote a more efficient, effective and responsive organizational structure and to better promote and address public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues, the Commission has concluded that the proper dispatch of its business and the public interest will be served by creating a Public Safety and Homeland Security Bureau. In this Order, we amend the Commission's Rules to reflect the new structure, describe the new Bureau's functions and delegated authority, and make other conforming changes.

Authority for the adoption of the foregoing revisions is contained in Sections 1, 4(i), 4(j), 5(b), 5(c), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 151, 154(i), 154(j), 155(b), 155(c), and 303(r).

The amendments adopted herein pertain to agency organization, procedure and practice. Consequently, the notice and comment provisions of the Administrative Procedure Act contained in 5 U.S.C. 553(b) are inapplicable.

Accordingly, it is ordered that Parts 0, 4, 11, 22, 64, 90, and 97 of the Commission Rules, set forth in Title 47 of the Code of Federal Regulations, are amended as set forth in the Appendix attached to this Order, to be effective upon release of this Order.

**List of Subjects**

47 CFR Part 0

Organization and functions (Government agencies), Reporting and recordkeeping requirements.

47 CFR Part 4

Communications common carrier, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 11

Radio, Television.

47 CFR Part 22

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 64

Civil defense, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 90

Business and industry, Common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 97

Civil defense, Communications equipment, Radio.

Federal Communications Commission.

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

■ For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 4, 11, 22, 64, 90, and 97 as follows:

**PART 0—COMMISSION ORGANIZATION**

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Section 0.5 is amended by adding paragraph (a)(17) to read as follows:

**§ 0.5 General description of Commission organization and operations.**

(a) \* \* \*

(17) Public Safety and Homeland Security Bureau.

\* \* \* \* \*

**§ 0.11 [Amended]**

■ 3. Section 0.11 is amended by removing paragraph (a)(11).

■ 4. Section 0.31 is amended by revising paragraph (d) to read as follows:

**§ 0.31 Functions of the Office.**

\* \* \* \* \*

(d) To advise the Commission concerning engineering matters, including (in consultation with the Public Safety and Homeland Security Bureau where appropriate) privacy and security of communications, involved in making or implementing policy or in resolving specific cases.

\* \* \* \* \*

■ 5. Section 0.51 is amended by adding paragraph (s) to read as follows:

**§ 0.51 Functions of the Bureau.**

\* \* \* \* \*

(s) To coordinate with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

■ 6. Section 0.61 is amended by adding paragraph (l) to read as follows:

**§ 0.61 Functions of the Bureau.**

\* \* \* \* \*

(l) To coordinate with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

■ 7. Section 0.91 is amended by adding paragraph (o) to read as follows:

**§ 0.91 Functions of the Bureau.**

\* \* \* \* \*

(o) Coordinate with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

■ 8. Amend § 0.111 as follows:

- a. Revise paragraph (a)(22);
- b. Remove paragraphs (c), (f), and (h) and redesignate paragraphs (d), (e), (g), and (i) through (l) as (c) through (i).
- c. Revise newly redesignated paragraph (g); The revisions read as follows:

**§ 0.111 Functions of the Bureau.**

(a) \* \* \*

(22) Advise the Commission or responsible Bureau or Office regarding the enforcement implications of existing and proposed rules.

\* \* \* \* \*

(g) Handle congressional and other correspondence relating to or requesting specific enforcement actions, specific complaints or other specific matters within the responsibility of the Bureau, to the extent not otherwise handled by the Consumer and Governmental Affairs

Bureau, the Office of General Counsel (impermissible ex parte presentations) or another Bureau or Office;

\* \* \* \* \*

■ 9. Section 0.131 is amended by adding paragraph (q) to read as follows:

**§ 0.131 Functions of the Bureau.**

\* \* \* \* \*

(q) Coordinates with the Public Safety and Homeland Security Bureau on all matters affecting public safety, homeland security, national security, emergency management, disaster management, and related issues.

■ 10. Section 0.181 is amended by revising paragraphs (b) and (f) and adding paragraph (j) to read as follows:

**§ 0.181 The Defense Commissioner.**

\* \* \* \* \*

(b) To represent the Commission in public safety, homeland security, national security, emergency preparedness, disaster management, defense and related matters requiring conferences or communications with other governmental officers, departments, or agencies.

