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Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

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

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 241A and by adding Channel 262A at Clayton.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-22123 Filed 11-9-07; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 90

[WT Docket No. 02-55; DA 07-4489]

#### Public Safety and Homeland Security Bureau Seeks Comment on Post-Reconfiguration 800 MHz Band Plan for the U.S.-Canada Border Regions

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document seeks comment on post-reconfiguration 800 MHz band plans for the U.S.-Canada border regions. The Bureau, by this action, affords interested parties an opportunity to submit comments and reply comments on proposals for establishing a reconfigured 800 MHz band plan in the U.S.-Canada border region in order to accomplish the Commission's goals for band reconfiguration.

**DATES:** Comments are due on or before December 3, 2007 and Reply Comments are due on or before December 18, 2007.

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

**FOR FURTHER INFORMATION CONTACT:** Brian Marengo, Policy Division, Public Safety and Homeland Security Bureau, (202) 418-0838.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking, DA 07-4489, released on November 1, 2007. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at <http://www.bcpiweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

1. In a July 2004 Report and Order, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band, 69 FR 67823 (November 22, 2004). However, the Commission deferred consideration of band reconfiguration plans for the border areas, noting that "implementing the band plan in areas of the United States bordering Mexico and

Canada will require modifications to international agreements for use of the 800 MHz band in the border areas." The Commission stated that "the details of the border plans will be determined in our ongoing discussions with the Mexican and Canadian governments."

2. In a Second Memorandum Opinion and Order, adopted in May 2007, the Commission delegated authority to Public Safety and Homeland Security Bureau to propose and adopt border area band plans once agreements are reached with Canada and Mexico, 72 FR 39756 (July 20, 2007). Specifically, the Commission noted that "once those discussions are completed, and any necessary modifications to our international agreements have been made, we will need to amend our rules to implement the agreements and identify the portions of the 800 MHz band that will be available to U.S. licensees on a primary basis. In addition, we will need to adopt a band plan for the border regions that specifies the ESMR and non-ESMR portions of the band and the distribution of channels to public safety, B/ILT, and SMR licensees."

3. In July 2007, the U.S. and Canada reached an agreement on a process that will enable the U.S. to proceed with band reconfiguration in the border region. Consequently, the Public Safety and Homeland Security Bureau issued a Further Notice of Proposed Rulemaking to seek comment on specific proposals for reconfiguring the eight U.S.-Canada border regions. The goal is to separate—to the greatest extent possible—public safety and other non-cellular licensees from licensees who employ cellular technology.

4. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates listed on the first page of this summary. All filings related to the Further Notice of Proposed Rulemaking should refer to WT Docket No. 02-55. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

#### Procedural Matters

##### A. Initial Regulatory Flexibility Analysis

5. Pursuant to the Regulatory Flexibility Act (RFA), the Bureau has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on

small entities by the proposals considered in the Further Notice of Proposed Rulemaking (FNPRM). The text of the IRFA is set forth in Appendix A of the FNPRM. Written public comments are requested on this IRFA. Comments must be filed in accordance with the same filing deadlines for comments on the FNPRM, and they should have a separate and distinct heading designating them as responses to the IRFA. The Bureau will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

#### *B. Initial Paperwork Reduction Act of 1995 Analysis*

6. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

#### **Initial Regulatory Flexibility Analysis**

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the first page of the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

#### *A. Need for, and Objectives of, the Proposed Rules*

8. In the FNPRM, we consider proposals submitted by the Consensus Parties, the Commonwealth of Pennsylvania, and representatives from regional planning committees in Ohio, New York, and Washington State for reconfiguring the 800 MHz band in the U.S.-Canada border regions. These parties propose relocating public safety licensees to U.S. primary spectrum in the lower portion of the band while placing B/ILT and ESMR systems higher in the band on U.S. primary spectrum

above 815/860 MHz. These proposals also include region-specific variations. The reconfiguration of the 800 MHz band in the U.S.-Canada border regions is in the public interest because it will allow the Commission to eliminate interference in these regions to public safety and other land mobile communication systems. Interference is eliminated by separating—to the greatest extent possible—public safety and other non-cellular licensees from licensees that employ cellular technology in the 800 MHz band.

