

Kevin F. Reed, Esq., Christina H. Burrow, Esq., Nam E. Kim, Esq., Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418-7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 06-193; adopted December 20, 2006, and released December 22, 2006. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Connecticut, is amended by removing Channel 244A at Stamford.

3. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Port Charles, Channel 244A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7-185 Filed 1-9-07; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket No. 06-229; WT Docket No. 96-86; FCC 06-181]

Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the FCC seeks comment on proposals that 700 MHz public safety spectrum be allocated for broadband use and that a single, national public safety broadband licensee be assigned this spectrum on a primary basis. Consistent with national priorities focusing on homeland security and broadband, and the Commission's commitment to ensure that emergency first responders have access to reliable and interoperable communications, this *NPRM* will allow the Commission to compile a record in an effort to determine whether there is a need for changes to the current 700 MHz public safety band plan. This *NPRM* seeks to promote effective public safety communications and innovation in wireless services in support of public safety and homeland security.

DATES: Written comments are due on or before February 26, 2007, and reply comments are due on or before March 12, 2007.

ADDRESSES: You may submit comments, identified by PS Docket No. 06-229 and WT Docket No. 96-86, by any of the identified methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- Mail: Follow the instructions for paper filers below.

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

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

FOR FURTHER INFORMATION CONTACT:

Jeffrey S. Cohen, Deputy Division Chief, Policy Division, Public Safety and Homeland Security Bureau, (202) 418-0799, or TTY (202) 418-7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Ninth Notice of Proposed Rulemaking (9th NPRM)*, FCC 06-181, adopted and released on December 20, 2006. In the *9th NPRM*, the FCC seeks comment on its proposal that the 12 MHz of spectrum at 767-773 MHz and 797-803 MHz, currently designated as wideband segments, be allocated for broadband use and that a single, national public safety broadband licensee be assigned this spectrum on a primary basis. Specifically, this *9th NPRM* seeks to expand and build upon the themes raised in the *Eighth Notice of Proposed Rulemaking (Eighth NPRM)*, 71 FR 17786 (April 7, 2006), by proposing a comprehensive plan that may best promote the rapid deployment of a nationwide, interoperable, broadband public safety network, and thereby improve emergency responsiveness. Particularly in light of the nation's current and anticipated public safety and homeland security needs, the FCC proposes a centralized and national approach to maximize public safety access to interoperable, broadband spectrum in the 700 MHz band, and, at the same time, foster and promote the development and deployment of advanced broadband applications, related radio technologies, and a modern, IP-based system architecture.

Procedural Matters

Ex Parte Rules-Permit-But-Disclose Proceeding

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects

discussed. More than a one-or two-sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the FCC's rules as well.

Comment Dates

Pursuant to §§ 1.415 and 1.419 of the FCC's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The FCC's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- **For ECFS filers,** if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- **The Commission's contractor** will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236

Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

- **Commercial overnight mail** (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- **U.S. Postal Service first-class, Express, and Priority mail** must be addressed to 445 12th Street, SW., Washington, DC 20554.

Comments and reply comments and any other filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. The pleadings will be also available for public inspection and copying during regular business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554, and through the Commission's Electronic Filing System (ECFS) accessible on the Commission's Web site, <http://www.fcc.gov/cgb/ecfs>.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Commenters who file information that they believe is should be withheld from public inspection may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. *See* 47 CFR 0.461; 5 U.S.C. 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

Synopsis of the Notice of Proposed Rulemaking

1. In this *NPRM*, we seek comment on a proposal that the Commission (1) allocate 12 MHz of the 700 MHz public safety spectrum from wideband to broadband use; (2) assign this spectrum nationwide to a single national public safety broadband licensee; (3) permit the national public safety broadband licensee also to operate on a secondary basis on all other public safety spectrum in the 700 MHz band; (4) permit the licensee to provide unconditionally preemptible access to commercial service providers; (5) facilitate the shared use of CMRS infrastructure for the efficient provision of public safety broadband service; (6) permit the licensee to charge fees for use of its system; and (7) establish performance requirements for interoperability, build out, preemptibility of commercial access, and system robustness. This *NPRM* seeks to promote effective public safety communications and innovation in wireless services in support of public safety and homeland security.

Paperwork Reduction Act

2. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 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, Pub. L. 107-198, *see* 44 U.S.C. 3506 (c)(4).