\* \* \* \* \*

(f) To take such measures as will assure continuity of the Commission's functions under any foreseeable circumstances with a minimum of interruption. In the event of an emergency, the Defense Commissioner, in consultation with the Chief, Public Safety and Homeland Security Bureau, will decide whether to activate the Commission's Continuity of Operations (COOP) plan and/or initiate the Commission's emergency response procedures.

\* \* \* \* \*

(j) The Commission may designate an Alternate Defense Commissioner who is authorized to perform the functions of the Defense Commissioner if he or she is not available.

**§ 0.182 [Removed]**

■ 11. Section 0.182 is removed.

■ 12. Section 0.185 is amended by revising the introductory paragraph and paragraphs (a), (b), (d), and (e) to read as follows:

**§ 0.185 Responsibilities of the bureaus and staff offices.**

The head of each of the bureaus and staff offices, in rendering assistance to the Chief, Public Safety and Homeland Security Bureau in the performance of that person's duties with respect to homeland security, national security, emergency management and preparedness, disaster management, defense, and related activities will have

the following duties and responsibilities:

(a) To keep the Chief, Public Safety and Homeland Security Bureau informed of the investigation, progress, and completion of programs, plans, or activities with respect to homeland security, national security and emergency preparedness, and defense in which they are engaged or have been requested to engage.

(b) To render assistance and advice to the Chief, Public Safety and Homeland Security Bureau, on matters which relate to the functions of their respective bureaus or staff offices.

\* \* \* \* \*

(d) To perform such other duties related to the Commission's homeland security, national security, emergency management and preparedness, disaster management, defense, and related activities as may be assigned to them by the Commission.

(e) To serve as Public Safety/Homeland Security Liaison to the Public Safety and Homeland Security Bureau or designate a Deputy Chief of the Bureau or Office as such liaison.

■ 13. Part 0, Subpart A, is amended by adding an undesignated center heading and § 0.191 to read as follows:

**Public Safety and Homeland Security Bureau**

**§ 0.191 Functions of the Bureau.**

The Public Safety and Homeland Security Bureau advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and ancillary operations. The Bureau has responsibility for coordinating public safety, homeland security, national security, emergency management and preparedness, disaster management, and related activities within the Commission. The Bureau also performs the following functions.

(a) Develops, recommends, and administers policy goals, objectives, rules, regulations, programs and plans for the Commission to promote effective and reliable communications for public safety, homeland security, national security, emergency management and preparedness, disaster management and related activities, including public safety communications (including 911, enhanced 911, and other emergency number issues), priority emergency communications, alert and warning systems (including the Emergency Alert System), continuity of government operations, implementation of

Homeland Security Presidential Directives and Orders, disaster management coordination and outreach, communications infrastructure protection, reliability, operability and interoperability of networks and communications systems, the Communications Assistance for Law Enforcement Act (CALEA), and network security. Recommends policies and procedures for public safety, homeland security, national security, emergency management and preparedness, and recommends national emergency plans and preparedness programs covering Commission functions during national emergency conditions. Conducts outreach and coordination activities with, among others, state and local governmental agencies, hospitals and other emergency health care providers, and public safety organizations. Recommends national emergency plans, policies, and preparedness programs covering the provision of service by communications service providers, including telecommunications service providers, information service providers, common carriers, and non-common carriers; broadcasting and cable facilities; satellite and wireless radio services; radio frequency assignment; electro-magnetic radiation; investigation and enforcement.

(b) Under the general direction of the Defense Commissioner, coordinates the public safety, homeland security, national security, emergency management and preparedness, disaster management, and related activities of the Commission, including national security and emergency preparedness and defense mobilization, Continuity of Government (COG) planning, alert and warning systems (including the Emergency Alert System), and other functions as may be delegated during a national emergency or activation of the President's war emergency powers as specified in section 706 of the Communications Act. Provides support to the Defense Commissioner, including with respect to his or her participation in the Joint Telecommunications Resources Board, and the National Security Telecommunications Advisory Committee and other public safety and homeland security organizations and committees. Represents the Defense Commissioner with other Government agencies and organizations, the communications industry, and Commission licensees on public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Keeps the Defense Commissioner informed as to significant

developments in the fields of public safety, homeland security, national security, emergency management, and disaster management activities, and related areas.

