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Synopsis of Order

1. Pursuant to the D.C. Circuit Court of Appeals' order in *Radio-Television News Directors Association v. FCC*, No. 98-1305, slip op. (D.C. Cir. Oct. 11, 2000) (*RTNDA*), the Commission hereby repeals §§ 73.1920 and 73.1930 of our rules, 47 CFR 73.1920, 73.1930, the broadcast personal attack and political editorial rules. Further, in light of these actions, the Commission vacates its *Order and Request to Update Record* released October 4, 2000 (FCC 00-360) (65 FR 60387, October 11, 2000) and terminate this proceeding.

2. The Commission also repeals the personal attack and political editorial rules that apply to cable television operators. 47 CFR 76.209(b), (c), and (d). Although these rules were not specifically cited in the proceeding before the Court of Appeals in *RTNDA*, they are identical to those rules in all material respects. The potential elimination of these rules was raised in a Notice of Proposed Rule Making in MM Docket No. 83-331, 48 FR 26471 (June 8, 1983), and was specifically addressed in a 1996 request for further information in the instant docket, MM Docket No. 83-484, 48 FR 28295 (June 21, 1983). Given the delay in concluding these proceedings and the Court of Appeals' decision, the Commission also vacates these identical cable television rules placed at issue in MM Docket No. 83-331. The Commission does so on the procedural grounds set forth in the Court of Appeals' decision in *RTNDA*, without expressing any conclusion as to the substantive issues underlying these rules. As the Court of Appeals noted, "[o]f course, the Commission may institute a new rule-making proceeding to determine whether, consistent with constitutional constraints, the public interest requires the personal attack and political editorial rules." *RTNDA*, slip op. at 4. With respect to the personal attack and political editorial rules, "these are issues that the court has yet to decide." *Id.*

Ordering Clauses

3. Sections 73.1920, 73.1930 and 76.209(b), (c), and (d) of the Commission's rules, 47 CFR 73.1920, 73.1930, 76.209(b), (c), (d) are repealed.

4. The Commission's rules are amended as set forth.

5. The *Order and Request to Update Record*, FCC 00-360 (rel. Oct. 4, 2000) is vacated.

6. This proceeding is terminated.

7. This action is taken pursuant to sections 4(i), 4(j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303.

List of Subjects

47 CFR Part 73

Radio, television broadcasting.

47 CFR Part 76

Cable television service.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

Parts 73 and 76 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended 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 and 336.

§ 73.1920 [Removed]

2. Section 73.1920 is removed.

§ 73.1930 [Removed]

3. Section 73.1930 is removed.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

4. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 317, 325, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

5. Sections 76.209 is revised to read as follows:

§ 76.209 Fairness doctrine; personal attacks; political editorials.

A cable television system operator engaging in origination cablecasting shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

Note to § 76.209: See public notice, "Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance," 29 FR 10415.

[FR Doc. 00-28353 Filed 11-6-00; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 96-86; FCC 00-348]

Development of Operational Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission adopts a revised band plan for the Public Safety 700 MHz band, which is twenty-four megahertz of spectrum allocated for public safety services at 764-776 MHz and 794-806 MHz ("the 700 MHz band"). This new plan represents an improved layout and will promote better assignment and operational possibilities for the public safety community. The Commission also adopts technical criteria to protect certain global navigation satellite systems (GNSS). The agency designates channels for mutual aid purposes in the public safety bands below 512 MHz to improve interoperability capabilities for public safety entities that operate in these existing bands.

DATES: Effective December 7, 2000.

FOR FURTHER INFORMATION CONTACT: Peter Daronco pdaronco@fcc.gov or Karen Franklin kfrankli@fcc.gov, at (202) 418-0680, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This document is a summary of the Commission's Third Memorandum Opinion and Order (Third MO&O) and Third Report and Order (Third R&O), FCC 00-348 in WT Docket No. 96-86, adopted on September 18, 2000, and released on October 10, 2000. The full text of this Third MO&O and Third R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037. The full text may also be downloaded at www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.

Summary of the Third MO&O and the Third R&O

1. *Band Plan.* The Third MO&O addresses the remaining issues raised in the petitions for reconsideration of the First Report and Order (First R&O) in WT Docket No. 96–86, 63 FR 58645, November 2, 1998, which are granted to the extent indicated and are otherwise denied. On reconsideration, the Commission revises the band plan adopted in the First R&O to reposition the location of the narrowband and wideband channel groups for the general use, interoperability, and reserve spectrum and to designate 48 narrowband channels (24 channel pairs) for low power use for on-scene communication. Among the limitations imposed on use of these frequencies, the maximum effective radiated power (ERP) on these channels is limited to 2 watts. Additionally, applications for 18 of the channel pairs are subject to the regional planning process where the regional planning committee will determine the most appropriate low power application(s) on these channels and the frequency coordinators will be responsible for providing appropriate interference protection. The other 6 channel pairs will be licensed on a nationwide, itinerant basis. A Commission license will be required for operation on any of the low power channels.

2. In the Third R&O portion of this combined item, the Commission addresses designation and licensing issues for spectrum reserved in the First R&O to be subject to the Third Notice of Proposed Rule Making (Third NPRM) in WT Docket No. 96–86, 63 FR 58685, November 2, 1998. The Commission designates 2.4 MHz of spectrum, all narrowband channels for statewide, geographic-area licenses. The governor, or designee, of each state has the option until December 31, 2001, to apply for all or part of this 2.4 MHz of spectrum under a state license. Whatever spectrum has not been applied for by December 31, 2001, will revert to General Use public safety and will be administered by the relevant RPC. Each state license will be granted subject to the condition that the state certifies, on or before each applicable benchmark date, that it is providing or prepared to provide “substantial service” as set forth in the new § 90.529 of the Commission’s Rules. The Commission reserves 6.2 MHz of the 24 MHz allocated for public safety for future developments in broadband technologies. Of the 6.2 MHz reserved, 0.8 MHz is set-aside pending resolution of interoperability guard band issues

raised in the Fourth Notice of Proposed Rulemaking (Fourth NPRM) in WT Docket No. 96–86, 65 FR 51788, August 2, 2000. The remaining 5.4 MHz of the 700 MHz band are grouped into four segments of 1.35 MHz each located between the narrowband and wideband segments and reserved for future developments in broadband technologies.

