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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 California, is amended by adding Amboy, Channel 284A.

Federal Communications Commission.

John A. Karousos,
Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010-8449 Filed 4-13-10; 8:45 am]

BILLING CODE 6712-01-S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10-489; MB Docket No. 10-65; RM-11595]

FM TABLE OF ALLOTMENTS, Jewett, Texas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division seeks comments on a petition filed by Charles Crawford, proposing the allotment of FM Channel 232A at Jewett, Texas, as a first local service. The reference coordinates for Channel 232A at Jewett are 31-18-56 NL and 96-03-32 WL.

DATES: Comments must be filed on or before May 17, 2010, and reply comments on or before June 1, 2010.

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

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of

Proposed Rule Making, MB Docket No. 10-65, adopted March 24, 2010, and released March 26, 2010. 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 website, <http://www.bcpiweb.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).

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 Section 1.1204(b) for rules governing permissible ex parte contact. For information regarding proper filing procedures for comments, see 47 CFR 1.4125 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 Texas, is amended by adding Jewett, Channe 232A.

Federal Communications Commission.

John A. Karousos,
Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010-8450 Filed 4-13-10; 8:45 am]

BILLING CODE 6712-01-S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WP Docket No. 07-100, FCC 10-36]

Wireless Technologies, Devices, and Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks additional comments in the ongoing proceeding to propose miscellaneous changes to its rules that govern new and existing wireless technologies, devices, and services. Specifically, the Commission seeks comment regarding particular changes to its rules that were suggested in response to a previous decision in this proceeding, or resulting issues that arose subsequently. This proceeding is part of our continuing effort to provide clear and concise rules that facilitate new wireless technologies, devices and services, and are easy for the public to understand.

DATES: Submit comments on or before May 14, 2010, and reply comments are due on or before June 1, 2010.

ADDRESSES: You may submit comments, identified by WP Docket No. 07-100; FCC 10-36, by any of the following methods:

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

- *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: Rodney P. Conway, at Rodney.Conway@FCC.gov, Wireless

Telecommunications Bureau, (202) 418-2904, or TTY (202) 418-7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rulemaking* ("Second FNPRM") in WP Docket No. 07-100, FCC 10-36, adopted on March 3, 2010, and released March 10, 2010. The Commission seeks comment regarding particular changes to its rules where we solicited comment on other potential rule changes to a *Notice* published at 72 FR 32582, June 13, 2007, in this proceeding, that were suggested in response to, or arose subsequently. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov. Alternative formats are available to persons with disabilities by sending an e-mail to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

1. Part 90 contains the rules for both the Private Land Mobile Radio (PLMR) Services and certain Commercial Mobile Radio Services (CMRS). PLMR licensees generally do not provide for-profit communications services. Some examples of PLMR licensees are public safety agencies, businesses that use radio only for their internal operations, utilities, transportation entities, and medical service providers. CMRS licensees, by comparison, do provide for-profit communications services, such as paging and Specialized Mobile Radio services that offer customers communications that are interconnected to the public switched network.

2. *WMTS Secondary Operations.* WMTS service rules do not currently authorize WMTS systems to operate on a secondary basis on those portions of the 1427-1432 MHz shared band where non-medical telemetry is primary, and commenters disagree regarding whether the rules should be amended to permit such operations. The current record, however, does not provide an adequate basis for us to adopt appropriate technical requirements. We therefore seek further comment on whether secondary WMTS operations should be permitted. Specifically, we seek comment on what particular technical rules would be needed to prevent unwanted interference and ensure patient safety. We also seek comment on

whether WMTS equipment manufacturers or vendors should be required to notify users that installed equipment will operate on a secondary basis to non-medical telemetry. Commenters also are asked to address whether certain functions (e.g., monitoring of specific types of patients or specific medical information) are so critical to patient safety that they should be conducted only on frequencies where WMTS has primary status. In addition, we seek comment on whether there is sufficient primary spectrum in the three WMTS frequency bands to meet users' communications needs without resorting to secondary operations.