(c) Develops and administers rules, regulations, and policies for priority emergency communications, including the Telecommunications Service Priority System. Supports the Chiefs of the Wireline Competition, International and Wireless Telecommunications Bureaus on matters involving assignment of Telecommunications Service Priority System priorities and in administration of that system.

(d) The Chief, Public Safety and Homeland Security Bureau, or that person's designee, acts as FCC Alternate Homeland Security and Defense Coordinator and principal to the National Communications System, and the Chief, Public Safety and Homeland Security Bureau, or that person's designee, shall serve as the Commission's representative on National Communications Systems Committees.

(e) Conducts rulemaking proceedings and acts on requests for interpretation or waiver of rules.

(f) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of public safety, homeland security, national security, emergency management and preparedness, and disaster management wireless telecommunications, including ancillary operations related to the provision or use of such services. These activities include: policy development and coordination; conducting rulemaking and adjudicatory proceedings, including complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities. In addition, advises and assists public safety entities on wireless telecommunications issues and matters related thereto. Administers all authority previously delegated to the Wireless Telecommunications Bureau (including those delegations expressly provided to the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau)

in Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55.

(g) Conducts studies of public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues. Develops and administers recordkeeping and reporting requirements for communications companies pertaining to these issues. Administers any Commission information collection requirements pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and related issues.

(h) Interacts with the public, local, state, and other governmental agencies and industry groups (including advisory committees and public safety organizations and associations) on public safety, homeland security, national security, emergency management, disaster management and related issues. As requested, represents the Commission at meetings and conferences. Serves as the point of contact for the U.S. Government in matters of international monitoring, fixed and mobile direction-finding and interference resolution; and oversees coordination of non-routine communications and materials between the Commission and international or regional public organizations or foreign administrations.

(i) Maintains and operates the Commission's public safety, homeland security, national security, emergency management and preparedness, and disaster management facilities and operations, including the Communications Center, the establishment of any Emergency Operations Center (EOC), and any liaison activities with other federal, state, or local government organizations.

(j) Reviews and coordinates orders, programs and actions initiated by other Bureaus and Offices in matters affecting public safety, homeland security, national security, emergency management and preparedness, disaster management and related issues to ensure consistency with overall Commission policy. Provides advice to the Commission and other Bureaus and offices regarding the public safety, homeland security, national security, emergency management, and disaster management implications of existing and proposed rules.

(k) Develops and recommends responses to legislative, regulatory or judicial inquiries and proposals concerning or affecting public safety, homeland security, national security, emergency management, disaster

management and related issues. Responses to judicial inquiries should be developed with and recommended to the Office of General Counsel.

(l) Develops and maintains the Commission's plans and procedures, including the oversight, preparation, and training of Commission personnel, for Continuity of Operations (COOP), Continuity of Government functions, and Commission activities and responses to national emergencies and other similar situations.

(m) Acts on emergency requests for Special Temporary Authority during non-business hours when the other Offices and Bureaus of the Commission are closed. Such actions shall be coordinated with, if possible, and promptly reported to the responsible Bureau or Office.

(n) Maintains liaison with other Bureaus and Offices concerning matters affecting public safety, homeland security, national security, emergency management and preparedness, disaster management and related issues.

(o) Is authorized to declare that a temporary state of communications emergency exists pursuant to § 97.401(b) of this chapter and to act on behalf of the Commission with respect to the operation of amateur stations during such temporary state of communications emergency.

(p) Performs such other functions and duties as may be assigned or referred to it by the Commission or the Defense Commissioner.

#### § 0.284 [Amended]

■ 14. Section 0.284 is amended by removing paragraphs (a)(3) and (a)(7), and redesignating paragraphs (a)(4) through (a)(6) as paragraphs (a)(3) through (a)(5).