3. *Protection of Satellite-Based Global Systems.* The Commission designates 794–806 MHz band for mobile-to-base communications because, in part, of its proximity to the adjacent 806–824 MHz band and in an effort to facilitate unit-to-unit operations in the 700 MHz and 800 MHz bands. The Commission also adopted specific emission limits for equipment operating in the 1559–1610 MHz band that will sufficiently protect aeronautical radionavigation operations. Outside of the 1559–1610 MHz band, the Commission’s traditional standard (*i.e.*, generally $43 + 10 \log P$) will apply.

4. *Interoperability Below 512 MHz.* The Commission designates 5 VHF channels in the 150–174 MHz band and 4 UHF channel pairs in the 450–512 MHz band for nationwide interoperability use. For existing licensees operating on these channels, the Commission provides a transition period through January 1, 2005, after which these licensees will be secondary to interoperability communication. Under our Rules, an entity must have a license to operate a base or control station on these interoperability channels. Mobile operation, however, is permitted on these channels without an individual license (*i.e.*, a blanket licensing approach). Public safety licensees who are eligible to hold a part 90 license, or who are otherwise licensed under part 90 of our Rules, can operate mobile units on these interoperability channels without an individual license. Additionally, as suggested in comments, we also will require, as of January 1, 2005, every newly certified public safety mobile radio unit to have the capacity to transmit and receive on at least one nationwide interoperability channel (*i.e.*, the calling channel) in the band in which it is operating. For licensing and administration of these interoperability channels, the Commission will rely on the four public safety frequency coordinators, who we envision will jointly develop an interoperability plan regarding the management and nationwide use of these interoperability channels, perhaps in concert with the group(s) tasked with administering the interoperability channels in the 700 MHz band. Additionally, the Commission designates two channels in

the 156–162 MHz band for interoperability purposes in thirty-three inland Economic Areas and adopts criteria for licensing on these channels, including frequency coordination. Until general interoperability provisions can be made with Canada and Mexico, interoperability operations within the Canadian and Mexican border areas will need to be coordinated on an individual basis with these countries in the usual manner.

Third Supplemental Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Appendix A of the *Second Notice of Proposed Rulemaking* (Second NPRM) 62 FR 60199, November 7, 1999 issued in this proceeding. The Commission sought written public comments on the proposals in the Second NPRM, including comments on the IRFA. No comments were filed in direct response to the IRFA. Subsequently, a Final Regulatory Flexibility Analysis (FRFA) was incorporated in Appendix A of the First R&O issued in this proceeding. A Supplemental Final Regulatory Flexibility Analysis, (*SFRFA*) was incorporated in Appendix A of the *Memorandum Opinion and Order on Reconsideration*, (First MO&O) 64 FR 60123, November 4, 1999, issued in this proceeding. A Second Supplemental Final Regulatory Flexibility Analysis *Second SFRFA* was incorporated in Appendix A of the Second Memorandum Opinion and Order (Second MO&O) issued in this proceeding. The *Third Supplemental Final Regulatory Flexibility Analysis* (Third SFRFA) contained in this *Third MO&O* supplements the information contained in the FRFA, First SFRFA, and Second SFRFA and is limited to matters raised on reconsideration or clarification with regard to the First R&O and addressed in this Third MO&O. This Third SFRFA conforms to the RFA.

I. Need for, and Objectives of, the Third MO&O

1. In this Third MO&O, we address the multiple Petitions for Reconsideration and/or Clarification filed in connection with the First R&O in this docket that established a band plan and adopted service rules in the newly-reallocated public safety spectrum at 764–776 MHz and 794–806 MHz (“the 700 MHz band”). This Third MO&O presents our decisions in response to those various portions of the petitions that address the: (i) Band plan

for the 700 MHz band, and (ii) low power narrowband devices for on-scene communication.

2. In the Third MO&O, we revise the band plan adopted in the First R&O to reposition the location of the narrowband and wideband channel groups for the general use, interoperability, and reserve spectrum. We also modify the adopted narrowband general use channel plan by designating forty-eight narrowband channels for low power use for on-scene communication. These clarifications are needed in order to promote efficient spectrum usage and flexibility.

II. Summary of Significant Issues Raised by Public Comments in Response to the FRFA

3. No comments were filed in direct response to the FRFA.

III. Description and Estimate of Numbers of Small Entities Affected by Rule Amendment

4. 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, if adopted. 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: (i) is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the Small Business Administration ("SBA"). 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. "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 includes 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 81,600 (ninety-one percent) are small entities.

5. *Public Safety Radio Pool Licensees.* As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337; there are approximately 127,540 licensees within these services. Non-Federal governmental entities as well as private businesses are licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity. The rule changes adopted in this Third MO&O could affect public safety entities who wished to utilize frequencies in the low power pool for uses such as on-scene firefighting communications and various other short-range communications systems which would be developed for 700 MHz band equipment.

6. *Radio and Television Equipment Manufacturers.* We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities.

7. *Television Stations.* This proceeding will affect full service TV station licensees (Channels 60–69), TV translator facilities, and low power TV ("LPTV") stations. The SBA defines a TV broadcasting station that has no more than \$10.5 million in annual receipts as a small business. TV broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by TV to the public, except cable and other pay TV services. Included in this industry are commercial, religious, educational, and other TV stations. Also included are establishments primarily engaged in TV broadcasting and which produce taped TV program materials. Separate establishments primarily engaged in producing taped TV program materials are classified under another SIC number. There were 1,509 TV stations operating in the Nation in 1992. That number has remained fairly constant as indicated by the approximately 1,551 operating TV broadcasting stations in the Nation as of February 28, 1997. For 1992, the number of TV stations that

produced less than \$10.0 million in revenue was 1,155 establishments, or approximately 77 percent of the 1,509 establishments. There are currently 95 full service analog TV stations, either operating or with approved construction permits on channels 60–69.

8. In the *DTV Proceeding*, we adopted a Digital Television ("DTV") Table, which provides only 15 allotments for digital television stations on channels 60–69 in the continental United States. There are seven DTV allotments in channels 60–69 outside the continental United States. Thus, the rules will affect approximately 117 TV stations; approximately 90 of those stations may be considered small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-TV affiliated companies. We recognize that the rules may also impact minority-owned and women-owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0 percent) of 1,221 commercial TV stations in the United States. According to the U.S. Bureau of the Census, in 1987 women owned and controlled 27 (1.9 percent) of 1,342 commercial and non-commercial TV stations in the United States.

