Beazer is fulfilling the conditions of the RCRA CO, and is currently in compliance with the RCRA CO, and the Post-Closure Care Hazardous Waste Permit.

As also described previously, the 1988 RCRA CO will remain in effect until such time when SCDHEC determines that the terms of this order have been satisfied. All known contaminated media (groundwater and soils), on and off-site, are being addressed through SCDHEC, and EPA's exercise of its corrective action authorities pursuant to RCRA.

3. Response under RCRA is progressing adequately.

Corrective action is progressing satisfactorily under the RCRA CO, as described above. Pursuant to the RCRA CO, Beazer has completed the RFI, HERA, CMS, and is implementing the selected remedy at the Facility. To prevent off-site migration of groundwater contamination, and treat contaminated groundwater, Beazer (previously known as KCI) constructed a groundwater containment and recovery system at the Facility in August 1983. Operation and monitoring activities for the groundwater containment and recovery system are ongoing. The construction activities required to address the soil contamination concluded in November 2012. Approximately 7000 cubic yards of soil have been excavated from the Inactive Non-Process Area, and the Channel below Outfall 001. This soil was placed in the on-site CAMU. Imported fill material was used to restore the excavated areas to original contours. In addition, completion of the construction activities included excavation of two areas within Two Mile Creek. There has been no history of protracted negotiations due to lack of cooperation.

4. Deletion would not disrupt an ongoing CERCLA action.

The RCRA Program is implementing the evaluation and remedy selection activities normally covered during the Remedial Investigation/Feasibility Study process under CERCLA, under the RCRA CO. In a deferral memorandum dated October 26, 1987, EPA issued a decision to transfer the Facility from Dual CERCLA/RCRA Coordination to 'Exclusive RCRA Lead and Responsibility'. There are no ongoing CERCLA actions. In addition, EPA and SCDHEC have agreed that response activities at the Facility will continue to proceed through RCRA.

The EPA has received concurrence from SCDHEC. The EPA concludes that this Site meets the criteria under the NPL deletion policy, and announces its intention to delete the Site from the NPL. The EPA believes it is appropriate to delete sites from the NPL based upon the deferral policy to RCRA under these established circumstances. Deletion of this Site from the NPL, to defer it to RCRA Subtitle C corrective action authorities, avoids possible duplication of effort, and the need for Beazer to follow more than one set of regulatory procedures. Moreover, EPA and SCDHEC have determined that remedial actions conducted at the Facility to date and scheduled in the future under RCRA, have been and will remain protective of public health, and the environment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: March 13, 2013.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

[FR Doc. 2013–09540 Filed 4–23–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 27 and 90

[PS Docket No. 12–94; PS Docket No. 06–229; and WT Docket No. 06–150; FCC 13–31]

Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) sought comment on certain proposals to implement provisions of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Safety Spectrum Act) governing deployment of a nationwide public safety broadband network in the 700 MHz band under a nationwide license issued to the First Responder Network Authority (FirstNet). In particular, the Commission considered the adoption of initial rules to protect against harmful radio frequency interference in the spectrum designated for public safety services, as well as other matters related to FirstNet's license and to facilitating the transition directed under the Public Safety Spectrum Act. The proposals considered in the document are intended to provide a solid foundation for FirstNet's operations, taking into account FirstNet's need for flexibility in carrying out its statutory duties under the Public Safety Spectrum Act to establish a nationwide public safety broadband network.

DATES: Submit comments on or before May 24, 2013. Submit reply comments on or before June 10, 2013.

FOR FURTHER INFORMATION CONTACT: Gene Fullano, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Room 7–C747, Washington, DC 20554. Telephone: (202)–418–0492, email: *genaro.fullano@fcc.gov.*

SUPPLEMENTARY INFORMATION: In the *Notice of Proposed Rulemaking (NPRM),* FCC 13–31, adopted March 7, 2013, and released March 8, 2013, the Commission seeks comment on certain proposals to implement provisions of the Middle Class Tax Relief and Job Creation Act of 2012 (''Public Safety Spectrum Act'' or ''Act'')[1] governing deployment of a nationwide public safety broadband network in the 700 MHz band under a nationwide license issued to the FirstNet. The *NPRM* addresses technical service rules for the new public safety broadband network to be established pursuant to the Public Safety Spectrum Act. It then considers the Commission's statutory responsibilities as they relate to oversight of FirstNet. Finally, it addresses different classes of incumbents now occupying portions of the spectrum licensed to FirstNet. These proposals are based on the Commission's established authority under the Communications Act to regulate use of the spectrum consistent with the public interest, convenience and necessity, including the authority to prescribe power limits and prevent interference between stations licensed by the Commission,[2] as well as its licensing authority over FirstNet provided by the Public Safety Spectrum Act,[3] and its authority under that Act ''to take all actions necessary to facilitate the transition'' of the existing public safety broadband spectrum to FirstNet.

[1] *See* Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 (2012).

[2] *See, e.g.,* 47 U.S.C. 303(c), 303(e)–(g), 303(r), 337(d). *See also id.* sec. 151, 154(i).

[3] *See* Public Safety Spectrum Act 6201(a)–(b).

The *Notice of Proposed Rulemaking* is available at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0308/FCC-13-31A1.pdf.*

Procedural Matters

Paperwork Reduction Act

The *Notice of Proposed Rulemaking* 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

As required by the Regulatory Flexibility Act (RFA),[4] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking* (*Notice).* 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 provided in this *NPRM.* The Commission will send a copy of this *Notice,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[5] In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[6]

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

The *Notice of Proposed Rulemaking* (*NPRM*) seeks comment on proposals to implement provisions of the Middle Class Tax Relief and Job Creation Act of 2012 (''Public Safety Spectrum Act'' or ''Act'')[7] governing deployment of a nationwide public safety broadband network in the 700 MHz band.