#### § 0.311 [Amended]

■ 15. Section 0.311 is amended by removing paragraph (c) and the note to paragraph (c).

■ 16. Section 0.314 is amended by revising paragraph (c) to read as follows:

#### § 0.314 Additional authority delegated.

\* \* \* \* \*

(c) To act on and make determinations on behalf of the Commission regarding requests for assignments and reassignments of priorities under the Telecommunications Service Priority System, part 64 of the rules, when circumstances require immediate action and the common carrier seeking to provide service states that it cannot contact the National Communications System or the Commission office normally responsible for such assignments. To the extent possible, all

such actions and determinations shall be made in coordination with the Public Safety and Homeland Security Bureau.

\* \* \* \* \*

■ 17. Section 0.332 is amended by revising paragraph (c) to read as follows:

**§ 0.332 Actions taken under delegated authority.**

\* \* \* \* \*

(c) Matters involving public safety, homeland security, national security, emergency management and preparedness, and disaster management communications—the Public Safety and Homeland Security Bureau.

\* \* \* \* \*

■ 18. Section 0.387 is revised to read as follows:

**§ 0.387 Other national security and emergency preparedness delegations; cross reference.**

For authority of the Chief of the Public Safety and Homeland Security Bureau to declare a temporary communications emergency, see § 0.191(o).

■ 19. Part 0 is amended by adding an undesignated center heading and § 0.392 to read as follows:

**Public Safety and Homeland Security Bureau**

**§ 0.392 Authority delegated.**

The Chief, Public Safety and Homeland Security Bureau, is hereby delegated authority to perform all functions of the Bureau, described in § 0.191, subject to the following exceptions and limitations in paragraphs (a) through (e) of this section.

(a) The Chief, Public Safety and Homeland Security Bureau shall not have authority to act on any applications or requests that present novel questions of fact, law or policy that cannot be resolved under outstanding precedents and guidelines.

(b) The Public Safety and Homeland Security Bureau shall not have authority to act upon any applications for review of actions taken by the Chief, Public Safety and Homeland Security Bureau, pursuant to any delegated authority.

(c) The Public Safety and Homeland Security Bureau shall not have authority to act upon any formal or informal radio application or section 214 application for common carrier services which is in hearing status.

(d) The Public Safety and Homeland Security Bureau shall not have authority to impose, reduce, or cancel forfeitures pursuant to section 203 or section 503(b) of the Communications Act of 1934, as amended, in amounts of more

than \$80,000 for common carrier providers and \$20,000 for non-common carrier providers.

(e) The Chief, Public Safety and Homeland Security Bureau shall not have authority to issue notices of proposed rulemaking, notices of inquiry, or reports or orders arising from either of the foregoing.

(f) The Chief, Public Safety and Homeland Security Bureau or her/his designee has the authority to rule on emergency requests for Special Temporary Authority during non-business hours. Action on emergency requests for Special Temporary Authority during non-business hours shall be promptly reported to the responsible Bureau or Office.

(g) The Chief, Public Safety and Homeland Security Bureau is authorized to declare that a temporary state of communications emergency exists pursuant to § 97.401(b) of this chapter and to act on behalf of the Commission with respect to the operation of amateur stations during such temporary state of communications emergency.

(h) The Chief, Public Safety and Homeland Security Bureau or her/his designee is authorized to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the Public Safety and Homeland Security Bureau. Before issuing a subpoena, the Bureau shall obtain the approval of the Office of General Counsel.

**PART 4—DISRUPTIONS TO COMMUNICATIONS**

■ 20. The authority citation for part 4 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 154(o), 218, 219, 230, 256, 301, 302(a), 303(f), 303(g), 303(j), 303(r), 403, 621(b)(3), and 621(d), unless otherwise noted.