9. There are currently 4,977 TV translator stations and 1,952 LPTV stations. Approximately 1,309 low power TV and TV translator stations are on channels 60–69 which could be affected by policies in this proceeding. The Commission does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these broadcast facilities. We will assume for present purposes, however, that most of these broadcast facilities, including LPTV stations, could be classified as small businesses. As indicated earlier, approximately 77 percent of TV stations are designated under this analysis as potentially small businesses.

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

10. The only compliance requirement that is newly imposed by this Third MO&O is that we now require applicants for channels which were once reserved and are now available for low power licensing to go through the regional planning committee (RPC) process, including frequency coordination. RPCs will be responsible for determining the most appropriate low power application(s) on these channels and the frequency

coordinators will be responsible for providing appropriate interference protection.

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

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities.

12. *Channel Plans.* We appropriately decided to modify the narrowband and wideband interoperability channeling plans to permit the use of efficient transmitter combiners for common antennas. This revision lowers costs for public safety entities. Thus, these rule changes will benefit all public safety entities, including small entities. On the other hand, denying these petitions was not a viable alternative because maintaining the channel plan adopted in the First R&O would have increased costs for public safety entities, including small entities, by precluding the use of combiners. Additionally, our decision grouping the reserve spectrum into four segments of 1.35 MHz each located between the narrowband and wideband segments offers improved flexibility to accommodate future requirements that are unforeseen at this time. These rule changes will have future benefits for all public safety entities, including small entities.

13. *Low Power Channels.* Our decision allocating channels nationwide for low power mobile operations offers improved flexibility for the public safety community to meet specialized, on-scene communication requirements. Thus, these rule changes will benefit all public safety entities, including small entities. Moreover, designating the twenty-four pairs as low power channels nationwide will lower costs for equipment manufacturers and public safety users, including small entities, as will our decision to exempt these low power devices from the interoperability capability, digital modulation, and trunking requirements. The regional planning and frequency coordination process that we apply to the "regional" channels and the licensing process that

we apply to all of these channels are necessary to minimize interference. We minimized burdens by exempting the nationwide, itinerant channels from regional planning and frequency coordination. This exemption benefits all public safety entities including small entities, resulting in reduced costs and improved operational flexibility to meet on-scene communication requirements. We also note that about half of the new low power channels were previously general use channels and thus already subject to regional planning, frequency coordination, and licensing under the First R&O. Other alternatives were not changing the rule and/or requiring regional planning and frequency coordination for all of the low power channels. Our decision reflects a balance between the need to minimize interference and the need for operational flexibility.

14. By establishing this low power designation, we ease the economic burden, of funding communications systems in the new 700 MHz band, on public safety agencies, including small entities, that forego purchasing more expensive high power equipment when less expensive low-power equipment meets their short distance communications needs. We also ease the burden on equipment manufacturers, including small entities, because this low power designation provides flexibility to produce high-power equipment, low-power equipment, or both. Moreover, exempting this low power equipment from the interoperability capability requirement will quicken the type certification process for manufacturers of this low power equipment.

Report to Congress

The Commission will send a copy of the Third MO&O, including the Third Supplemental Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to SBREFA. A copy of the Third MO&O including the Third Supplemental Final Regulatory Flexibility Analysis (or summaries thereof) will also be published in the **Federal Register**. In addition, the Commission will send a copy of the Third MO&O, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), Initial Regulatory Flexibility Analysis (collectively referred to as "IRFAs") were incorporated in the Notice of Proposed Rule Making (Public Safety NPRM) 61 FR 25185, May 20, 1996, the Second

Notice of Proposed Rule Making (Second NPRM) and the Third Notice of Proposed Rulemaking (Third NPRM) in Docket 96-86. The Commission sought written public comments on the proposals in the Public Safety NPRM, Second NPRM, and Third NPRM, including comments on the IRFAs. No comments on the IRFAs were received. This Final Regulatory Flexibility Analysis ("FRFA") conforms to the RFA.

1. Need for, and Objective of, the Third R&O.

15. In the Third R&O portion of this combined item, we address technical, designation and licensing issues for the spectrum that we reserved in the First R&O to be "subject to the Third NPRM". In addition, we adopt technical criteria for 700 MHz band operations to protect satellite-based global navigation systems ("GNSS") from harmful interference and establish measures to promote interoperability on public safety channels below 512 MHz. These are crucial developmental steps towards the flexible regulatory framework needed to meet vital current and future public safety communications needs.

I. Summary of Significant Issues Raised by Public Comments in Response to the IRFAs

16. Based on the comments submitted generally by small entities, the Commission found that the rules we proposed to adopt in this proceeding may have a significant impact on a substantial number of small businesses. Therefore, the IRFAs solicited comments on alternatives to our proposed rules that would minimize the impact on small entities consistent with the objectives of this proceeding. No comments were submitted directly in response to the IRFAs; however, as described in Section V, we have taken into account all general comments received which addressed the impact on small entities.

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

17. 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: (i) is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the

SBA. 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. "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 includes 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 81,600 (ninety-one percent) are small entities.

18. Public Safety Radio Pool Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337; there are approximately 127,540 licensees within these services. Non-Federal governmental entities as well as private businesses are licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity. The rule changes adopted in this Third MO&O could affect public safety entities who wished to utilize frequencies in the low power pool for uses such as on-scene firefighting communications and various other short-range communications systems which would be developed for 700 MHz band equipment. As required by the Regulatory Flexibility Act (RFA), Initial Regulatory Flexibility Analysis (collectively referred to as "IRFAs") were incorporated in the Public Safety Notice, the Second Notice and the Third Notice in Docket 96-86. The Commission sought written public comments on the proposals in the Public Safety NPRM, Second NPRM, and Third NPRM, including comments on the IRFAs. No comments on the IRFAs were received. This Final Regulatory Flexibility Analysis ("FRFA") conforms to the RFA.

19. Radio and Television Equipment Manufacturers. We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the SBA's regulations, a radio and television broadcasting and communications

equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities.

20. Television Stations. This proceeding will affect full service TV station licensees (Channels 60-69), TV translator facilities, and low power TV (LPTV) stations. The SBA defines a TV broadcasting station that has no more than \$10.5 million in annual receipts as a small business. TV broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by TV to the public, except cable and other pay TV services. Included in this industry are commercial, religious, educational, and other TV stations. Also included are establishments primarily engaged in TV broadcasting and which produce taped TV program materials. Separate establishments primarily engaged in producing taped TV program materials are classified under another SIC number.