The Public Safety Spectrum Act establishes the First Responder Network Authority (FirstNet) to oversee the construction and operation of this network as licensee of both the existing public safety broadband spectrum (763–769/793–799 MHz) and the spectrally adjacent D Block spectrum (758–763/788–793 MHz).[8] The Act directs the Federal Communications Commission (FCC or Commission) to reallocate the D Block for public safety services,[9] to license the D Block and the existing public safety broadband spectrum to FirstNet[10] and to take other actions necessary to ''facilitate the transition'' of such existing spectrum to FirstNet.[11]

Proposals in the *NPRM* are intended to provide a solid foundation for FirstNet's operations, taking into account FirstNet's need for flexibility in carrying out its statutory duties under the Public Safety Spectrum Act to establish a nationwide public safety broadband network.

This *NPRM* seeks comment in three areas. First, we address technical service rules for the new public safety broadband network to be established pursuant to the Public Safety Spectrum Act. We next seek comment on the exercise of the Commission's statutory responsibilities as they relate to oversight of FirstNet's operations. Finally, we seek comment on the transition of different classes of incumbents now occupying portions of the spectrum to be licensed to FirstNet. These proposals are based on our established authority under the Communications Act to regulate use of the spectrum consistent with the public interest, convenience and necessity, including the authority to prescribe power limits and prevent interference between stations licensed by the Commission,[12] as well as our licensing authority over FirstNet provided by the Public Safety Spectrum Act,[13] and our authority under the Public Safety Spectrum Act ''to take all actions necessary to facilitate the transition'' of the existing public safety broadband spectrum to FirstNet.[14] We seek comment on the scope of our authority as it relates to these proposals, and how such authority can most appropriately accommodate the Public Safety Spectrum Act's delegation to FirstNet of the responsibility to develop ''the technical and operational requirements of the network.''[15] In offering these proposals, we acknowledge the crucial importance of FirstNet's endeavor and its need for flexibility in carrying out its obligations under the Public Safety Spectrum Act.

B. Legal Basis

The proposed action is authorized under Sections 1, 2, 4(i), 5(c), 7, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336, 337 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 301, 302, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, 333, 336, 337 and 403, and the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 (2012).

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

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein.[16] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[17] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[18] 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'').[19] Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules changes we propose in this *NPRM.*

As an initial matter, we observe that the Public Safety Spectrum Act does not contemplate that ''small governmental jurisdictions'' would be directly authorized to serve as operators of their own 700 MHz public safety broadband networks. Rather, the Spectrum Act

[4] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.,* has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[5] *See* 5 U.S.C. 603(a).

[6] *See id.*

[7] Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156 (2012).

[8] *See id.* sec. 6204.

[9] *See id.* sec. 6101.

[10] *See id.* sec. 6201(a).

[11] *See id.* sec. 6201(c).

[12] *See, e.g.,* 47 U.S.C. 303(c), 303(e)–(g), 303(r), 337(d). *See also id.* sec.151, 154(i).

[13] *See* Public Safety Spectrum Act sec. 6201(a)–(b). *See also id.* sec. 6206(b)(3) (requiring rural coverage milestones for FirstNet, ''consistent with the license granted under section 6201'').

[14] *See* Public Safety Spectrum Act sec. 6201(c). *See also id.* Sec. 6213 (authority of Commission to ''take any action necessary to assist [FirstNet] in effectuating its duties and responsibilities'' under Public Safety Spectrum Act).

[15] *See id.* sec. 6206(c)(1)(B).

[16] 5 U.S.C. 604(a)(3).

[17] 5 U.S.C. 601(6).

[18] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[19] 15 U.S.C. 632.

charges a single entity, FirstNet, with constructing, operating and maintaining a 700 MHz public safety broadband network on a nationwide basis.[20] Accordingly, the technical service rules and other requirements the *NPRM* proposes or considers for the combined 700 MHz public safety broadband spectrum—in which FirstNet will operate on a nationwide basis—will not directly affect a substantial number of small entities. The absence of a direct effect on a substantial number of small entities suggests that it is not necessary to prepare a regulatory flexibility analysis in connection with these proposed requirements.[21]

Small Businesses, Small Organizations, and Small Governmental Jurisdictions. Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards.[22] First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA.[23] In addition, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [24] Nationwide, as of 2007, there were approximately 1, 621,315 small organizations.[25] Finally, 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.'' [26] Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States.[27] We estimate that, of this total, as many as 88, 506 entities may qualify as ''small governmental jurisdictions.'' [28] Thus, we estimate that most governmental jurisdictions are small.

Public Safety Radio Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[29] Because of the vast array of public safety licensees, the Commission has not developed a small business size standard specifically applicable to public safety licensees. The SBA rules contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more that 1,500 persons.[30] With respect to local governments, in particular, since many governmental entities comprise the licensees for these services, we include under public safety services the number of government entities affected. According to Commission records, there are a total of approximately 133,870 licenses within these services.[31] There are 2,442 licenses in the 4.9 GHz band, based on an FCC Universal Licensing System search of May 23, 2012.[32] We estimate that fewer than 2,442 public safety radio licensees hold these licenses because certain entities may have multiple licenses.

Regional Planning Committees. Neither the Commission nor the SBA has developed a small business size standard specifically applicable to Regional Planning Committees (RPCs) and the National Regional Planning Council (NRPC). As described by the NRPC, ''[t]he National Regional Planning Council (NRPC) is an advocacy body formed in 2007 that supports public safety communications spectrum management by Regional Planning Committees (RPC) in the 700 MHz and 800 MHz NPSPAC public safety spectrum as required by the Federal Communications Commission.'' [33] The NRPC states that ''Regional Planning Committees consist of public safety volunteer spectrum planners and members that dedicate their time, in addition to the time spent in their regular positions, to coordinate spectrum efficiently and effectively for the purpose of making it available to public safety agency applicants in their respective region.'' [34] There are 54 formed RPCs and one unformed RPC.[35] The Commission has not developed a small business size standard specifically applicable to RPCs and the NRPC. The SBA rules, however, contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more that 1,500 persons.[36] Under this category and size standard, we estimate that all of the RPCs and the NRPC can be considered small.