3. *End of Train Devices.* Section 90.238(e) of the Commission's rules limits telemetry operations in the 450-470 MHz band to two watts transmitter output power. Association of American Railroads (AAR) is concerned that the two-watt limit offers little margin for degradation of the communications link, especially on longer trains (some of which are 7,000 to 8,000 feet long). In order to minimize the possibility of communications link failure for EOT devices, AAR requests that the Commission's rules be amended to allow EOT devices to operate with up to eight watts transmitter output power. AAR, which is the Commission's certified frequency coordinator for frequency pair 452/457.9375 MHz and the adjacent frequencies, argues that the potential for causing interference to railroad operations is minimal. We tentatively conclude that the Commission's rules should be modified to accommodate the operational needs of EOT devices, and we seek comment on this proposal. We also seek comment on whether a 6 dB increase in power is necessary, or whether EOT devices can operate properly with a smaller increase.

4. *Trunking Rules.* Since its adoption in 1997, § 90.187 has been the subject of several decisions clarifying or interpreting it. We tentatively agree with Land Mobile Communications Council (LMCC) that we should revise the rule, and related definitions in § 90.7 of the Commission's rules, to make the rule clearer. For example, we propose to clarify that § 90.187 neither requires applicants for decentralized trunked systems to obtain consent from affected licensees, nor permits decentralized trunked systems to operate without monitoring. We also tentatively agree with LMCC that the rule currently contains unnecessary provisions that should be removed. For example, § 90.187(b)(2)(v) provides that a potential applicant that disagrees with a frequency coordinator's determination

that the proposed operations would cause objectionable interference may ask the Commission to overturn the coordinator's determination, but § 90.175(a) already offers the same opportunity. Whether an incumbent is an "affected licensee" also depends on spectral separation. LMCC seeks to expand the definition of "affected licensee" in the context of proposed 12.5 kilohertz and 6.25 kilohertz bandwidth stations, depending on the authorized bandwidth of the incumbent station. It argues that these changes are necessary in order to avoid interference to licensees that migrate from 25 kilohertz bandwidth to 12.5 kilohertz or narrower bandwidth pursuant to the Commission's narrowbanding mandate. LMCC also suggests that these spectral separations be expressed in table form, rather than the current text descriptions. We seek comment on these proposals. Section 90.187 does not discuss how to account for systems that have no permanent base stations. LMCC now suggests that the rule be revised to treat mobile-only stations as follows: for systems where the authorized operating area is defined as a radius around geographic coordinates, contour calculations should be based on a mobile unit operating at the geographic coordinates; while systems where the license does not specify geographic coordinates for the authorized operating area (e.g., licenses authorizing operation within a particular county or state) would not be deemed "affected licensees." We are not persuaded that LMCC's recommendations represent the optimal solution because placing the mobile units at the center coordinates tends to understate the system's potential to cause or receive interference. In addition, we see no basis for affording differing levels of protection depending on whether the mobile-only operating area is defined by a point-radius or a geographic unit. Consequently, while we seek comment on LMCC's proposals, we also ask commenters to address whether other feasible methods might more accurately approximate a mobile-only system's contours, such as using the boundary of the authorized operating area as the service contour and a specified distance therefrom as the interference contour. Finally, LMCC appears to suggest removing current § 90.187(d), which permits potential applicants for centralized trunked operations to file written notice with a frequency coordinator, which will notify the other frequency coordinators, none of whom may accept a conflicting application for sixty days. The Commission added this

provision in 1999 in order to prevent “strike” applications against prospective applicants that have begun the process of seeking consent from existing stations. We note that § 1.935 of the Commission’s rules already prohibits the filing of mutually exclusive applications for the purpose of “greenmail.” We seek comment on this proposal.

5. *470–512 MHz Band Offset Channels.* In 1997, the Commission directed the certified frequency coordinators for the private land mobile radio services to reach a consensus on the applicable coordination procedures for the 12.5 kHz offset channels in the 470–512 MHz band. That consensus is embodied in the LMCC procedures for evaluating adjacent channel interference in the 470–512 MHz band using the interference criteria of TIA/EIA/TSB–88 (TSB–88). The LMCC Consensus provides that an application shall not be certified if an incumbent or the applicant has unacceptable interference of more than five percent reduction of the calculated service area reliability. LMCC appears to suggest codifying this requirement in our rules. We believe that codifying the TSB–88 requirement could reduce confusion concerning the requirement, so we seek comment on this proposal. We also ask commenters to consider whether it is preferable to leave the requirement uncodified, so that the frequency coordinators can continue to modify the TSB–88 procedures without an amendment of the Commission’s rules.