21. There were 1,509 TV stations operating in the Nation in 1992. That number has remained fairly constant as indicated by the approximately 1,551 operating TV broadcasting stations in the Nation as of February 28, 1997. For 1992, the number of TV stations that produced less than \$10.0 million in revenue was 1,155 establishments, or approximately 77 percent of the 1,509 establishments. There are currently 95 full service analog TV stations, either operating or with approved construction permits on channels 60-69. In the *DTV Proceeding*, we adopted a Digital Television ("DTV") Table which provides only 15 allotments for DTV stations on channels 60-69 in the continental United States. There are seven DTV allotments in channels 60-69 outside the continental United States. Thus, the rules will affect approximately 117 TV stations; approximately 90 of those stations may be considered small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-TV affiliated companies. We recognize that the rules may also impact minority-owned and women-owned stations, some of which may be small entities. In 1995, minorities owned and controlled 37 (3.0 percent) of 1,221 commercial TV stations in the United States. According to the U.S. Bureau of the Census, in

1987 women owned and controlled 27 (1.9 percent) of 1,342 commercial and non-commercial TV stations in the United States. There are currently 4,977 TV translator stations and 1,952 LPTV stations. Approximately 1,309 low power TV and TV translator stations are on channels 60-69 which could be affected by policies in this proceeding. The Commission does not collect financial information of any broadcast facility and the Department of Commerce does not collect financial information on these broadcast facilities. We will assume for present purposes, however, that most of these broadcast facilities, including LPTV stations, could be classified as small businesses. As indicated earlier, approximately 77 percent of TV stations are designated under this analysis as potentially small businesses. Given this, LPTV and TV translator stations would not likely have revenues that exceed the SBA maximum to be designated as small businesses.

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

22. This Third R&O adopts some rules that will entail additional compliance requirements. These three additional requirements may have an effect on small entities. First, we adopt additional technical criteria for 700 MHz band operations. These new requirements are enacted in order to protect satellite-based global navigation systems from harmful interference. Although this requirement may result in increases in manufacturing costs, including for small manufacturing entities, and may result in higher equipment costs, including for small entities, this modification is essential due to safety concerns related to GNSS operations. Second, we establish measures to promote interoperability on public safety channels below 512 MHz. After January 1, 2005, applications for equipment certification will only be granted for mobile and portable transmitters operating on public safety frequencies in the 150-174 MHz and/or 450-470 MHz bands that are capable of operating on at least one nationwide public safety interoperability channel designated in the band(s) in which the equipment operates. Although this requirement may result in increases in manufacturing costs, including for small manufacturing entities, and may result in higher equipment costs, including for small entities, this modification is essential to improve interoperability capabilities in existing public safety bands for public safety entities, including small entities, that operate in

these bands. Lastly, we also require applicants for interoperability channels designated in the 156–162 MHz band (in thirty-three inland VHF public coast areas (VPC)) to complete the frequency coordination process. This process requires applicants to pay fees to frequency coordinators. These fees are generally based on the number of sites, frequencies, and complexity of the coordination process. The adoption of these rules is crucial in order to minimize the potential for interference among the varied users of these channels.

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

23. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities.

24. *State License.* We designate 2.4 MHz of the 700 MHz band for licensing directly to each state. The rules we adopt will preclude all non-state entities from being licensed for the designated state license frequencies. Most commenters agreed that licensing states for this amount of spectrum (for state agency use) is reasonable. We also include provisions to ensure that this spectrum will become available for “general use” if a given state either (i) declines to apply for a state license or (ii) fails to provide or be prepared to provide “substantial service” by certain benchmark dates. Additionally, we amend § 90.179 to allow states to share the use of the 2.4 MHz of spectrum with local and other public safety entities, which removes an impediment to small entities accessing this spectrum under sharing agreements with states. We considered a variety of alternative approaches for the use and licensing of the reserve spectrum. We declined to adopt an alternative “State Licensing” approach under which states—rather than regional planning committees—would manage state, local, and Federal use of all or most of the 8.8 MHz of spectrum reserved subject to the Third NPRM. While there were no comments

specifically responding to the IRFAs, we considered numerous comments that raised the concern that licensing states for the entire amount would designate the spectrum in a manner deleterious to small entities. Accordingly, we designated an appropriate amount of spectrum for state use instead of designating all of the reserve spectrum to manage. We also believe our decision to allocate the same 2.4 MHz nationwide will benefit small entities because they will not face the possibility of interference on a variety of frequencies from their parent state as well as from adjoining states.

25. *GNSS Protection Criteria.* The technical solutions we adopt to protect certain global navigation satellite systems (“GNSS”) will impact all manufacturers of equipment that operates in the 700 MHz public safety band. This includes even small manufacturing entities. However, as discussed in the Third Report and Order, these limits are necessary to protect GNSS operations, including Global Orbiting Navigation Satellite Systems and Global Positioning System in accordance with international requirements. Moreover, Congress directed the Commission to “protect the integrity of the [GPS] frequency spectrum against interference and disruption.” Nevertheless, we have attempted to minimize, to the extent possible, the effect of these additional technical requirements.

26. *Interoperability below 512 MHz.* We establish measures to promote interoperability on public safety channels below 512 MHz by designating specific channels in each band for nationwide interoperability purposes. We did this because the record demonstrated the need for improved interoperability capabilities below 512 MHz. This designation requires that existing licensees on these channels operate on a secondary basis to interoperability communication. In order to minimize the impact of these rules, we “grandfathered” these licensees on a secondary basis only to interoperability communication rather than ordering them to vacate the channels or use them exclusively for interoperability purposes. We also provide these licensees a transition period, until January 1, 2005. We selected the “least licensed channels” in each band to minimize the economic impact arising from the need to designate interoperability channels in these existing public safety bands. Additionally, after January 1, 2005, applications for equipment certification will only be granted for mobile and portable transmitters operating on

public safety frequencies in these bands that are capable of operating on at least one nationwide public safety interoperability channel designated in the band(s) in which the equipment operates. We provide a similar transition period for equipment manufacturers in order to minimize the impact of these rules. This transition period will allow small manufacturing entities, in particular, an opportunity to plan for this new requirement. The alternative of not adopting this interoperability capability requirement was not acceptable because of the need to improve public safety interoperability below 512 MHz. Lastly, we also require applicants for interoperability channels designated in the 156–162 MHz band (in thirty-three inland VHF public coast areas (VPC)) to complete the frequency coordination and licensing process. We briefly considered the alternative of not requiring frequency coordination for these channels. This was unacceptable because of the potential for interference among the varied users of these channels.