Radio and Television Broadcasting and Wireless Communications

[20] *See* Spectrum Act § 6206(b). The statute contemplates that portions of the network may be deployed by State governments, *see* Spectrum Act 6302(e), which are categorically excluded from the definition of ''small governmental jurisdictions'' for purposes of RFA.

[21] *See, e.g., Mid-Tex Elec. Co-op., Inc.* v. *F.E.R.C.,* 773 F.2d 327, 334 (DC Cir. 1985).

[22] *See* 5 U.S.C. 601(3)–(6).

[23] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' web.sba.gov/faqs (last visited May 6,2011; figures are from 2009).

[24] 5 U.S.C. 601(4).

[25] Independent Sector, The New Nonprofit Almanac & Desk Reference (2010).

[26] 5 U.S.C. 601(5).

[27] U.S. Census Bureau, Statistical Abstract of the United States: 2011, Table 427 (2007).

[28] The 2007 U.S Census data for small governmental organizations indicate that there were 89, 476 ''Local Governments'' in 2007. (U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES 2011, Table 428.) The criterion by which the size of such local governments is determined to be small is a population of 50,000. However, since the Census Bureau does not specifically apply that criterion, it cannot be determined with precision how many of such local governmental organizations is small. Nonetheless, the inference seems reasonable that substantial number of these governmental organizations has a population of less than 50, 000. To look at Table 428 in conjunction with a related set of data in Table 429 in the Census's Statistical Abstract of the U.S., that inference is further supported by the fact that in both Tables, many entities that may well be small are included in the 89,476 local governmental organizations, *e.g.* county, municipal, township and town, school district and special district entities. Measured by a criterion of a population of 50,000 many specific sub-entities in this category seem more likely than larger county-level governmental organizations to have small populations. Accordingly, of the 89,746 small governmental organizations identified in the 2007 Census, the Commission estimates that a substantial majority is small.

[29] *See* subparts A and B of Part 90 of the Commission's Rules, 47 CFR 90.1–90.22. Police licensees serve state, county, and municipal enforcement through telephony (voice), telegraphy (code), and teletype and facsimile (printed material). Fire licensees are comprised of private volunteer or professional fire companies, as well as units under governmental control. Public Safety Radio Pool licensees also include state, county, or municipal entities that use radio for official purposes. State departments of conservation and private forest organizations comprise forestry service licensees that set up communications networks among fire lookout towers and ground crews. State and local governments are highway maintenance licensees that provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. Emergency medical licensees use these channels for emergency medical service communications related to the delivery of emergency medical treatment. Additional licensees include medical services, rescue organizations, veterinarians, persons with disabilities, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities.

[30] *See* 13 CFR 121.201, NAICS code 517210.

[31] This figure was derived from Commission licensing records as of June 27, 2008. Licensing numbers change on a daily basis. We do not expect this number to be significantly smaller today. This does not indicate the number of licensees, as licensees may hold multiple licenses. There is no information currently available about the number of public safety licensees that have less than 1,500 employees.

[32] Based on an FCC Universal Licensing System search of May 23, 2012. Search parameters: Radio Service = PA—Public Safety 4940–4990 MHz Band; Authorization Type = Regular; Status = Active.

[33] *See* Petition for Rulemaking to allow Aircraft voice operations on Secondary Trunking Channels in the 700 MHz band, RM–11433, Comments of the National Regional Planning Council at 1 (filed July 15, 2011).

[34] *Id.*

[35] *See http://publicsafety.fcc.gov/pshs/public-safety-spectrum/700–MHz/rpc-map.htm.*

[36] *See* 13 CFR 121.201, NAICS code 517210.

Equipment Manufacturing. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' [37] The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. According to Census bureau data for 2007, there were a total of 919 firms in this category that operated for the entire year. Of this total, 771 had less than 100 employees and 148 had more than 100 employees.[38] Thus, under that size standard, the majority of firms can be considered small.

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

The two segments of the spectrum that will be licensed to FirstNet—the D Block and the existing public safety broadband spectrum—are currently regulated under separate FCC rule parts, Parts 27 and 90. The *NPRM* proposes the development of a unified set of technical service rules to govern this spectrum, largely by consolidating under Part 90 the requirements applicable to both segments. Because FirstNet will be the nationwide licensee of this spectrum, it will be primarily responsible on a nationwide basis for ensuring compliance with any such requirements that are ultimately adopted. Accordingly, we do not believe that these requirements would have a significant economic impact on a substantial number of small entities.

The *NPRM* also considers establishing certification requirements for equipment operated in the combined public safety broadband spectrum. These requirements would be applicable to entities, such as RF equipment manufacturers, seeking to certify equipment for operation in this spectrum. We observe that equipment certification is a longstanding Commission practice, widely applicable to equipment marketed for operation in radiospectrum licensed by the Commission. Any certification requirements adopted pursuant to the *NPRM* are unlikely to depart significantly from current practice. In fact, a primary purpose of the certification requirements proposed in the *NPRM* is to consolidate under a common Part 90 rule provision existing requirements that separately govern the D Block and the public safety broadband spectrum. Such rules are unlikely to have a significant adverse economic impact on any small entities, much less a substantial number of them.