6. *Station Identification.* Motorola urges the Commission to consider certain updates and changes to § 90.425 of the rules governing the transmission of station identification information. It first notes that the Commission’s rules permit 800 and 900 MHz stations that are licensed on an exclusive basis and normally employ digital emissions to transmit station identification in digital format, and that similar rules are under consideration for the 700 MHz public safety band, but that the rules do not provide the same flexibility for VHF or UHF PLMR licensees. Motorola suggests modifying § 90.425 of the Commission’s rules to allow the transmission of the required station identification using digital signals instead of Morse code. Motorola also notes that § 90.425(e)(2) allows CMRS licensees to use a single call sign for commonly owned facilities that are operated as part of a single system, and requests that we afford similarly situated PLMR licensees the same flexibility. We seek comment on Motorola’s proposals.

I. Procedural Matters

A. Ex Parte Rules—Permit-But-Disclose Proceeding

7. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission’s rules.

B. Comment Dates

8. Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before May 14, 2010 and reply comments on or before June 1, 2010. All filings related to this *Second FNPRM* should refer to WP Docket No. 07–100.

9. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

10. *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.

11. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

12. All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours 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.

13. 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.

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

15. *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).

C. Paperwork Reduction Act

16. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

II. Initial Regulatory Flexibility Analysis

17. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Second FNPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second FNPRM* as provided in paragraph 49 of the item. The Commission will send a copy of the *Second FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the U.S. Small Business Administration. In addition, a copy of the *Second FNPRM* and IRFA (or summaries thereof) will also be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules:

18. This proceeding is part of our continuing effort to provide clear rules that are easy for licensees to comprehend. The *Second FNPRM* seeks comment regarding changes to certain regulatory requirements contained in part 90 of the Commission’s rules pertaining to telemetry operations by railroad licensees, and trunking of private land mobile radio operations below 512 MHz.

Legal Basis for Proposed Rules:

19. Authority for issuance of this item is contained in sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 403.

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

20. 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: (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. *See 5 U.S.C. 601(3)*. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules changes proposed in this *Second FNPRM*.

21. Private Land Mobile Radio Licensees. Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the Commission has not developed a small business size standard specifically applicable to PLMR users. The SBA rules do, however, contain a size standard for small radiotelephone (wireless) companies which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. *See 13 CFR 121.201, NAICS code 517212*. The SBA rules contain a definition for cellular and other wireless telecommunications companies, which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. The Commission's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz. *See Federal Communications Commission, 60th Annual Report, Fiscal Year 1994 at 120-121*.

22. Frequency Coordinators. Neither the Commission nor the SBA has developed a small business size standard specifically applicable to spectrum frequency coordinators. The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of "Paging" and "Cellular and Other Wireless Telecommunications." *See 13 CFR 121.201, NAICS code 517212*. Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. *See 13 CFR 121.201, NAICS code 517211*. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and

associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. *See 13 CFR 121.201, NAICS code 517212*. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

23. RF Equipment Manufacturers. The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." *See 13 CFR 121.201, NAICS code 334220*. The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. *See U.S. Census Bureau, American FactFinder, 2002 Economic Census, Industry Series, Industry Statistics by Employment Size, NAICS code 334220 (released May 26, 2005)*. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

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

24. There are no projected reporting, recordkeeping or other compliance requirements.

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

25. 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: (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. *See 5 U.S.C. 603(c)*.

26. We believe the changes proposed in this *Second FNPRM* will promote flexibility and more efficient use of the spectrum, reduce administrative burdens, and allow licensees to better meet their communication needs. In this *Second FNPRM*, we seek comment on the proposals to modify the rules. Many of the proposed changes constitute clarification of existing requirements or elimination of existing limitations. Among other proposals, we seek comment on whether our trunking regulations should be refined for ease of understanding and to reduce the administrative and licensee regulatory burden. We also are considering the alternative of retaining the existing trunking regulations. The *Second FNPRM* also seeks comment on the feasibility of increasing the allowed power for end of train devices to provide a more robust communications link from the back of long trains.