27. As discussed in the Third R&O, we note that one reason for establishing measures to promote interoperability below 512 MHz is to assist public safety entities, including small entities, that cannot afford to or do not want to purchase equipment in the new 700 MHz public safety band, wherein 2.6 megahertz of spectrum is designated for nationwide interoperability. We also attempted to minimize burdens on public safety entities, including small entities, by not requiring that existing public safety licensees apply-for and be licensed to operate mobile and portable transmitters on the nationwide interoperability channels in the existing public safety bands below 470 MHz.

Report to Congress

The Commission will send a copy of the Third R&O, including this Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to SBREFA. A copy of the Third R&O including the Final Regulatory Flexibility Analysis (or summaries thereof) will also be published in the **Federal Register**. In addition, the Commission will send a copy of the Third R&O, including the Final Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the SBA.

Ordering Clauses

1. Authority for issuance of this Third Memorandum Opinion and Order and Third Report and Order is contained in sections 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of

1934, as amended, 47 U.S.C. 154(i), 302, 303(f) and (r), 332, 337.

2. Pursuant to 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(f) and (r), 332, 337 that part 90 of the Commission's Rules, 47 CFR part 90, is amended as set forth in the rule changes, effective December 7, 2000 of this Third MO&O and Third R&O

3. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Third MO&O and Third R&O, including the Supplemental Final and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

2. Section 90.1 is amended by revising paragraph (b), to read as follows:

§ 90.1 Basis and purpose.

(b) *Purpose.* This part states the conditions under which radio communications systems may be licensed and used in the Public Safety, Industrial/Business Radio Pool, and Radiolocation Radio Services. These rules do not govern the licensing of radio systems belonging to and operated by the United States.

3. Section 90.7 is amended by adding definitions for *Interoperability* and *State* to read as follows:

§ 90.7 Definitions.

Interoperability. An essential communication link within public safety and public service wireless communications systems which permits units from two or more different entities to interact with one another and to exchange information according to a

prescribed method in order to achieve predictable results.

* * * * *

State. Any of the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, and Guam.

* * * * *

4. Section 90.20 is amended in paragraph (c)(3) in the table under Megahertz by revising the entries for 151.130, 151.1375, 151.145, 154.445, 154.4525, 155, 745, 155.7525, 155.760, 158.730, 158.7375, 158.745, 159.465, 159.4725, 453.200, 453.20625, 453.2125, 453.21875, 453.225, 453.450, 453.45625, 453.4625, 453.46875, 453.475, 453.700, 453.70625, 453.7125, 453.71875, 453.725, 453.850, 453.85625, 453.8625, 453.86875, 453.875, 458.200, 458.20625, 458.2125, 458.21875, 458.225, 458.450, 458.45625, 458.4625, 458.46875, 458.475, 458.700, 458.70625, 458.7125, 458.71875, 458.725, 458.850, 458.85625, 458.8625, 458.86875, 458.875 and by adding paragraphs (d)(80) through (d)(83) and paragraph (g) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) * * *

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
Megahertz			
* * * * *			
151.130	do	28, 81	PH
151.1375	do	27, 28, 80	PH
151.145	do	28, 81	PO
* * * * *			
154.445	do	28, 81	PF
154.4525	do	27, 28, 80	PF
* * * * *			
155.745	do	81	PX
155.7525	do	27, 80, 83	PX
155.760	do	81	PX
* * * * *			
158.730	do	81	PP
158.7375	do	27, 80	PP
158.745	Base or mobile	81	PX
* * * * *			
159.465	do	81	PO
158.4725	do	27, 80	PO
* * * * *			
453.200	do	81	PX
453.20625	do	44, 82	PX
453.2125	do	27, 80, 83	PX
453.21875	do	44, 82	PX
453.225	do	81	PX

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* * *	* * *	* * *	* * *
453.450	do	81	PX
453.45625	do	44, 82	PX
453.4625	do	27, 80	PX
453.46875	do	44, 82	PX
453.475	do	81	PX
* * *	* * *	* * *	* * *
453.700	do	81	PX
453.70625	do	44, 82	PX
453.7125	do	27, 80	PX
453.71875	do	44, 82	PX
453.725	do	81	PX
* * *	* * *	* * *	* * *
453.850	do	81	PX
453.85625	do	44, 82	PX
453.8625	do	27, 80	PX
453.86875	do	44, 82	PX
453.875	do	81	PX
* * *	* * *	* * *	* * *
458.200	do	81	PX
458.20625	do	44, 82	PX
458.2125	do	27, 80, 83	PX
458.21875	do	44, 82	PX
458.225	do	81	PX
* * *	* * *	* * *	* * *
458.450	do	81	PX
458.45625	do	44, 82	PX
458.4625	do	27, 80	PX
458.46875	do	44, 82	PX
458.475	do	81	PX
* * *	* * *	* * *	* * *
458.700	do	81	PX
458.70625	do	44, 82	PX
458.7125	do	27, 80	PX
458.71875	do	44, 82	PX
458.725	do	81	PX
* * *	* * *	* * *	* * *
458.850	do	81	PX
458.85625	do	44, 82	PX
458.8625	do	27, 80	PX
458.86875	do	44, 82	PX
458.875	do	81	PX
* * *	* * *	* * *	* * *

(d) * * *

(80) After December 7, 2000 this frequency is available primarily for public safety interoperability only communications. Stations licensed prior to December 7, 2000 may continue to use this frequency on a co-primary basis until January 1, 2005. After January 1, 2005, all operations will be secondary to co-channel interoperability communications.

(81) After December 7, 2000 new stations will only be licensed with an authorized bandwidth not to exceed 11.25 kHz. Licensees authorized prior to December 7, 2000 may continue to use

bandwidths wider than 11.25 kHz on a co-primary basis until January 1, 2005. After January 1, 2005, all stations operating with an authorized bandwidth greater than 11.25 kHz will be secondary to adjacent channel interoperability operations.

(82) This frequency is reserved for assignment only in support of, and on a secondary basis to, nationwide interoperability use.

(83) This interoperability frequency is dedicated for the express purpose of nationwide interoperability calling.