Initial Regulatory Flexibility Analysis

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

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

4. This *NPRM* seeks to promote homeland security, and to advance the

Commission's commitment to ensure that emergency first responders have access to reliable, interoperable and broadband communications. To place this *NPRM* in context we briefly review the history of the 700 MHz public safety spectrum. Pursuant to Congressional directive, the Commission reallocated 24 MHz of spectrum in the Upper 700 MHz Band to meet the communications needs of public safety. In many areas of the United States this public safety spectrum is encumbered by incumbent television stations. In January 1999 the Commission chartered a federal advisory committee, the Public Safety National Coordination Committee (NCC), to advise the Commission on service rules for the 700 MHz Public Safety Band, which the Commission had divided into narrowband voice and data channels and wideband data channels, with designated interoperability channels in each of these band segments. In March 2006, the Commission adopted an *Eighth NPRM* in which it sought comment on whether certain channels within the current 24 MHz of public safety spectrum in the 700 MHz public safety band (764–776 MHz and 794–806 MHz) should be modified to accommodate broadband communications, and if so, how. The *Eighth NPRM* sought comment on specific proposals to accommodate broadband, submitted by the National Public Safety Telecommunications Council, Motorola, Inc., and Lucent Technologies, Inc. The Commission also asked commenters to update the record regarding wideband interoperability and the SAM standard. This *NPRM* is another step in the FCC's ongoing efforts to develop a regulatory framework in which to meet current and future public safety communications needs.

5. In this *NPRM*, we seek comment on a proposal that the Commission (1) allocate 12 MHz of the 700 MHz public safety spectrum from wideband to broadband use; (2) assign this spectrum nationwide to a single national public safety broadband licensee; (3) permit the national public safety broadband licensee also to operate on a secondary basis on all other public safety spectrum in the 700 MHz band; (4) permit the licensee to provide unconditionally preemptible access to commercial service providers; (5) facilitate the shared use of CMRS infrastructure for the efficient provision of public safety broadband service; (6) permit the licensee to charge fees for use of its system; and (7) establish performance requirements for interoperability, build out, preemptibility of commercial access, and system robustness. This

NPRM seeks to promote effective public safety communications and innovation in wireless services in support of public safety and homeland security.

6. Consistent with national priorities focusing on homeland security and broadband, and the Commission's commitment to ensure that emergency first responders have access to reliable and interoperable communications, this *NPRM* will allow the Commission to compile a record in an effort to determine whether there is a need for changes to the current 700 MHz public safety band plan. The *NPRM* is intended to explore whether, particularly in light of the nation's current and anticipated public safety and homeland security needs, a centralized and national approach would maximize public safety access to interoperable, broadband spectrum in the 700 MHz band, and, at the same time, foster and promote the development and deployment of advanced broadband applications, related radio technologies, and a modern, IP-based system architecture. At the same time, the *NPRM* also seeks to provide public safety entities with a cost effective and spectrally-efficient communications system.

2. Legal Basis

7. The authority for the action proposed in this rulemaking is contained in sections 1, 2, 4(i), 5(c), 7, 10, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 160, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403.

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

8. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, 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: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

9. *Governmental Entities.* The term "small governmental jurisdiction" is

defined as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." As of 2002, there were approximately 87,525 governmental jurisdictions in the United States. This number includes 38,967 county governments, municipalities, and townships, of which 37,373 (approximately 95.9%) have populations of fewer than 50,000, and of which 1,594 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 85,931 or fewer.

10. *Public Safety Radio Licensees.* As a general matter, public safety radio licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for cellular and other wireless telecommunications companies which encompass business entities engaged in wireless communications employing no more than 1,500 persons. According to Census Bureau data for 2002, in this category there was a total of 8,863 firms that operated for the entire year. Of this total, 401 firms had 100 or more employees, and the remainder had fewer than 100 employees. With respect to local governments, in particular, since many governmental entities as well as private businesses comprise the licensees for these services, we include under public safety services the number of government entities affected.

11. *Wireless Communications Equipment Manufacturers.* The SBA has established a small business size standard for radio and television broadcasting and wireless communications equipment manufacturing. Under the standard, firms are considered small if they have 1000 or fewer employees. Census Bureau data for 1997 indicates that, for that year, there were a total of 1,215 establishments in this category. Of those, there were 1,150 that had employment under 500, and an additional 37 that had employment of 500 to 999. The Commission estimates that the majority of wireless communications equipment manufacturers are small businesses.

