January 1, 1992 to June 30, 1997, the Trio Street site met the 75% quarterly data completeness requirement. Thus, there is sufficient data to make an attainment determination. The expected exceedance calculation for years 1993–95 was 1.0, which demonstrates attainment. An expected exceedance rate of greater than 1.0 would be a violation of the NAAQS.

B. Does more recent air quality data also show attainment?

Although the attainment date for the Mendenhall Valley PM_{10} nonattainment area is December 31, 1995, and the air quality data used to judge attainment by that date includes all data collected in calendar years 1993, 1994, and 1995, EPA has also reviewed the air quality data collected at the State monitoring sites from January 1996 through December 2009. As discussed above, there have been no exceedances recorded at the Floyd Dryden site since 1992 and no exceedances recorded at the Trio Street site from 1994 through 1997, when it ceased operation. Thus, the area continues to be in compliance with the 24 hour PM_{10} NAAQS during this period.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 14, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 22, 2010.

Dennis J. McLerran,

Regional Administrator, EPA, Region 10.

[FR Doc. 2010–17417 Filed 7–15–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 99–87, RM–9332; FCC 10–119]

Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission issued an Order ("*Order*") waiving certain of its rules pertaining to the January 1, 2011 interim deadlines associated with the narrowbanding of private land mobile radio licensees in the 150–174 MHz and 421–512 MHz bands. The Commission denied relief with respect to the interim licensing deadlines, but granted relief in part with respect to certain interim equipment deadlines.

DATES: Effective January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Melvin Spann, *Melvin.Spann@FCC.gov,* Wireless Telecommunications Bureau, (202) 418–1333, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in WT Docket No. 99–87 and RM–9332, FCC 10–119, adopted on June 29, 2010 and released June 30, 2010. The Commission waives certain of its rules pertaining to the January 1, 2011 interim deadlines associated with the narrowbanding of private land mobile radio licensees in the 150–174 MHz and 421–512 MHz bands. 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 sending an e-mail to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

1. In this order, we grant in part and deny in part a petition filed by the National Public Safety Telecommunications Council (NPSTC) requesting a stay of the January 1, 2011 interim deadlines associated with the narrowbanding of private land mobile radio (PLMR) licensees in the 150–174 MHz and 421–512 MHz bands. In previous orders, the Commission set January 1, 2013 as the final deadline for PLMR licensees in these bands to migrate to narrowband (12.5 kHz or narrower) technology, and January 1, 2011 as the deadline for certain interim measures relating to licensing and equipment. For the reasons set forth herein, we deny NPSTC's request with respect to the interim licensing deadlines, but we grant the requested relief in part with respect to certain interim equipment deadlines.

2. In a 1995 *Report and Order and Further Notice of Proposed Rule Making,* at 10 FCC Rcd 10076, 10077 para. 1 (1995), in this proceeding, the Commission adopted rule changes to promote the efficient use of the PLMR service and facilitate the introduction of advanced technologies. To promote the transition to a more efficient narrowband channel plan, the Commission provided, *inter alia,* that "only increasingly efficient equipment" would be approved. The Commission did not set a date after which it would no longer approve equipment with a wideband (25 kHz) mode, or after which such equipment could no longer be manufactured or used. The Commission contemplated that, as systems reached the end of their service life and new radios were needed, users would migrate to the narrower bandwidth multi-mode radios in order to avoid the adjacent-channel interference that could occur from systems using the adjacent narrowband channels.

3. Subsequently, the Commission determined that the 1995 rules failed to provide adequate incentive to realize the Commission's spectrum efficiency goals in these bands, and stronger measures would be required to bring about a timely transition to narrowband technology. The Commission therefore amended the rules to provide that, by January 1, 2013, Industrial/Business and Public Safety Radio Pool licensees in the 150–174 MHz and 421–512 MHz bands must migrate to 12.5 kHz channel bandwidth, or utilize a technology that achieves equivalent efficiency.