The *NPRM* also considers rules to govern the transition of incumbent narrowband, wideband and commercial systems currently authorized to operate in the spectrum to be licensed to FirstNet. With respect to the first category only, there may arguably be a significant number of small entities currently operating.[39] In considering various transition options—including relocation of existing operations at the operators' expense—the *NPRM* seeks comment on ways to minimize the economic burden on incumbent operators. The *NPRM* seeks comment on whether FirstNet or some third party source could fund relocation, thereby relieving any incumbent small entities of this potentially substantial economic burden. It also seeks comment on whether FirstNet could accommodate incumbent narrowband operations within a portion of its licensed spectrum, either indefinitely or on a transitional basis. We seek comment in this IRFA on whether there are additional steps the Commission should take to minimize any economic burden its proposals might create for small entities operating narrowband systems in the spectrum to be licensed to FirstNet.

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

The RFA requires an agency to describe any significant alternatives that it has considered in developing its 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 and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.'' [40]

As an initial matter, we find that one possible alternative—to refrain from pursuing the adoption of rules in Docket 12–94—is untenable given the clear directives of the Public Safety Spectrum Act regarding reallocation of the D Block and the licensing of spectrum to FirstNet. This *NPRM* is necessary to ensure that a solid regulatory foundation is in place to support FirstNet's operations under the Act.

We also do not believe it would be tenable to establish differing requirements for small entities or to exempt such entities from rules adopted pursuant to the *NPRM.* Given the importance of ensuring that the public safety broadband network is technically and operationally viable on a nationwide basis, it is important that network be governed by a common set of rules and requirements.

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

1. None.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Civil rights, Claims, Communications common carriers, Cuba, Drug abuse, Environmental impact statements, Equal access to justice, Equal employment opportunity, Federal buildings and facilities, Government employees, Income taxes, Indemnity payments, Individuals with disabilities, Investigations, Lawyers, Metric system, Penalties, Radio, Reporting and recordkeeping requirements, Satellites, Telecommunications, Television, Wages.

[37] The NAICS Code for this service 334220. *See* 13 C.F.R 121/201. *See also http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-_skip=300&-ds_name=EC0731SG2&-_lang=en*

[38] *See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=4500&-ds_name=EC0731SG3&-_lang=en.*

[39] In addition to a number of state governments, an estimated twenty-five cities and counties are authorized to operate narrowband or wideband networks in the existing public safety broadband spectrum. Of these, we estimate that only a small number would qualify as ''small government jurisdictions.'' We nevertheless consider means of minimizing the economic impact that proposals adopted pursuant to the *NPRM* might create for such jurisdictions.

[40] 5 U.S.C. 603(c)(1)–(c)(4).

47 CFR Part 2

Communications equipment, Disaster assistance, Imports, Radio, Reporting and recordkeeping requirements, Telecommunications, Television, Wiretapping and electronic surveillance.

47 CFR Part 27

Communications common carriers, Radio.

47 CFR Part 90

Administrative practice and procedure, Business and industry, Civil defense, Common carriers, Communications equipment, Emergency medical services, Individuals with disabilities, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 2, 27 and 90 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), and 309, Cable Landing License Act of 1921, 47 U.S.C. 35–39, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96.

■ 2. Section 1.9005 is amended by revising paragraph (k) to read as follows:

§ 1.9005 Included services.

* * * * *

(k) The Wireless Communications Service in the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands (part 27 of this chapter);

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302(a), 303, and 336, unless otherwise noted.

■ 4. Section 2.103 is amended by revising paragraphs (a) introductory text and paragraph (c) to read as follows:

§ 2.103 Federal Use of non-Federal frequencies.

(a) Federal stations may be authorized to use non-Federal frequencies in the bands above 25 MHz (except the 758–775 MHz and 788–805 MHz public safety bands) if the Commission finds that such use is necessary for coordination of Federal and non-Federal activities: Provided, however, that:

* * * * *

(c) Federal stations may be authorized by the First Responder Network Authority to use channels in the 758–769 MHz and 788–799 MHz public safety bands.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 5. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

■ 6. Section 27.6 is amended by revising paragraph (b) introductory text to read as follows:

§ 27.6 Service Areas.

* * * * *

(b) *746–758 MHz, 775–788 MHz, and 805–806 MHz bands.* WCS service areas for the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands are as follows:

* * * * *

■ 7. Section 27.11 is amended by revising paragraph (c) introductory text to read as follows:

§ 27.11 Initial authorization.

* * * * *

(c) *746–758 MHz, 775–788 MHz, and 805–806 MHz bands.* Initial authorizations for the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands shall be for paired channels of 1, 5, 6, or 11 megahertz of spectrum in accordance with § 27.5(b).

* * * * *

■ 8. Section 27.13 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 27.13 License Period.

* * * * *

(b) *698–758 MHz and 776–788 MHz bands.* Initial authorizations for the 698–758 MHz and 776–788 MHz bands will extend for a term not to exceed ten years from February 17, 2009, except that initial authorizations for a Part 27 licensee that provides broadcast services, whether exclusively or in combination with other services, will not exceed eight years. * * *

* * * * *

■ 9. Section 27.14 is amended by revising the first sentence in paragraphs (a), and (e), and removing paragraphs (m) and (n), and redesignating paragraphs (o) and (p) as paragraphs (m) and (n) to read as follows:

§ 27.14 Construction requirements; Criteria for Renewal.

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands, Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, and Block D in the 2345–2350 MHz band, must, as a performance requirement, make a showing of ''substantial service'' in their license area within the prescribed license term set forth in § 27.13.* * *

* * * * *

(e) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block C in the 710–716 MHz and 740–746 MHz bands, Block D in the 716–722 MHz band, Block E in the 722–728 MHz band, or Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands. * * *

* * * * *

■ 10. Section 27.15 is amended by revising the first sentence in paragraphs (d)(1)(i) and (d)(2)(i) to read as follows:

§ 27.15 Geographic partitioning and spectrum disaggregation.