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

27. None.

III. Ordering Clauses

28. Pursuant to §§ 4(i), 303(r), and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 303(r), and 403, that this *Second FNPRM* is hereby adopted.

29. Notice is hereby given of the proposed regulatory changes described in this *Second FNPRM* and comment is sought on these proposals.

30. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Second FNPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Proposed Rules

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended 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), and 332(c)(7).

2. Section 90.7 is amended by adding definitions for “centralized trunked system” and “decentralized trunked system” in alphabetical order and by revising the definition of “trunked radio system” to read as follows:

§ 90.7 Definitions.

* * * * *

Centralized trunked system. A system in which there is dynamic assignment of communications paths by automatically searching all communications paths in the system for and assigning to a user an open communications path within that system. Individual communications paths within a trunked system may be classified as centralized or decentralized in accordance with the requirements of § 90.187.

* * * * *

Decentralized trunked system. A system which monitors the communications paths within its assigned channels for activity within

and outside of the trunked system and transmits only when an available communications path is found. Individual communications paths within trunked system may be classified as centralized or decentralized in accordance with the requirements of § 90.187.

* * * * *

Trunked radio system. A radio system employing technology that provides the availability to search two or more available communications paths and automatically assign a user an open communications path.

* * * * *

3. Section 90.187 is revised to read as follows:

§ 90.187 Trunking in the bands between 150 and 512 MHz.

(a) Applicants for centralized and decentralized trunked systems operating on frequencies between 150 and 512 MHz (except 220–222 MHz) must indicate on their applications (radio service and class of station code, instructions for FCC Form 601) that their system will be trunked. Licensees of stations that are not trunked may trunk their systems only after modifying their license (*see* § 1.927 of this chapter).

(b) Trunked systems operating under this section must employ equipment that prevents transmission on a trunked frequency if a signal from another system is present on that frequency. The level of monitoring must be sufficient to avoid harmful interference to other systems.

(c) The monitoring requirement in paragraph (b) of this section does not apply to centralized trunked systems operating in the 470–512 MHz band that meet the loading requirements of § 90.313 of this part and have exclusive use of their frequencies in their service area.

(d) The monitoring requirement in paragraph (b) of this section does not apply to centralized trunked systems if the application is accompanied by written consent from all affected licensees.

(1) Affected licensees for the purposes of this section are licensees (and previously filed pending applicants) meeting both of these criteria:

(i) Spectral overlap. Licensees (and filers of previously filed pending applications) with an assigned (or proposed) frequency having a spectral separation from a frequency of the proposed centralized trunked station that does not exceed these values:

Proposed station	Incumbent authorized bandwidth		
	20 kHz	11.25 kHz	6 kHz
25 kHz	15.0 kHz	15.0 kHz	15.0 kHz.
12.5 kHz	15.0 kHz	7.5 kHz	7.5 kHz.
6.25 kHz	15.0 kHz	7.5 kHz	3.125 kHz.

Note: The left column is the authorized bandwidth requested for the proposed trunked station. The second row is the authorized bandwidth of the incumbent. The other cells in the table show the frequency range above and below the frequency of the proposed centralized trunked station that must be considered.

(ii) Contour overlap. (A) Licensees (and filers of previously filed pending applications) with a service contour (37 dBu for stations in the 150–174 MHz band, and 39 dBu for stations in the 421–512 MHz band) that is overlapped by the proposed centralized trunked station’s interference contour (19 dBu for stations in the 150–174 MHz band, and 21 dBu for stations in the 421–512 MHz band), or with an interference contour that is overlapped by the proposed centralized trunked station’s service contour.

(B) The calculation of service and interference contours shall be performed using generally accepted engineering practices and standards, including

appropriate derating factors, agreed to by a consensus of all certified frequency coordinators. Frequency coordinators shall make this information available to the Commission upon request.

(1) Licensees (and filers of previously filed pending applicants) with no permanent base station may be deemed to be affected licensees for the purposes of this section only if center geographic coordinates are specified for the authorized operating area. In such a case, the contours set forth in paragraph (d)(1)(ii)(A) of this section shall be calculated with respect to a station located at the center coordinates.