* * *

(g) Former public correspondence working channels in the maritime VHF (156–162 MHz) band allocated for public safety use in 33 inland Economic Areas.

(1) We define service areas in the marine VHF (156–162 MHz) band by forty-two geographic areas called VHF Public Coast Service Areas (VPCSAs). See § 80.371(c)(1)(ii) of this chapter (Public correspondence frequencies). VPCSAs are based on, and composed of one or more of, the U.S. Department of Commerce's 172 Economic Areas (EAs). See 60 Fed Reg. 13114 (Mar. 10, 1995). You may inspect and copy maps of the

EAs and VPCSAs at the FCC Reference Center, Room CY A-257, 445 12th St., S.W., Washington, DC 20554. These maps and data are also available on the FCC website at <http://www.fcc.gov/oet/info/maps/areas/>. We number public correspondence channels in the maritime VHF (156–162 MHz) band as channels 24 to 28 and channels 84 to 88. Each channel number represents a channel pair. See § 80.371(c) of this chapter.

(2) We allocated two contiguous 25 kHz public correspondence channels in the maritime VHF (156–162 MHz) band for public safety use in 33 VPCSAs that are not near major waterways. These 33 VPCSAs are located in an inland region stretching from the western Great Plains to eastern California and Oregon. Each of these 33 inland VPCSAs corresponds to a single EA. Channel pairs 25, 84, and 85 are paired 25 kHz bandwidth channels as set forth in paragraph

(g)(2)(i) Table A of this section. In each of the 33 inland VPCSAs/EAs listed in paragraph (g)(2)(i) Table B of this section, two of these three channel pairs are allocated for public safety use by entities eligible for licensing under paragraph (a) of this section.

(i) Channel Numbers and Corresponding Center Frequencies, and Certified Coordinators Table A as follows:

TABLE A.—LIST OF CHANNEL NUMBERS AND CORRESPONDING CENTER FREQUENCIES, AND CERTIFIED COORDINATORS

Channel No.	Mobile station transmit center frequency in MHz	Base station transmit center frequency in MHz	Coordinator
25	157.250	161.850	PX
84	157.225	161.825	PX
85	157.275	161.875	PX

(ii) Channels Allocated for Public Safety Use in 33 Inland VPCSAs/Eas Table B as follows:

TABLE B.—LIST OF CHANNELS ALLOCATED FOR PUBLIC SAFETY USE IN 33 INLAND VPCSAs/EAS

VHF public coast service area	Name	Economic area	Public safety channel pairs
10	Grand Forks	110	25, 84
11	Minot	111	25, 84
12	Bismarck	112	25, 84
13	Aberdeen	114	25, 84
14	Rapid City	115	25, 84
15	North Platte	121	25, 84
16	Western Oklahoma	126	25, 85
17	Abilene	128	25, 85
18	San Angelo	129	25, 85
19	Odessa-Midland	135	25, 85
20	Hobbs	136	25, 85
21	Lubbock	137	25, 85
22	Amarillo	138	25, 85
23	Santa Fe	139	25, 84
24	Pueblo	140	25, 84
25	Denver-Boulder-Greeley	141	25, 84
26	Scottsbluff	142	25, 84
27	Casper	143	25, 84
28	Billings	144	25, 84
29	Great Falls	145	25, 84
30	Missoula	146	25, 84
31	Idaho Falls	148	25, 85
32	Twin Falls	149	25, 85
33	Boise City	150	25, 84
34	Reno	151	25, 84
35	Salt Lake City-Ogden	152	25, 85
36	Las Vegas	153	25, 84
37	Flagstaff	154	25, 84
38	Farmington	155	25, 84
39	Albuquerque	156	25, 84
40	El Paso	157	25, 85
41	Phoenix-Mesa	158	25, 84
42	Tucson	159	25, 84

(3) The channels pairs set forth in Table B paragraph (g)(2)(ii) of this section are designated primarily for the purpose of interoperability communication.

(4) Channel pairs 25, 84, and 85 as listed in Table B paragraph (g)(2)(ii) of this section were formerly allocated and assigned (under § 80.371(c) (1997) of this chapter) as public correspondence

working channels in the maritime VHF 156–162 MHz band; these channels were also shared (under former § 90.283 (1997) of this chapter) with private land radio mobile stations including

grandfathered public safety licensees). Thus, there are grandfathered licensees nationwide (maritime and private land mobile radio stations, including by rule waiver) operating on these channels both inside and outside of the 33 EAs listed in Table B paragraph (g)(2)(ii) of this section.

(5) All applicants and licensees under this paragraph must comply with the relevant technical sections under this part unless otherwise stated in this paragraph (g) of this section using the following standards and procedures:

(i) Provide evidence of frequency coordination in accordance with § 90.175. Public safety coordinators except the Special Emergency Coordinator are certified to coordinate applications for the channels pairs set forth in Table B paragraph (g)(2)(ii) (*i.e.*, letter symbol PX under paragraph (c)(2) of this section).

(ii) Station power, as measured at the output terminals of the transmitter,

must not exceed 50 Watts for base stations and 20 Watts for mobile stations, except in accordance with the provisions of paragraph (g)(5)(vi) of this section. Antenna height (HAAT) must not exceed 122 meters (400 feet) for base stations and 4.5 meters (15 feet) for mobile stations, except in accordance with paragraph (g)(5)(vi) of this section. Antenna height (HAAT) must not exceed 122 meters (400 feet) for base stations and 4.5 meters (15 feet) for mobile stations, except in accordance with paragraph (g)(5)(vi) of this section. Such base and mobile channels shall not be operated on board aircraft in flight.

(iii) Frequency protection must be provided to other stations in accordance with the following guidelines for each channel and for each area and adjacent area:

(A) Protect coast stations licensed prior to July 6, 1998, by the required separations shown in Table C below.

(B) Protect stations described in paragraph (g)(4) of this section, by frequency coordination in accordance with § 90.175 of this part.

(C) Protect public safety stations granted under paragraph (g) of this section by frequency coordination in accordance with § 90.175 of this part.

(D) *Where the Public safety designated channel is not a Public Safety designated channel in an adjacent EA:* Applicants shall engineer base stations such that the maximum signal strength at the boundary of the adjacent EA does not exceed 5 dBµV/m.

(iv) The following table, along with the antenna height (HAAT) and power (ERP), must be used to determine the minimum separation required between proposed base stations and co-channel public coast stations licensed prior to July 6, 1998 under Part 80 of this chapter. Applicants whose exact ERP or HAAT are not reflected in the table must use the next highest figure shown.