* * * * *

(d) * * *

(1) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, and Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands, the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. * * *

* * * * *

(2) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, and Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands, the following rules apply to WCS and AWS licensees holding authorizations for purposes for purposes

of implementing the construction requirements set forth in § 27.14.* * * * * * * * *

11. Section 27.50 is amended by revising paragraph (b) introductory text, paragraphs (b)(1) through (b)(7), (b)(7)(i), (b)(8) through (b)(10), (b)(12), (c)(5)(i), and the headings to Table 1 through Table 4 at the end of the section to read as follows:

§ 27.50 Power limits and duty cycle.

* * * * * *

(b) The following power and antenna height limits apply to transmitters operating in the 746–758 MHz, 775–788 MHz and 805–806 MHz bands:

(1) * * *

(2) Fixed and base stations transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth of 1 MHz or less must not exceed an ERP of 1000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts ERP in accordance with Table 1 of this section.

(3) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth of 1 MHz or less must not exceed an ERP of 2000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts ERP in accordance with Table 2 of this section.

(4) Fixed and base stations transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth greater than 1 MHz must not exceed an ERP of 1000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts/MHz ERP accordance with Table 3 of this section.

(5) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth greater than 1 MHz must not exceed an ERP of 2000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts/MHz ERP in accordance with Table 4 of this section.

(6) Licensees of fixed or base stations transmitting a signal in the 746–757 MHz and 776–787 MHz bands at an ERP greater than 1000 watts must comply with the provisions set forth in paragraph (b)(8) and § 27.55(c).

(7) Licensees seeking to operate a fixed or base station located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 746–757 MHz and 776–787 MHz bands at an ERP greater than 1000 watts must:

(i) Coordinate in advance with all licensees authorized to operate in the 698–758 MHz, 775–788, and 805–806 MHz bands within 120 kilometers (75 miles) of the base or fixed station;

* * * * * *

(8) Licensees authorized to transmit in the 746–757 MHz and 776–787 MHz bands and intending to operate a base or fixed station at a power level permitted under the provisions of paragraph (b)(6) of this section must provide advanced notice of such operation to the Commission and to licensees authorized in their area of operation. Licensees who must be notified are all licensees authorized to operate in the 758–775 MHz and 788–805 MHz bands under Part 90 of this chapter within 75 km of the base or fixed station and all regional planning committees, as identified in § 90.527 of this chapter, with jurisdiction within 75 km of the base or fixed station. Notifications must provide the location and operating parameters of the base or fixed station, including the station's ERP, antenna coordinates, antenna height above ground, and vertical antenna pattern, and such notifications must be provided at least 90 days prior to the commencement of station operation.

(9) Control stations and mobile stations transmitting in the 746–757 MHz, 776–788 MHz, and 805–806 MHz bands and fixed stations transmitting in the 787–788 MHz and 805–806 MHz bands are limited to 30 watts ERP.

(10) Portable stations (hand-held devices) transmitting in the 746–757 MHz, 776–788 MHz, and 805–806 MHz bands are limited to 3 watts ERP.

* * * * * *

(12) For transmissions in the 746–757 and 776–787 MHz bands, licensees may employ equipment operating in compliance with either the measurement techniques described in paragraph (b)(11) or a Commission-approved average power technique. In both instances, equipment employed must be authorized in accordance with the provisions of 27.51.

(c) * * *

* * * * * *

(5) * * *

(i) Coordinate in advance with all licensees authorized to operate in the 698–758 MHz, 775–788, and 805–806 MHz bands within 120 kilometers (75 miles) of the base or fixed station;

* * * * * *

TABLE 1—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 757–758 AND 775–776 MHz BANDS AND FOR BASE AND FIXED STATIONS IN THE 698–757 MHz AND 776–787 MHz BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH OF 1 MHz OR LESS

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) (watts)
Above 1372 (4500)	65
Above 1220 (4000) To 1372 (4500)	70
Above 1067 (3500) To 1220 (4000)	75
Above 915 (3000) To 1067 (3500)	100
Above 763 (2500) To 915 (3000)	140
Above 610 (2000) To 763 (2500)	200
Above 458 (1500) To 610 (2000)	350
Above 305 (1000) To 458 (1500)	600
Up to 305 (1000)	1000

TABLE 2—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHz AND 776–787 MHz BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH OF 1 MHz OR LESS

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) (watts)
Above 1372 (4500)	130
Above 1220 (4000) To 1372 (4500)	140
Above 1067 (3500) To 1220 (4000)	150
Above 915 (3000) To 1067 (3500)	200
Above 763 (2500) To 915 (3000)	280
Above 610 (2000) To 763 (2500)	400
Above 458 (1500) To 610 (2000)	700

TABLE 2—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHz AND 776–787 MHz BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH OF 1 MHz OR LESS—Continued

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) (watts)
Above 305 (1000) To 458 (1500)	1200
Up to 305 (1000)	2000

TABLE 3—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHz AND 776–787 MHz BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH GREATER THAN 1 MHz

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) per MHz (watts/MHz)
Above 1372 (4500)	65
Above 1220 (4000) To 1372 (4500)	70
Above 1067 (3500) To 1220 (4000)	75
Above 915 (3000) To 1067 (3500)	100
Above 763 (2500) To 915 (3000)	140
Above 610 (2000) To 763 (2500)	200
Above 458 (1500) To 610 (2000)	350
Above 305 (1000) To 458 (1500)	600
Up to 305 (1000)	1000

TABLE 4—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHz AND 776–787 MHz BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH GREATER THAN 1 MHz

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) per MHz (watts/MHz)
Above 1372 (4500)	130
Above 1220 (4000) To 1372 (4500)	140
Above 1067 (3500) To 1220 (4000)	150
Above 915 (3000) To 1067 (3500)	200
Above 763 (2500) To 915 (3000)	280

TABLE 4—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHz AND 776–787 MHz BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH GREATER THAN 1 MHz—Continued

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) per MHz (watts/MHz)
Above 610 (2000) To 763 (2500)	400
Above 458 (1500) To 610 (2000)	700
Above 305 (1000) To 458 (1500)	1200
Up to 305 (1000)	2000

■ 12. Section 27.53 is amended by removing paragraph (d), redesignating paragraphs (e) through (n) as paragraphs (d) through (m), and revising newly redesignated paragraphs (d), (1) and (2) and (e) to read as follows:

§ 27.53 Emission limits.