4. The Commission also adopted interim deadlines to facilitate this transition to narrowband technology. Specifically, beginning January 1, 2011: (1) The manufacture, import, or certification of equipment capable of operating with only one voice path per 25 kHz of spectrum, *i.e.,* equipment that includes a 25 kHz mode, will be prohibited; (2) the Commission will no longer accept applications for new wideband 25 kHz operations, or modification applications that expand the authorized contour of existing 25 kHz stations; and (3) the Commission will no longer accept applications for certification of equipment that cannot operate in 6.25 kHz mode or with equivalent efficiency. Since that time, the Commission has reiterated its commitment to the narrowbanding transition, as demand for scarce PLMR spectrum continues to grow.

5. NPSTC states that it fully supports the 2013 deadline for licensees to transition to narrowband technology, but it requests a stay of the 2011 deadlines. It argues that enforcement of the prohibition on new or expanded 25 kHz licenses, and on the manufacture, import, or certification of equipment that includes a 25 kHz mode, will hamper public safety interoperability during the final two years of the transition, and requests that these deadlines be stayed until January 1, 2013. NPSTC also contends that the prohibition on certification of equipment that does not include 6.25 kHz capability will unnecessarily raise equipment costs, and should be stayed until January 1, 2015. NPSTC argues that the Commission's stay of these deadlines would not prevent or deter licensee implementation of narrowband technology prior to 2013, or prevent manufacturers from voluntarily including 6.25 kHz efficiency in new equipment.

6. The Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau sought comment on NPSTC's request. Commenters generally favor an extension of the interim measures relating to equipment manufacture, importation, and certification; but are split with regard to extending the interim licensing deadlines. Commenters agree that any action should apply equally to Industrial/Business and Public Safety licensees.

7. While NPSTC describes its petition as a stay request, we believe that it is more accurately characterized as a request for a temporary waiver of the 2011 deadlines. Pursuant to § 1.925(b)(3) of our rules, we may grant a request for waiver if it is shown that (a) the underlying purpose of the rules would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (b) in view of unique or unusual factual circumstances, application of the rules would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative. We remain committed to bringing about a timely transition to narrowband technology in the PLMR services, in order to alleviate congestion in this crowded spectrum. Nevertheless, for the reasons set forth below, we find that a waiver is warranted with respect to certain aspects of NPSTC's request, and we accordingly grant the request in part and deny it in part. Specifically, we: (1) Extend the timeframe for manufacturing or importing equipment that includes a 25 kHz mode, but not the deadline for prohibiting certification applications for equipment that includes a 25 kHz mode; (2) maintain the deadline for new or expanded 25 kHz operations; and (3) extend the timeframe for certifying equipment that is not capable of operating in 6.25 kHz mode, but only until 2013, rather than 2015 as requested by NPSTC. Consistent with the comments we have received, all narrowbanding deadlines will continue to apply equally to Industrial/Business and Public Safety licensees.

8. *Manufacture or import of equipment with a 25 kHz mode.* NPSTC argues that prohibiting the manufacture or import of equipment that includes a 25 kHz mode will effectively prevent existing systems from replacing or adding radios during the last two years of the narrowbanding transition, which would hamper interoperability between systems (or different parts of the same system) that are at different stages of the narrowbanding conversion. When the Commission adopted the 2011 deadlines, it specifically stated that the narrowbanding schedule was designed to avoid complicating efforts to establish public safety interoperability. Moreover, we agree that it would be contrary to the public interest to prevent licensees from keeping 25 kHz systems in full working order until they complete the migration

to narrowband technology. Relief arguably is not necessary to avoid an equipment shortage, given that the rules do not prohibit the marketing and sale of existing inventories of 25 kHz-capable equipment after January 1, 2011. Nonetheless, we believe that a temporary waiver of the prohibition on manufacture or import of 25 kHz-capable equipment is appropriate, in order to ensure that necessary equipment remains available during the narrowbanding transition. We therefore grant a blanket waiver of § 90.203(j)(10) until January 1, 2013.

9. *Certification of equipment with a 25 kHz mode.* With respect to new certifications of equipment capable of operating in 25 kHz mode, however, we conclude that a waiver would not be appropriate. Permitting the continued manufacture and import of existing 25 kHz-capable models is sufficient to ensure that adequate supplies remain available in order to maintain existing systems during the narrowbanding transition. In contrast, there is no convincing evidence or argument upon which to conclude that certifying new types of 25 kHz-capable equipment is necessary for maintaining those systems, or that it would otherwise be in the public interest to expand the range of available 25 kHz-capable equipment as the 12.5 kHz migration deadline approaches. We therefore decline to grant a waiver of § 90.203(j)(4).