TABLE C.—REQUIRED SEPARATION IN KILOMETERS (MILES) OF BASE STATION FROM PUBLIC COAST STATIONS

Base Station Characteristics					
HAAT	ERP (watts)				
Meters (feet)	400	300	200	100	50
15 (50)	138 (86)	135 (84)	129 (80)	129 (80)	116 (72)
30 (100)	154 (96)	151 (94)	145 (90)	137 (85)	130 (81)
61 (200)	166 (103)	167 (104)	161 (100)	153 (95)	145 (90)
122 (400)	187 (116)	177 (110)	183 (114)	169 (105)	159 (99)

(v) In the event of interference, the Commission may require, without a hearing, licensees of base stations authorized under this section that are located within 241 kilometers (150 miles) of a co-channel public coast, I/ LT, or grandfathered public safety station licensed prior to July 6, 1998, or an international border, to reduce power, decrease antenna height, and/or install directional antennas.

Mobile stations must be operated only within radio range of their associated base station.

(vi) Applicants seeking to be licensed for stations exceeding the power/ antenna height limits of the table in paragraph (g)(5)(iv) of this section must request a waiver of that paragraph and must submit with their application an interference analysis, based upon an appropriate, generally-accepted terrain-based propagation model, that shows that co-channel protected entities, described in paragraph (g)(5)(iii) of this section, would receive the same or greater interference protection than the

relevant criteria outlined in paragraph (g)(5)(iii) of this section.

5. Section 90.35 is amended in paragraph (b)(3) in the table under Megahertz by revising the entries for 159.480 and adding paragraph (c)(82) to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(b) * * *

(3) * * *

INDUSTRY BUSINESS POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
Megahertz			
* * * * *	* * * * *	* * * * *	* * * * *
159,480	do	8, 82	IP
* * * * *	* * * * *	* * * * *	* * * * *

(c) * * *

(82) After December 7, 2000 new stations will only be licensed with an authorized bandwidth not to exceed 11.25 kHz. Licensees authorized prior to December 7, 2000 may continue to use bandwidths wider than 11.25 kHz on a co-primary basis until January 1, 2005. After January 1, 2005, all stations operating with an authorized bandwidth greater than 11.25 kHz will be secondary to adjacent channel public safety interoperability operations. (See § 90.20(c)(3)).

* * * * *

6. Section 90.175 is amended by adding paragraphs (i)15 and (i)16) to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(i) * * *

(15) Applications for a state license under § 90.529.

(16) Applications for narrowband low power channels listed for itinerant use in § 90.531(b)(4).

* * * * *

7. 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. 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.

8. Section 90.203 is amended by adding paragraph (j)(1) to read as follows:

§ 90.203 Certification Required.

* * * * *

(j) * * *

(1) Applications for certification received on or after January 1, 2005, for mobile and portable transmitters designed to transmit voice on public safety frequencies in the 150–174 MHz band will be granted only if the mobile/portable equipment is capable of operating on the nationwide public safety interoperability calling channel in the 150–174 MHz band. (See § 90.20(c),

(d) of this part.) Applications for certification received on or after January 1, 2005, for mobile and portable transmitters designed to transmit voice on public safety frequencies in the 450–470 MHz band will be granted only if the mobile/portable equipment is capable of operating on the nationwide public safety interoperability calling channel in the 450–470 MHz band. (See § 90.20(c), (d) of this part.)

* * * * *

9. Section 90.529 is added to read as follows:

§ 90.529 State License.

(a) Narrowband channels designated as state channels in § 90.531 are licensed to each state (as defined in § 90.7) as follows:

(1) Each state that chooses to take advantage of the spectrum designated as state channels must file an application for up to 2.4 megahertz of this spectrum no later than December 31, 2001. For purposes of this section, the elected chief executive (Governor) of each state, or his or her designee, shall be deemed the person authorized to apply for the State License.

(2) What ever part of this 2.4 megahertz that a state has not applied for by December 31, 2001, will revert to General Use and be administered by the relevant RPC (or RPCs in the instances of states that encompass multiple RPCs).

(b) Each state license will be granted subject to the condition that the state certifies on or before each applicable benchmark date that it is:

(1) providing or prepared to provide “substantial service” to one-third of their population or territory by January 1, 2012, *i.e.*, within five years of the date that incumbent broadcasters are required to relocate to other portions of the spectrum;

(2) providing or prepared to provide “substantial service” to two-thirds of their population or territory by January 1, 2017, *i.e.*, within ten years of the date that incumbent broadcasters are required to relocate to other portions of the spectrum.

(c) The Commission will deem a state “prepared to provide substantial service” if the licensee certifies that a radio system has been approved and funded for implementation by the deadline date. “Substantial service” refers to the construction and operation of 700 MHz facilities by public safety entities providing service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal.

(d) If a state licensee fails to meet any condition of the grant the state license

is modified automatically to the frequencies and geographic areas where the state certifies that it is providing substantial service.

(e) Any recovered state license spectrum will revert to General Use. However, spectrum licensed to a state under a state license remains unavailable for reassignment to other applicants until the Commission's database reflects the parameters of the modified state license.

10. Section 90.531 is amended by revising paragraphs (b)(1) through (b)(3) and (c)(1) through (c)(3) and adding paragraph (b)(4) through (b)(6) to read as follows:

§ 90.531 Band plan.

(b) * * *

* * * * *

(1) *Narrowband interoperability channels.* The following narrowband channels are designated for nationwide interoperability licensing and use: 23, 24, 39, 40, 63, 64, 79, 80, 103, 104, 119, 120, 143, 144, 159, 160, 183, 184, 199, 200, 223, 224, 239, 240, 263, 264, 279, 280, 303, 304, 319, 320, 641, 642, 657, 658, 681, 682, 697, 698, 721, 722, 737, 738, 761, 762, 777, 778, 801, 802, 817, 818, 841, 842, 857, 858, 881, 882, 897, 898, 921, 922, 937, 938, 983, 984, 999, 1000, 1023, 1024, 1039, 1040, 1063, 1064, 1079, 1080, 1103, 1104, 1119, 1120, 1143, 1144, 1159, 1160, 1183, 1184, 1199, 1200, 1223, 1224, 1239, 1240, 1263, 1264, 1279, 1280, 1601, 1602, 1617, 1618, 1641, 1642, 1657, 1658, 1681, 1682, 1697, 1698, 1721, 1722, 1737, 1738, 1761, 1762, 1777, 1778, 1801, 1802, 1817, 1818, 1841, 1842, 1857, 1858, 1881, 1882, 1897, 1898.