■ 21. Section 4.11 is revised to read as follows:

**§ 4.11 Notification and initial and final communications outage reports that must be filed by communications providers.**

Notification and Initial and Final Communications Outage Reports shall be submitted by a person authorized by the communications provider to submit such reports to the Commission. The person submitting the Final report to the Commission shall also be authorized by the provider to legally bind the provider to the truth, completeness, and accuracy

of the information contained in the report. Each Final report shall be attested by the person submitting the report that he/she has read the report prior to submitting it and on oath deposes and states that the information contained therein is true, correct, and accurate to the best of his/her knowledge and belief and that the communications provider on oath deposes and states that this information is true, complete, and accurate. The Notification shall provide: The name of the reporting entity; the date and time of onset of the outage; a brief description of the problem; service effects; the geographic area affected by the outage; and a contact name and contact telephone number by which the Commission's technical staff may contact the reporting entity. The Initial and Final Reports shall contain the information required in this part 4. The Initial report shall contain all pertinent information then available on the outage and shall be submitted in good faith. The Final report shall contain all pertinent information on the outage, including any information that was not contained in, or that has changed from that provided in, the Initial report. The Notification and the Initial and Final Communications Outage Reports are to be submitted electronically to the Commission. "Submitted electronically" refers to submission of the information using Commission-approved Web-based outage report templates. If there are technical impediments to using the Web-based system during the Notification stage, then a written Notification to the Commission by e-mail, FAX, or courier may be used; such Notification shall contain the information required. All hand-delivered Notifications and Initial and Final Communications Outage Reports, shall be addressed to the Federal Communications Commission, The Office of Secretary, Attention: Chief, Public Safety & Homeland Security Bureau. Electronic filing shall be effectuated in accordance with procedures that are specified by the Commission by public notice.

**PART 11—EMERGENCY ALERT SYSTEM (EAS)**

■ 22. The authority citation for part 11 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

■ 23. Section 11.21 is amended by revising the introductory paragraph to read as follows:

**§ 11.21 State and Local Area Plans and FCC Mapbook.**

EAS plans contain guidelines which must be followed by EAS Participants' personnel, emergency officials, and National Weather Service (NWS) personnel to activate the EAS. The plans include the EAS header codes and messages that will be transmitted by key EAS sources (NP, LP, SP and SR). State and local plans contain unique methods of EAS message distribution such as the use of the Radio Broadcast Data System (RBDS). The plans must be reviewed and approved by the Chief, Public Safety and Homeland Security Bureau, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

\* \* \* \* \*

■ 24. Section 11.43 is revised to read as follows:

**§ 11.43 National level participation.**

Entities that wish to voluntarily participate in the national level EAS may submit a written request to the Chief, Public Safety and Homeland Security Bureau.

■ 25. Section 11.47 is amended by revising paragraph (b) to read as follows:

**§ 11.47 Optional use of other communications methods and systems.**

\* \* \* \* \*

(b) Other technologies and public service providers, such as DBS, low earth orbiting satellites, etc. that wish to participate in the EAS may contact the FCC's Chief, Public Safety and Homeland Security Bureau, or their State Emergency Communications Committee for information and guidance.

**PART 22—PUBLIC MOBILE SERVICES**

■ 26. The authority citation for part 22 continues to read as follows:

**Authority:** 47 U.S.C. 154, 222, 303, 309, and 332.

■ 27. Section 22.879 is amended by revising paragraph (c)(3)(v) to read as follows:

**§ 22.879 Interference resolution procedures.**

\* \* \* \* \*

- (c) \* \* \*
- (3) \* \* \*

(v) Has been approved by the Chief of the Public Safety and Homeland Security Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-

delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, DC office of the Commission's Public Safety and Homeland Security Bureau.

■ 28. Section 22.972 is amended by revising paragraph (c)(3)(v) to read as follows:

**§ 22.972 Interference resolution procedures.**

\* \* \* \* \*

- (c) \* \* \*
- (3) \* \* \*

(v) Has been approved by the Chief of the Public Safety and Homeland Security Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, DC office of the Commission's Public Safety and Homeland Security Bureau.

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

■ 29. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

■ 30. Appendix A, 6.b.(2)(m) is revised to read as follows:

**Appendix A to Part 64—Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness (NSEP)**

\* \* \* \* \*

- 6. \* \* \*
- b. \* \* \*
- (2) \* \* \*

(m) All reports submitted to the FCC should be directed to Chief, Public Safety and Homeland Security Bureau, Washington, DC 20554.

