

DATES: Comments must be filed on or before August 13, 2008, and reply comments on or before August 28, 2008.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Malcolm G. Stevenson, Esq., Schwartz, Woods & Miller, Suite 610, The Lion Building, 1233 20th Street, NW., Washington, DC 20036-7322.

FOR FURTHER INFORMATION CONTACT:

Joyce L. Bernstein,
Joyce.Bernstein@fcc.gov, Media Bureau,
(202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 08-118, adopted July 1, 2008, and released July 2, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed 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).

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

Television, Television 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 73.622(i), the DTV Table of Allotments under Louisiana, is amended by substituting channel *24 for channel *25 at Shreveport.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E8-16014 Filed 7-11-08; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[DA 08-1530; WT Docket No. 02-55]

Public Safety and Homeland Security Bureau Seeks Comment on New 800 MHz Band Plan for Puerto Rico

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document summarizes the Second Further Notice of Proposed Rulemaking (Second FNPRM), which seeks comment on post-reconfiguration 800 MHz band plans for the Puerto Rico region. 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 Puerto Rico region in order to accomplish the Commission's goals for band reconfiguration.

DATES: Comments are due on or before August 8, 2008 and reply comments are due on or before August 22, 2008.

ADDRESSES: You may submit comments, identified by WT Docket 02-55, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications*

- *Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *Mail:* Policy Division, Public Safety and Homeland Security Bureau, 445 12th Street, SW., Washington, DC 20554.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, (202) 418-0848.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking, DA 08-1530, released on June 30, 2008. 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.bcpweb.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). In a Second Memorandum Opinion and Order, adopted in May 2007, the Commission determined that an alternative band plan was appropriate for Puerto Rico due to the unique nature of 800 MHz incumbency in the Puerto Rico market compared to other markets 72 FR 39756 (July 20, 2007). Rather than specify a band plan for Puerto Rico, the Commission directed the 800 MHz Transition Administrator (TA) to propose an alternative band plan and negotiation timetable for Puerto Rico. The Commission stated that the TA's proposal should comply with certain

criteria. The Commission delegated authority to the Public Safety and Homeland Security Bureau to approve or modify the proposed band plan and timetable, and suspended the rebanding timetable for Puerto Rico until a new band plan is adopted. On October 19, 2007, the TA filed the requested band plan proposal in this docket (TA Proposal).

2. Pursuant to Sections 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 FR 24,121 (1998).

Procedural Matters

A. Initial Regulatory Flexibility Analysis

3. 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 Second FNPRM. The text of the IRFA is set forth in Appendix A. Written public comments are requested on this IRFA. Comments must be filed in accordance with the same filing deadlines for comments on the Second 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 Second FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Initial Paperwork Reduction Act of 1995 Analysis

4. 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

5. 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 Second Further Notice of Proposed Rulemaking (Second 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 Second FNPRM. The Commission will send a copy of the Second FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Second FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

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

6. In the Second Further Notice of Proposed Rulemaking (Second FNPRM), we consider the 800 MHz Transition Administrator's (TA) proposal to reconfigure the band plan for Puerto Rico. Consistent with the U.S. Band Plan, all Puerto Rico incumbents in the 806-809/851-854 MHz (Channel 1-120) band segment would be relocated to comparable spectrum in the Interleaved, Expansion, or ESMR Band, depending on their eligibility. All NPSPAC licensees would be relocated from their 821-824/866-869 MHz channel assignments to channel assignments 15 MHz downward in the 806-809/851-854 MHz band segment. Under the TA Proposal, the Puerto Rico band plan would be the same as the band plan for non-border regions of the United States (US Band Plan), except that the Expansion Band would be expanded by 0.5 MHz in bandwidth through elimination of the lower 0.5 MHz portion of the Guard Band. Under the TA Proposal, the ESMR Band in EA 174 would remain in the same channels as in the U.S. Band Plan. The TA has determined that there will not be sufficient capacity to accommodate fully all ESMR and ESMR-eligible licensees in the ESMR Band. The TA Proposal provides that the TA will apportion the Puerto Rico ESMR Band (817-824/862-869 MHz) in accordance with the provisions set forth by the Commission the *800 MHz Second Memorandum Opinion and Order*. The TA proposes that all Puerto Rico licensees would be subject to a single 90-day mandatory negotiation period, after which any licensee that fails to negotiate a Frequency Reconfiguration Agreement with Sprint Nextel would enter TA-sponsored mediation. The reconfiguration of the 800 MHz band in the Puerto Rico 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. In that connection, it is our intent to proceed with rebanding in Puerto Rico as quickly as is feasible consistent with the Commission's goals in this proceeding.