#### *B. Legal Basis*

9. The legal basis for any action that may be taken pursuant to the FNPRM is contained in sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332.

#### *C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

11. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data. A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.” Thus, we estimate that most governmental jurisdictions are small. Below, we further describe and estimate the number of small entities—applicants

and licensees—that may be affected by the proposals, if adopted, in this FNPRM.

12. *Public Safety Radio Licensees.* Public safety licensees who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. As indicated above, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

13. *Business, I/ILT, and SMR licensees.* Business and Industrial Land Transportation (B/ILT) and Special Mobile Radio (SMR) licensees who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward these licensees.

14. *Wireless Service Providers.* Wireless Service Providers who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of “Paging” and “Cellular and Other Wireless Telecommunications.” Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

15. Also, Sprint Corporation will be affected by the band plan proposals in this FNPRM but it is not a small carrier.

*D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

16. *The Further Notice of Proposed Rulemaking* does not propose a rule that will entail additional reporting, recordkeeping, and/or third-party consultation or other compliance efforts. As noted in Section C, *supra*, public safety, B/ILT, SMR licensees, and wireless service providers who operate 800 MHz systems in the U.S.-Canada border region would be required to relocate their station facilities according to the band plans proposed in the FNPRM. Also, Sprint Corporation will pay the cost of relocating incumbent licensees.

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

17. The RFA requires an agency to describe any significant, specifically small business 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) and exemption from coverage of the rule, or any part thereof, for small entities.”

18. In the FNPRM, the Bureau seeks comment on proposals to relocate public safety systems to U.S. primary spectrum in the lower portion of the band while placing B/ILT and ESMR systems higher in the band on U.S. primary spectrum above 815/860 MHz. These proposals also contain certain region-specific variations. Because the reconfiguration of the 800 MHz band in the U.S.-Canada border regions seeks to eliminate interference to public safety and other land mobile communication systems, these proposals, if adopted, minimize the cost that licensees would otherwise incur to resolve interference. Further, Sprint Corporation will pay the cost of relocating incumbent licensees. Additionally, the Bureau specifically seeks comment on alternatives to the proposed band plans and will consider such alternatives as may be recommended in comments to the FNPRM.

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

19. None.

**Ordering Clauses**

20. Accordingly, IT IS ORDERED, pursuant to sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332, that this Further Notice of Proposed Rulemaking IS ADOPTED.

21. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

22. IT IS FURTHER ORDERED that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Further Notice of Proposed Rulemaking on December 3, 2007, and reply comments on December 18, 2007.

Federal Communications Commission.

**Derek K. Poarch,**

*Chief, Public Safety and Homeland Security Bureau.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**RIN 0648-AV62**

**Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish, Crab, Salmon, and Scallop Fisheries of the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Availability of amendments to fishery management plans; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 88 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area, Amendment 23 to the FMP for Bering Sea/Aleutian Islands King and Tanner Crabs, Amendment 12

to the FMP for the Scallop Fishery Off Alaska, and Amendment 9 to the FMP for Salmon Fisheries in the Exclusive Economic Zone Off the Coast of Alaska. These amendments, if approved, would revise the boundaries of the Aleutian Islands Habitat Conservation Area (AIHCA) described in each FMP. This action is necessary to ensure the boundaries of the AIHCA accurately reflect the Council’s intent to prohibit nonpelagic trawling in those areas with minimal or no fishing and sensitive habitat, and to allow nonpelagic trawling in areas historically fished by this gear type. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMPs, and other applicable laws. Comments from the public are welcome.

**DATES:** Comments on the amendments must be received by close of business on January 14, 2008.

**ADDRESSES:** You may submit comments, identified by 0648-AV62, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal

eRulemaking Portal <http://www.regulations.gov>;

- Mail: Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802; Attn: Ellen Sebastian, Records Officer;

- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK; or

- Fax: 907-586-7557, Attention: Sue Salvesson.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of FMP amendments, maps of the AIHCA and proposed revisions, and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for this action may be obtained from the same address or from the Alaska Region NMFS website at <http://www.fakr.noaa.gov>.