\* \* \* \* \*

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

■ 31. 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).

■ 32. Section 90.674 is amended by revising paragraph (c)(3)(v) to read as follows:

**§ 90.674 Interference resolution procedures before, during and after band reconfiguration.**

\* \* \* \* \*

- (c) \* \* \*
- (3) \* \* \*

(v) Has been approved by the Chief of the Public Safety and Homeland Security Bureau or other designated Commission official. Prior to the authorized official making a determination that a clear and imminent danger exists, the associated written statement must be served by hand-delivery or receipted fax on the applicable offending licensee, with a copy transmitted by the fastest available means to the Washington, DC office of the Commission's Public Safety and Homeland Security Bureau.

■ 33. Section 90.676 is amended by revising paragraphs (a)(4), (b)(1), and (b)(4) to read as follows:

**§ 90.676 Transition administrator for reconfiguration of the 806-824/851-869 MHz band in order to separate cellular systems from non-cellular systems.**

\* \* \* \* \*

- (a) \* \* \*

(4) Establishing a relocation schedule on a NPSPAC region-by-region basis, prioritizing the regions on the basis of population. However, should a given region be encountering unusually severe amounts of unacceptable interference, that region may be moved up in priority. Any party disputing such a change in priority may refer the matter to the Chief, Public Safety and Homeland Security Bureau, who hereby is delegated the authority to resolve such disputes. The Transition Administrator may direct that adjoining regions be reconfigured simultaneously when conditions so require.

- (b) \* \* \*

(1) Monitor the retuning schedule and resolve any schedule delays or refer same to the Chief, Public Safety and Homeland Security Bureau, for resolution;

\* \* \* \* \*

(4) Provide the Chief, Public Safety and Homeland Security Bureau, with an annual audited statement of relocation funds expended to date, including salaries and expenses of Transition Administrator. The Transition Administrator may select the date for filing the annual audited statement;

\* \* \* \* \*

**§ 90.677 [Amended]**

■ 34. Section 90.677 is amended by removing the words "Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau" and

“Chief of the Public Safety and Critical Infrastructure Division” wherever they appear and adding, in their place, the words “Chief, Public Safety and Homeland Security Bureau.”

## PART 97—AMATEUR RADIO SERVICE

■ 35. The authority citation for part 97 continues to read as follows:

**Authority:** 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

■ 36. Section 97.401 is amended by revising paragraph (b) to read as follows:

### § 97.401 Operation during a disaster.

\* \* \* \* \*

(b) When a disaster disrupts normal communication systems in a particular area, the FCC may declare a temporary state of communication emergency. The declaration will set forth any special conditions and special rules to be observed by stations during the communication emergency. A request for a declaration of a temporary state of emergency should be directed to the Chief, Public Safety and Homeland Security Bureau.

\* \* \* \* \*

[FR Doc. E6–20240 Filed 11–28–06; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 2, 74, 78, and 101

[WT Docket No. 04–143; FCC 06–141]

### Rechannelization of the 17.7–19.7 GHz Frequency Band for Fixed Microwave Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts rules that rechannelize Fixed Microwave Services (FS) channels in the terrestrial 18 GHz band. The Commission revises the rules in order to reduce the regulatory burden for the 18 GHz band by adding new channel-size options for FS operations along with channelization and emission flexibility for multichannel video programming distributors (MVPDs) below 18.3 GHz, thereby facilitating the relocation to spectrum at 17.7–18.3 GHz and 19.3–19.7 GHz. We believe these actions will encourage efficient use of the spectrum by all FS licensees and provide a regulatory environment that will allow MVPDs to provide

competitive services while protecting Federal earth stations.