B. Legal Basis

7. The legal basis for any action that may be taken pursuant to this Notice is contained in Sections 4(i), 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f) and (r), and 332.

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

8. 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).

9. 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 1992, there were approximately 275,801 small organizations. A "small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number included 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that that 81,600 (ninety-one percent) are small entities. Below, we further describe and estimate the number of small entities—applicants

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

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

11. *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 Puerto Rico region would be required to relocate their station facilities according to the band plans proposed in the Second FNPRM. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward these licensees.

12. *ESMR Licensees.* Enhanced Specialized Mobile Radio (ESMR) licensees and ESMR-eligible licensees who operate 800 MHz systems in the Puerto Rico region would be required to relocate their station facilities according to the band plans proposed in the Second FNPRM. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward these licensees.

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

13. The Second FNPRM does not propose a rule that will entail additional reporting, recordkeeping, and/or third-party consultation or other compliance efforts.

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

14. 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) exemption from coverage of the rule, or any part thereof, for small entities.”

15. The Puerto Rico market presents a unique situation that is distinct from

other markets. Sprint holds considerably less spectrum in Puerto Rico than it does elsewhere, and there are several other licensees who have acquired significant EA license holdings in Puerto Rico at auction and seek to operate as ESMRs. In addition, Puerto Rico has numerous site-based incumbents that will need to be relocated to the non-ESMR block. Thus, an alternative band plan is appropriate here. Accordingly the Commission provided the 800 MHz Transition Administrator (TA) with specific criteria and directed the TA to propose an alternative band plan, including, if necessary, a pro rata distribution of ESMR spectrum. At the time the Commission adopted these criteria, it had no basis for anticipating that any future decision by the TA in either proposing an alternative band plan or proposing a pro rata distribution would adversely affect any small entities. The TA proposes to apportion the Puerto Rico Band Plan consistent with these criteria.

16. To the extent that adoption of the TA’s Puerto Rico Band Plan may impose an economic impact in Puerto Rico on relocating non-ESMR and site-based incumbents, including public safety, to the non-ESMR band, that impact will be borne by Sprint because Sprint must pay the costs of 800 MHz band reconfiguration. Under Small Business Administration criteria, Sprint is a large entity. Further, there is no evidence in the record that non-Sprint licensees in the Puerto Rico market, including small wireless cellular, public safety, governmental entities or other wireless entities, would suffer adverse economic consequences. Indeed, these licensees are likely to enjoy several benefits, including improved interference protection as a result of band reconfiguration.

17. Additionally, while apportioning spectrum in the ESMR band may result in a reduction in ESMR spectrum availability, these reductions can be accommodated when a licensee employs more spectrum-efficient technologies and higher-quality digital technologies. ESMR and ESMR-eligible licensees are also likely to receive a number of benefits as a result of modifying the Puerto Rico Band Plan. For example, as a consequence of 800 MHz band reconfiguration ESMR-eligible licensees will be able to relocate EA and site-based facilities to the ESMR band that are currently located below the ESMR band. If these facilities are relocated and integrated into an ESMR band system, these licensees will be relieved of the cost and limitations associated with abating interference

created by ESMR stations being interleaved with high-site systems used by public safety and others in the non-ESMR portion of the band, while taking advantage of spectrally efficient technologies.

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

18. None.

Ordering Clauses

19. 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 the Second Further Notice of Proposed Rulemaking is adopted.

20. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the Second Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

21. *It is further ordered* that pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before August 8, 2008, and reply comments on or before August 22, 2008.

Federal Communications Commission.

Derek K. Poarch,

Chief, Public Safety and Homeland Security Bureau.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA 2008–0112]

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 2006 including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 2006. The preliminary theft