10. *New or expanded 25 kHz operations.* We also deny NPSTC's request with respect to the deadline in § 90.209(b)(6) for applications for new 25 kHz operations, or modification applications that expand the authorized contour of existing 25 kHz stations. NPSTC argues that prohibiting new or modified 25 kHz licenses will hamper interoperability between systems. The relief requested, however, is much broader, and would permit new or expanded 25 kHz operations for any reason. The interim deadlines were intended to encourage licensees to begin planning and implementing migration to narrowband technology well before January 1, 2013. We conclude that continuing to authorize new or expanded 25 kHz operations after January 1, 2011 generally would be contrary to the public interest, and would otherwise undermine our goals in establishing the narrowbanding transition deadlines in the first instance. As 25 kHz licensees migrate to narrowband technology, spectrum becomes available to other licensees to relieve congestion. We decline to take any action that would leave spectrum encumbered by 25 kHz operations longer than necessary. In situations where authorizing new or expanded 25 kHz operations would further the public interest, case-by-case relief may be considered through the waiver process.

11. *Certification of equipment lacking a 6.25 kHz mode.* Finally, NPSTC argues that requiring applications for equipment certification to specify 6.25 kHz capability as of January 1, 2011 will increase equipment costs with no accompanying benefit for 12.5 kHz or 25 kHz licensees. NPSTC also notes that a public safety interoperability standard for 6.25 kHz operation is still under development, and argues that compelling the purchase of more expensive equipment that may need to be replaced once a standard is adopted would burden public safety resources. NPSTC therefore requests that this requirement be extended to January 1, 2015, which would align it with the deadline requiring manufacturers of 700 MHz public safety band equipment to certify, manufacture, market, and import only equipment with a 6.25 kHz capability. In the *Third Report and Order* at 72 FR 19387, April 18, 2007, in this proceeding, the Commission agreed with NPSTC and others that it would be premature to take regulatory action toward a migration to 6.25 kHz technology before standards for such equipment are developed. Because the standards still have not been finalized, we agree with NPSTC that the deadline for complying with the 6.25 kHz requirement in § 90.203(j)(5) should be delayed. We do not, however, believe that it is necessary to move this deadline to the same date as the 700 MHz deadline. Because our intent is to avoid any impediment to 150–174 MHz or 421–512 MHz licensees' migration to 12.5 kHz technology, we grant a waiver of § 90.203(j)(5) only until January 1, 2013.

12. For the aforementioned reasons, we grant the NPSTC request in part and deny it in part. We recognize the concerns of NPSTC and some commenters that enforcing certain interim deadlines as of January 1, 2011 could hamper operations during the final two years of the transition and unnecessarily raise equipment costs. Consequently, we:

- Waive until January 1, 2013 the deadline for ceasing manufacture or import of equipment that includes a 25 kHz mode, but deny the request to stay the deadline for prohibiting certification applications for 25 kHz-capable equipment;
- Decline to waive the deadline for seeking new or expanded 25 kHz operations; and
- Waive until January 1, 2013 the deadline for certifying equipment that is not capable of operating in 6.25 kHz mode.

We emphasize our commitment to the January 1, 2013 deadline for migrating to narrowband technology, which the Commission first adopted in 2003 and subsequently affirmed, in order to promote the efficient use of PLMR spectrum and facilitate the introduction of advanced technologies.

13. Accordingly, *it is ordered* pursuant to sections 4(i), 11, 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), and 303(r), that the Request for Stay filed by the National Public Safety Telecommunications Council on September 29, 2009 *is granted in part* and *denied in part,* to the extent set forth above.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–17422 Filed 7–15–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 090428799–9802–01]

RIN 0648–BA05

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Inseason Adjustments to Fishery Management Measures

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures; request for comments.

SUMMARY: This final rule makes inseason adjustments to trawl fishery management measures for petrale sole taken with selective flatfish and multiple trawl gears in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California, North of 40° 10.00' N. lat. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), is intended to prevent exceeding the 2010 OY for petrale sole.

DATES: Effective at 0001 hours local time on July 16, 2010. Comments on this