(2) *Narrowband reserve channels.* The following narrowband channels are undesignated and reserved pending further Commission action in WT Docket No. 96–86 (*proceeding pending*): 21, 22, 37, 38, 61, 62, 77, 78, 101, 102, 117, 118, 141, 142, 157, 158, 181, 182, 197, 198, 221, 222, 237, 238, 261, 262, 277, 278, 301, 302, 317, 318, 643, 644, 659, 660, 683, 684, 699, 700, 723, 724, 739, 740, 763, 764, 779, 780, 803, 804, 819, 820, 843, 844, 859, 860, 883, 884, 899, 900, 923, 924, 939, 940, 981, 982, 997, 998, 1021, 1022, 1037, 1038, 1061, 1062, 1077, 1078, 1101, 1102, 1117, 1118, 1141, 1142, 1157, 1158, 1181, 1182, 1197, 1198, 1221, 1222, 1237, 1238, 1261, 1262, 1277, 1278, 1603, 1604, 1619, 1620, 1643, 1644, 1659, 1660, 1683, 1684, 1699, 1700, 1723, 1724, 1739, 1740, 1763, 1764, 1779, 1780, 1803, 1804, 1819, 1820, 1843, 1844, 1859, 1860, 1883, 1884, 1899, 1900.

(3) *Narrowband low power channels subject to regional planning.* The following narrowband channels are designated for low power use for on-scene incident response purposes using mobiles and portables subject to Commission-approved regional planning committee regional plans. Transmitter power must not exceed 2 watts (ERP): Channels 1–8 paired with Channels 961–968, and Channels 949–958 paired with Channels 1909–1918.

(4) *Narrowband low power itinerant channels.* The following narrowband channels are designated for low power use for on-scene incident response purposes using mobiles and portables. These channels are licensed nationwide for itinerant operation. Transmitter power must not exceed 2 watts (ERP): Channels 9–12 paired with Channels 969–972 and Channels 959–960 paired with Channels 1919–1920.

(5) *Narrowband state channel.* The following narrowband channels are designated for direct licensing to each state (including U.S. territories, districts, and possessions): 25–36, 65–76, 105–116, 145–156, 185–196, 225–236, 265–276, 305–316, 645–656, 685–696, 725–736, 765–776, 805–816, 845–856, 885–896, 925–936, 985–996, 1025–1036, 1065–1076, 1105–1116, 1145–1156, 1185–1196, 1225–1236, 1265–1276, 1605–1616, 1645–1656, 1685–1696, 1725–1736, 1765–1776, 1805–1816, 1845–1856, 1885–1896.

(6) *Narrowband general use channels.* All narrowband channels established in paragraph (b) of this section, other than those listed in paragraphs (b)(1), (b)(2), (b)(4) and (b)(5) of this section are designated for assignment to public safety eligibles subject to Commission-approved regional planning committee regional plans.

(c) * * *

(1) *Wideband interoperability channels.* The following wideband channels are designated for nationwide interoperability licensing and use: 28–30, 37–39, 46–48, 73–75, 83–84, 91–93, 148–150, 157–159, 166–168, 193–195, 202–204, 211–213.

(2) *Wideband reserve channels.* The following wideband channels are reserved: 1–27, 94–120, 121–147, 214–240.

(3) *Wideband general use channels.* All wideband channels established in paragraph (c), except for those listed in paragraphs (c)(1) and (c)(2) of this section, are designated for assignment to public safety eligibles subject to Commission-approved regional planning committee regional plans.

* * * * *

11. Section 90.535 is amended by revising paragraph (a) to read as follows:

§ 90.535 Modulation and spectrum usage efficiency requirements.

* * * * *

(a) All transmitters in the 764–776 MHz and 794–806 MHz frequency bands must use digital modulation. Mobile and portable transmitters may have analog modulation capability only as a secondary mode in addition to its primary digital mode. Mobile and portable transmitters that only operate on the low power channels designated in §§ 90.531(b)(3), 90.531(b)(4), are exempt from this digital modulation requirement.

* * * * *

12. Section 90.537 is revised to read as follows:

§ 90.537 Trunking requirement.

All systems using six or more narrowband channels in the 764–776 MHz and 794–806 MHz frequency bands must be trunked systems. Nationwide interoperability channels listed in § 90.531(b)(1), and the narrowband low power channels listed in §§ 90.531(b)(3), 90.531(4), are not counted as narrowband channels for the purposes of this trunking requirement.

13. Section 90.541 is amended by adding paragraph (d) to read as follows:

§ 90.541 Transmitting power limits.

* * * * *

(d) Transmitters operating on the narrowband low power channels listed in §§ 90.531(b)(3), 90.531(b)(4), must not exceed 2 watts (ERP).

14. Section 90.543 is amended by adding paragraphs (e) and (f) to read as follows:

§ 90.543 Emission limitations.

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(e) For operations in the 764 to 776 MHz and 794 to 806 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.

(f) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

15. Section 90.547 is revised to read as follows:

§ 90.547 Interoperability channel capability requirement.

Mobile and portable transmitters operating in the 764–776 MHz and 794–806 MHz frequency bands must be capable of operating on all of the designated nationwide narrowband interoperability channels pursuant to standards adopted by the Public Safety National Coordination Committee and approved by the Commission. Mobile and portable transmitters that only operate on the low power channels designated in §§ 90.531(b)(3), 90.531(b)(4), are exempt from this interoperability channel capability requirement.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 991223347-9347; I.D. 102600C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Recreational Fishery Closure

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

ACTION: Fishery closure; request for comments.

SUMMARY: NMFS announces changes to the recreational fishery for lingcod, within the Pacific Coast groundfish fishery. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), is intended to protect lingcod.

DATES: Changes to management measures are effective 0001 hours (local time) November 2, 2000, unless modified, superseded, or rescinded. These changes are effective until the effective date of the 2001 annual specifications and management measures for the Pacific coast groundfish fishery, which will be published in the **Federal Register**. Comments on this rule will be accepted through November 22, 2000.

ADDRESSES: Submit comments to Donna Darm, Acting Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070; or Rebecca Lent, Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.