* * * * *

(d) For operations in the 775–776 MHz and 805–806 MHz bands, transmitters must comply with either paragraphs (d)(1) through (5) of this section or the ACP emission limitations set forth in paragraphs (d)(6) to (d)(9) of this section.

(1) On all frequencies between 758 to 775 MHz and 788 to 805 MHz, the power of any emission outside the licensee's frequency bands of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by a factor not less than 76 + 10 log (P) dB in a 6.25 kHz band segment, for base and fixed stations;

(2) On all frequencies between 758 to 775 MHz and 788 to 805 MHz, the power of any emission outside the licensee's frequency bands of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by a factor not less than 65 + 10 log (P) dB in a 6.25 kHz band segment, for mobile and portable stations;

* * * * *

(e) For operations in the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands, emissions in the band 1559–1610 MHz shall be limited to −70 dBW/MHz equivalent isotropically radiated power (EIRP) for wideband signals, and −80 dBW EIRP for discrete emissions of less than 700 Hz bandwidth. For the purpose of equipment authorization, a transmitter shall be tested with an antenna that is representative of the type that will be used with the equipment in normal operation.

* * * * *

■ 13. Section 27.55 is amended by revising paragraph (c) to read as follows:

§ 27.55 Power strength limits.

* * * * *

(c) *Power flux density limit for stations operating in the 746–757 MHz and 776–787 MHz bands.* For base and fixed stations operating in the 746–757 MHz and 776–787 MHz bands in accordance with the provisions of § 27.50(b)(6), the power flux density that would be produced by such stations through a combination of antenna height and vertical gain pattern must not exceed 3000 microwatts per square meter on the ground over the area extending to 1 km from the base of the antenna mounting structure.

■ 14. Section 27.57 is amended by revising paragraph (b) to read as follows:

§ 27.57 International coordination.

* * * * *

(b) Operation in the 698–758 MHz, 775–788 MHz, and 805–806 MHz bands is subject to international agreements between Mexico and Canada. Unless otherwise modified by international treaty, licenses must not cause interference to, and must accept harmful interference from, television broadcast operations in Mexico and Canada.

* * * * *

■ 15. Section 27.60 is amended by revising the introductory text, and paragraph (a)(1)(iii) and the second sentence in paragraphs (b) introductory text and (b)(2)(i); and revising paragraphs (b)(2)(ii), (b)(2)(ii)(A) and (C) to read as follows:

§ 27.60 TV/DTV interference protection criteria.

Base, fixed, control, and mobile transmitters in the 698–758 MHz, 775–788 MHz, and 805–806 MHz frequency bands must be operated only in accordance with the rules in this section to reduce the potential for interference to public reception of the signals of existing TV and DTV broadcast stations transmitting on TV Channels 51 through 68.

(a) * * *

(1) * * *

(iii) For transmitters operating in the 746–758 MHz, 775–788 MHz, and 805–806 MHz frequency bands, 17 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers (55 miles)) of the DTV station.

* * * * *

(b) * * * Tables to determine the necessary minimum distance from the

698–758 MHz, 775–788 MHz, and 805–806 MHz station to the TV/DTV station, assuming that the TV/DTV station has a hypothetical or equivalent Grade B contour of 88.5 kilometers (55 miles), are located in § 90.309 of this chapter and labeled as Tables B, D, and E. Values between those given in the tables may be determined by linear interpolation.* * *

* * * * *

(2) * * *

(i) Base and fixed stations that operate in the 746–758 MHz and 775–787 MHz bands having an antenna height (HAAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table B (co-channel frequencies based on 40 dB protection) and Table E (adjacent channel frequencies based on 0 dB protection) in § 90.309 of this chapter.* * *

(ii) Control, fixed, and mobile stations (including portables) that operate in the 787–788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 698–757 MHz and 776–787 MHz bands are limited in height and power and therefore shall afford protection to co-channel and adjacent channel TV/DTV stations in the following manner:

(A) For control, fixed, and mobile stations (including portables) that operate in the 787–788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 746–757 MHz and 776–787 MHz co-channel protection shall be afforded in accordance with the values specified in Table D (co-channel frequencies based on 40 dB protection for TV stations and 17 dB for DTV stations) in § 90.309 of this chapter.

(C) For control, fixed, and mobile stations (including portables) that operate in the 787–788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 698–757 MHz and 776–787 MHz bands adjacent channel protection shall be afforded by providing a minimum distance of 8 kilometers (5 miles) from all adjacent channel TV/DTV station hypothetical or equivalent Grade B contours (adjacent channel frequencies based on 0 dB protection for TV stations and − 23 dB for DTV stations).

* * * * *

■ 16. Section 27.70 is amended by revising paragraphs (a) and (b)(1), and (b)(2) to read as follows:

§ 27.70 Information exchange.