**DATES:** Effective December 29, 2006

**FOR FURTHER INFORMATION CONTACT:** Brian Michael Wondrack, (202) 418–0653, e-mail: [brian.wondrack@fcc.gov](mailto:brian.wondrack@fcc.gov), or via TTY (202) 418–7233, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Report and Order*, adopted on September 22, 2006 and released on September 29, 2006, FCC 06–141. The full text of the *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc., (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, 202–488–5300 or 800–387–3160, e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). The complete text is also available on the Commission’s Web site at [http://hraunfoss.fcc.gov/edocs\\_public/attachment/FCC-06-141A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachment/FCC-06-141A1.doc). This full text may also be downloaded at: <http://wireless.fcc.gov/releases.html>. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365, or via e-mail to [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

### Summary of Report and Order

#### I. Introduction

1. In this *Report and Order*, we revise our rules to reduce regulatory burdens for 18 GHz band<sup>1</sup> terrestrial Fixed Microwave Services (FS) licensees that are subject to involuntary relocation from the 18.3–19.3 GHz band pursuant to the Commission’s reallocation of that band for exclusive satellite services use in IB Docket No. 98–172.<sup>2</sup> These FS

<sup>1</sup> The term “18 GHz band” refers to those frequencies between 17.7 and 19.7 GHz. Herein, we use the term “terrestrial 18 GHz band” to refer to those frequencies between 17.7–18.3 GHz and between 19.3–19.7 GHz that are allocated on a co-primary basis for the following terrestrial services: Fixed Microwave Services (FS) under part 101, Cable Television Relay Service (“CARS”) under part 78, and Broadcast Auxiliary Services (“BAS”) under part 74. We recognize that 17.7–18.3 GHz and 19.3–19.7 GHz are also allocated on a co-primary basis for satellite services; we are using the term “terrestrial 18 GHz band” herein for convenience only given that the instant re-channelization concerns terrestrial services under part 101.

<sup>2</sup> See Redesignation of the 17.7–19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7–20.2 GHz and 27.5–30.0

licensees will relocate to spectrum at 17.7–18.3 GHz and 19.3–19.7 GHz, where 47 CFR part 101 currently designates channel sizes that are too large relative to the needs of some relocating point-to-point microwave licensees and too small relative to the needs of relocating private cable operators (PCOs) and other multichannel video programming distributors (MVPDs). The *Report and Order* revises the rules to add new channel sizes in both bands along with special rules for MVPDs within the 17.7–18.3 GHz band, thereby facilitating the relocation.

2. In this *Report and Order* we adopt the following actions regarding FS channels in the terrestrial 18 GHz band:

- We adopt a revised band plan for the FS paired and unpaired spectrum from 17.7–18.3 GHz and 19.3–19.7 GHz, consisting of a variety of channel bandwidths, primarily narrower bandwidths, and a block of unpaired spectrum from 17.7–17.74 GHz.

- We designate a contiguous 600 megahertz block of one-way spectrum from 17.7–18.3 GHz for use by MVPDs, who will have flexibility within such block to determine the appropriate bandwidths and other technical parameters of their MVPD operations.

- In the 17.7–17.8 GHz band, we protect Federal earth stations in the fixed-satellite service (space-to-Earth) that may be authorized in Denver, Colorado, and Washington, DC, and require all MVPD applications (under 47 CFR parts 74, 78, or 101) within the 17.7–17.8 GHz band near those areas to be coordinated with the Federal Government by the Commission before an authorization will be issued.<sup>3</sup>

- We provide channel flexibility to grandfathered MVPDs in the 18.3–18.58 GHz band, which was previously designated for non-primary use by MVPDs.

#### II. Background

##### 3. Reallocation from Terrestrial Services to Satellite Services (18 GHz

GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3–17.8 GHz and 24.75–25.25 GHz Frequency Bands for Broadcast Satellite-Service Use, IB Docket No. 98–172, *Report and Order*, 15 FCC Rcd 13430 (2000) (“18 GHz SAT R&O”), *recon. granted in part, First Order on Reconsideration*, 16 FCC Rcd 19808 (2001), *further recon. granted in part, Second Order on Reconsideration*, 17 FCC Rcd 24248 (2002) (“*Second Order on Reconsideration*”), *further recon. denied, Third Order on Reconsideration*, 19 FCC Rcd 10777 (2003) (“*Third Order on Reconsideration*”).

<sup>3</sup> The National Telecommunications and Information Administration (NTIA) filed a letter with the Commission, dated March 3, 2006, requesting that we protect certain Federal operations. See paragraphs 18–21, *infra*.