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

12. This *NPRM* seeks comment on possible revisions to the 700 MHz public safety band that may modify reporting, recordkeeping and other compliance requirements. The Commission requests comment on proposals to apply its Secondary

Markets leasing regime to a national public safety licensee. Application of secondary markets leasing to the 700 MHz public safety band would require a modification of current reporting and recordkeeping requirements.

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

13. 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): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

14. Generally, the Commission's primary objective in issuing the *NPRM* is to maximize public safety access to interoperable, broadband spectrum in the 700 MHz band and, at the same time, foster and promote the development and deployment of advanced broadband applications, related radio technologies, and a modern, IP-based system architecture. To assist the Commission in its analysis, commenters are requested to provide information regarding which public safety entities and manufacturers would be affected by the proposed changes to the 700 MHz public safety band plan as described in this *NPRM*. In particular, we seek estimates of how many small entities might be affected and whether any of the proposals under consideration would be too burdensome to public safety.

15. In the *NPRM*, we seek data demonstrating the costs and benefits of modifying the 700 MHz band to accommodate a nationwide, broadband, interoperable public safety communications network. Pursuant to the proposed plan, a single nationwide public safety licensee would be selected to hold a single nationwide license for 12 MHz of public safety spectrum. The national licensee then would make this spectrum available for broadband, interoperable public safety operations, as well as in the 700 MHz narrowband spectrum on a secondary basis. Furthermore, the national licensee would be able to lease excess capacity in these bands to commercial entities on an unconditionally preemptible basis. The *NPRM* asks commenters to identify

the criteria for selection of a national public safety licensee, how the national licensee can best implement a broadband, interoperable network, the amount of discretion the national licensee should be afforded in designing the best system architecture, how to ensure nationwide build-out, and the appropriate degree of network resiliency and disaster restoration capabilities for this public safety network. The *NPRM* also explores funding options, including the imposition of usage fees charged to public safety users as well as commercial users. Accordingly, we seek comment on the costs and benefits of modifying the existing rules to accommodate deployment of a broadband, interoperable public safety network as proposed.

16. With regard to alternatives, we do not anticipate that any of the proposals under consideration in this *NPRM* would impose any additional economic burdens on public safety entities. We believe our proposals will provide a resource for public safety to utilize a more cost-effective and spectrally efficient communications system to address their homeland security and emergency response needs. Indeed, one of the major objectives underlying this proposal is to minimize economic burdens on public safety entities. Because we do not anticipate that our proposal will impose additional economic burdens on public safety, and is in fact designed to reduce economic burdens on public safety, we see no reason to propose alternatives to accomplish our objectives. However, we remain open to discussing alternatives to reaching our objectives should an alternative be stated in comments for the specific purpose of minimizing the impact on public safety entities. Accordingly, we seek comment on alternatives including any that may further minimize the impact on public safety entities.

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

17. None.

Ordering Clauses

18. Accordingly, *it is ordered* that pursuant to sections 1, 2, 4(i), 5(c), 7, 10, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157, 160, 201, 202, 208, 301, 302, 303, 307, 308, 309, 310, 314, 316, 319, 324, 332, 333, 337 and 403, the Ninth Notice of Proposed Rulemaking is hereby *adopted*.

19. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *NPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. E7-171 Filed 1-9-07; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 172 and 174

[Docket No. RSPA-04-18730 (HM-232E)]

RIN 2137-AE02

Hazardous Materials: Enhancing Rail Transportation Safety and Security for Hazardous Materials Shipments

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: On December 21, 2006 the Pipeline and Hazardous Materials Safety Administration, in consultation with the Federal Railroad Administration and the Transportation Security Administration, published a notice of proposed rulemaking proposing to revise the current requirements in the Hazardous Materials Regulations applicable to the safe and secure transportation of hazardous materials transported in commerce by rail. Specifically, we are proposing to require rail carriers to compile annual data on specified shipments of hazardous materials, use the data to analyze safety and security risks along rail transportation routes where those materials are transported, assess alternative routing options, and make routing decisions based on those assessments. We are also proposing clarifications of the current security plan requirements to address en route storage, delays in transit, delivery notification, and additional security inspection requirements for hazardous materials shipments. PHMSA will hold two public meetings, on February 1, 2007, in Washington, DC, and February 9, 2007, in Dallas, Texas, to obtain stakeholder comments on the proposed rail security requirements. Information on the dates and locations of the public meetings is provided in this notice.