(a) *Prior notification.* Public safety licensees authorized to operate in the 758–775 MHz and 788–805 MHz bands may notify any licensee authorized to operate in the 746–757 or 776–787 MHz bands that they wish to *receive* prior notification of the activation or modification of the licensee's base or fixed stations in their area. Thereafter, the 746–757 or 776–787 MHz band licensee must provide the following information to the public safety licensee at least 10 business days before a new base or fixed station is activated or an existing base or fixed station is modified:

* * * * *

(b) * * *

(1) Allow a public safety licensee to advise the 746–757 or 776–787 MHz band licensee whether it believes a proposed base or fixed station will generate unacceptable interference;

(2) Permit 746–757 and 776–787 MHz band licensees to make voluntary changes in base or fixed station parameters when a public safety licensee alerts them to possible interference; and,

* * * * *

■ 17. Section 27.303 is amended by revising paragraph (a) introductory text to read as follows:

§ 27.303 Upper 700 MHz commercial and public safety coordination zone.

(a) General. CMRS operators are required, prior to commencing operations on fixed or base station transmitters on the 776–787 MHz band that are located within 500 meters of existing or planned public safety base station receivers, to submit a description of their proposed facility to a Commission-approved public safety coordinator.

* * * * *

■ 18. Section 27.501 is revised to read as follows:

§ 27.501 746–758 MHz, 775–788 MHz, and 805–806 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 19. 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), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 20. Section 90.179 is amended by revising paragraph (g) to read as follows:

§ 90.179 Shared use of radio stations.

* * * * *

(g) Notwithstanding paragraph (a) of this section, licensees authorized to operate radio systems on Public Safety Pool frequencies designated in § 90.20 may share their facilities with Federal Government entities on a non-profit, cost-shared basis. Such a sharing arrangement is subject to the provisions of paragraphs (b), (d), and (e) of this section, and § 2.103(c) concerning operations in the 758–769 MHz and 788–799 MHz bands. State governments authorized to operate radio systems under § 90.529 may share the use of their systems (for public safety services not made commercially available to the public) with any entity that would be eligible for licensing under § 90.523 and Federal government entities.

* * * * *

■ 21. Section 90.203 is amended by removing paragraph (p).

■ 22. Section 90.205 is amended by revising paragraph (j) to read as follows:

§ 90.205 Power and antenna height limits.

* * * * *

(j) 758–775 MHz and 788–805 MHz. Power and height limitations are specified in §§ 90.541 and 90.542.

* * * * *

■ 23. Section 90.523 is amended by revising the introductory text and paragraph (e) to read as follows:

§ 90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. 337(f)(1). The following are eligible to hold Commission authorizations for systems operating in the 769–775 MHz and 799–805 MHz frequency bands:

* * * * *

(e) A nationwide license for the 758–769 MHz and 788–799 MHz bands shall be issued to the First Responder Network Authority.

■ 24. Section 90.533 is amended by revising the introductory text and paragraphs (a) and (c) to read as follows:

§ 90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.

This section applies to each license to operate one or more public safety transmitters in the 758–775 MHz and 788–805 MHz bands, at a location or locations North of Line A (see § 90.7) or within 120 kilometers (75 miles) of the U.S.-Mexico border, until such time as

agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, become effective governing border area non-broadcast use of these bands. Public safety licenses are granted subject to the following conditions:

(a) Public safety transmitters operating in the 758–775 MHz and 788–805 MHz bands must conform to the limitations on interference to Canadian television stations contained in agreement(s) between the United States and Canada for use of television channels in the border area.

* * * * *

(c) Conditions may be added during the term of the license, if required by the terms of international agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, regarding non-broadcast use of the 758–775 MHz and 788–805 MHz bands.

■ 25. Section 90.542 is amended by revising paragraph (a) introductory text, paragraphs (a)(1) through (a)(7), and paragraph (a)(8) introductory text, and by revising Tables 1 through 4 and paragraph (b) to read as follows:

§ 90.542 Broadband transmitting power limits.

(a) The following power limits apply to the 758–768/788–798 MHz band:

(1) Fixed and base stations transmitting a signal in the 758–768 MHz band with an emission bandwidth of 1 MHz or less must not exceed an ERP of 1000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts ERP in accordance with Table 1 of this section.

(2) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 758–768 MHz band with an emission bandwidth of 1 MHz or less must not exceed an ERP of 2000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts ERP in accordance with Table 2 of this section.

(3) Fixed and base stations transmitting a signal in the 758–768 MHz band with an emission bandwidth greater than 1 MHz must not exceed an ERP of 1000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts/MHz ERP accordance with Table 3 of this section.

(4) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 758–768 MHz band with an emission bandwidth greater than 1 MHz must not exceed an ERP of 2000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts/MHz ERP in accordance with Table 4 of this section.

(5) Licensees of fixed or base stations transmitting a signal in the 758–768 MHz band at an ERP greater than 1000 watts must comply with the provisions set forth in paragraph (b).

(6) Control stations and mobile stations transmitting in the 758–768 MHz band and the 788–799 MHz band are limited to 30 watts ERP.

(7) Portable stations (hand-held devices) transmitting in the 758–768 MHz band and the 788–799 MHz band are limited to 3 watts ERP.

(8) For transmissions in the 758–768 MHz and 788–798 MHz bands, licensees may employ equipment operating in compliance with either of the following measurement techniques:

* * * * *

TABLE 1—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED IN THE 758–768 MHZ BAND TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH OF 1 MHZ OR LESS

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) (watts)
Above 1372 (4500)	65
Above 1220 (4000) To 1372 (4500)	70
Above 1067 (3500) To 1220 (4000)	75
Above 915 (3000) To 1067 (3500)	100
Above 763 (2500) To 915 (3000)	140
Above 610 (2000) To 763 (2500)	200
Above 458 (1500) To 610 (2000)	350
Above 305 (1000) To 458 (1500)	600
Up to 305 (1000)	1000

TABLE 2—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 758–768 MHZ BAND TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH OF 1 MHZ OR LESS

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) (watts)
Above 1372 (4500)	130
Above 1220 (4000) To 1372 (4500)	140
Above 1067 (3500) To 1220 (4000)	150
Above 915 (3000) To 1067 (3500)	200
Above 763 (2500) To 915 (3000)	280
Above 610 (2000) To 763 (2500)	400
Above 458 (1500) To 610 (2000)	700
Above 305 (1000) To 458 (1500)	1200
Up to 305 (1000)	2000

TABLE 3—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 758–768 MHZ BAND TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH GREATER THAN 1 MHZ

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) per MHz (watts/MHz)
Above 1372 (4500)	65
Above 1220 (4000) To 1372 (4500)	70
Above 1067 (3500) To 1220 (4000)	75
Above 915 (3000) To 1067 (3500)	100
Above 763 (2500) To 915 (3000)	140
Above 610 (2000) To 763 (2500)	200
Above 458 (1500) To 610 (2000)	350
Above 305 (1000) To 458 (1500)	600
Up to 305 (1000)	1000

TABLE 4—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 758–768 MHZ BAND TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH GREATER THAN 1 MHZ

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) per MHz (watts/MHz)
Above 1372 (4500)	130
Above 1220 (4000) To 1372 (4500)	140
Above 1067 (3500) To 1220 (4000)	150
Above 915 (3000) To 1067 (3500)	200
Above 763 (2500) To 915 (3000)	280
Above 610 (2000) To 763 (2500)	400
Above 458 (1500) To 610 (2000)	700
Above 305 (1000) To 458 (1500)	1200
Up to 305 (1000)	2000

(b) For base and fixed stations operating in the 758–768 MHz band in accordance with the provisions of paragraph (a)(5) of this section, the power flux density that would be produced by such stations through a combination of antenna height and vertical gain pattern must not exceed 3000 microwatts per square meter on the ground over the area extending to 1 km from the base of the antenna mounting structure.

■ 26. Section 90.543 is amended by revising the introductory paragraph and revising paragraphs (e) and (f) to read as follows:

§ 90.543 Emission limitations.

Transmitters designed to operate in 769–775 MHz and 799–805 MHz frequency bands must meet the emission limitations in paragraphs (a) through (d) of this section. Transmitters operating in 758–768 MHz and 788–798 MHz bands must meet the emission limitations in (e) of this section.

* * * * *

(e) For operations in the 758–768 MHz and the 788–798 MHz bands, the power of any emission outside the licensee's frequency band(s) of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, in accordance with the following:

* * * * *.

(f) For operations in the 758–775 MHz and 788–805 MHz bands, all emissions including harmonics in the band 1559–1610 MHz shall be limited to –70 dBW/MHz equivalent isotropically radiated power (EIRP) for wideband signals, and –80 dBW EIRP for discrete emissions of less than 700 Hz bandwidth. For the purpose of equipment authorization, a transmitter shall be tested with an antenna that is representative of the type that will be used with the equipment in normal operation.

* * * * *

■ 27. Section 90.549 is revised to read as follows:

§ 90.549 Transmitter certification.

Transmitters operated in the 758–775 MHz and 788–805 MHz frequency bands must be of a type that have been authorized by the Commission under its certification procedure as required by § 90.203.

■ 28. Section 90.555 is amended by revising paragraph (a) introductory text, and revising paragraphs (b)(1) and (2) and paragraph (c) to read as follows:

§ 90.555 Information exchange.

(a) *Prior notification.* Public safety licensees authorized to operate in the 758–775 MHz and 788–805 MHz bands may notify any licensee authorized to operate in the 746–757 MHz or 776–787 MHz bands that they wish to receive prior notification of the activation or modification of the licensee's base or fixed stations in their area. Thereafter, the 746–757 MHz or 776–787 MHz band licensee must provide the following information to the public safety licensee at least 10 business days before a new base or fixed station is activated or an existing base or fixed station is modified:

* * * * *

(b) * * *

(1) Allow a public safety licensee to advise the 746–757 or 776–787 MHz band licensee whether it believes a proposed base or fixed station will generate unacceptable interference;

(2) Permit 746–757 and 776–787 MHz band licensees to make voluntary changes in base or fixed station parameters when a public safety licensee alerts them to possible interference; and,

* * * * *

(c) *Public Safety Information Exchange.* (1) Upon request by a 746–757 or 776–787 MHz band licensee, public safety licensees authorized to operate radio systems in the 758–775 and 788–805 MHz bands shall provide the operating parameters of their radio system to the 746–757 or 776–787 MHz band licensee.

(2) Public safety licensees who perform the information exchange described in this section must notify the appropriate 746–757 or 776–787 MHz band licensees prior to any technical changes to their radio system.

[FR Doc. 2013–08811 Filed 4–23–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 02–60; Report No. 2974]

Petition for Reconsideration of Action in a Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: In this document, a Petition for Reconsideration and Clarification (Petition) has been filed in the Commission's rulemaking proceeding by Kevin Rupy on behalf of United States Telecom Association.

DATES: Oppositions to the Petition must be filed on or before May 9, 2013. Replies to an opposition must be filed on or before May 20, 2013.

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

FOR FURTHER INFORMATION CONTACT: Linda Oliver, Wireline Competition Bureau, at (202) 418–1732 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of Commission's document, Report No. 2974, released April 17, 2013. The full text of Report No. 2974 is available for viewing and copying in Room CY–B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1 (800) 378–3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

Subject: Rural Health Care Support Mechanism, Petition for Reconsideration and Clarification of the United States Telecom Association, published at 78 FR 13936, March 1, 2013 in WC Docket No. 02–60, and published pursuant to 47 CFR 1.429(e). *See also* 1.4(b)(1) of the Commission's rules.

Number of Petitions Filed: 1.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–09601 Filed 4–23–13; 8:45 am]

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