(2) After January 1, 2013, licensees with an authorized bandwidth exceeding 12.5 kHz will not be deemed affected licensees, unless the licensee meets the efficiency standard set forth in § 90.203(j)(3).

(3) The written consent from an affected licensee shall state all terms agreed to by the parties and shall be

signed by the parties. The written consent shall be maintained by the operator of the centralized trunked station and be made available to the Commission upon request. An application for a centralized trunked station shall include either a certification from the applicant that written consent has been obtained from all affected licensees, or a certification from the frequency coordinator that there are no affected licensees.

(4) The exclusive service area of a station that has been authorized for centralized trunked operation will be protected from proposed centralized trunked, decentralized trunked or conventional operations in accordance with the standards of paragraphs (d)(1)(i)(A) and (d)(1)(ii) of this section.

(2) [Reserved]

(e) Trunking of systems licensed on paging-only channels or licensed in the Radiolocation Service (subpart F of this part) is not permitted.

(f) No more than 10 channels for new centralized trunked operation in the Industrial/Business Pool may be applied for at a single transmitter location or at locations with overlapping service contours as specified in paragraph (d)(1)(ii)(A) of this section. Subsequent applications for centralized trunked operation are limited to no more than an additional 10 channels, and must be accompanied by a certification, submitted to the certified frequency coordinator coordinating the application, that all of the applicant's existing channels authorized for centralized trunked operation at that location or at locations with overlapping service contours have been constructed and placed in operation. Certified frequency coordinators are authorized to require documentation in support of the applicant's certification that existing channels have been constructed and placed in operation. Applicants for Public Safety Pool channels may request more than 10 centralized trunked channels at a single location or at locations with overlapping service contours if accompanied by a showing of sufficient need. The requirement for such a showing may be satisfied by submission of loading studies demonstrating that requested channels in excess of 10 will be loaded with 50 mobiles per channel within a five year period commencing with the grant of the application.

(g) If a licensee authorized for centralized trunked operation discontinues trunked operation for a period of 30 consecutive days, the licensee, within 7 days thereafter, shall file a conforming application for modification of license with the Commission.

4. Section 90.238 is amended by revising paragraph (e) to read as follows:

§ 90.238 Telemetry operations.

* * * * *

(e) In the 450–470 MHz band, telemetry operations will be authorized on a secondary basis with a transmitter output power not to exceed 2 watts on frequencies subject to § 90.20(d)(27) or § 90.35(c)(30), except that telemetry operations used by Railroad licensees may be authorized on frequency pair 452/457.9375 MHz with a transmitter output power not to exceed 8 watts.

* * * * *

5. Section 90.303 is amended by adding paragraph (d) to read as follows:

§ 90.303 Availability of frequencies.

* * * * *

(d) Applications for stations in the 470–512 MHz band operating on assigned frequencies allotted for

bandwidths of 12.5 kHz or less must demonstrate that the proposed operations will neither cause more than five percent degradation to adjacent-channel licensees (and filers of previously filed pending applications) nor incur more than five percent degradation from adjacent-channel licensees (and filers of previously filed pending applications), using the interference criteria of Telecommunications Industry Association/Electronics Industry Association Telecommunications Systems Bulletin 88 (TIA/EIA/TSB-88), Wireline Communications System—Performance in Noise and Interference-Limited Situations—Recommended Methods for Technology-Independent Modeling, Simulation, and Verification (January 1998). For purposes of this paragraph, adjacent-channel licensees (and filers of previously filed pending applications) are stations with an authorized bandwidth of 20 kHz and an assigned frequency separated by 12.5 kHz or less from the proposed station, and stations with an authorized bandwidth of 11.25 kHz and an assigned frequency separated by 6.25 kHz or less from the assigned frequency of the proposed station.

6. Section 90.425 is amended by removing paragraph (e)(2), redesignating paragraph (e)(3) as (e)(2), and adding paragraphs (f) and (g) to read as follows:

§ 90.425 Station identification.

* * * * *

(f) Stations subject to a station identification requirement will be permitted to use a single call sign for commonly owned facilities that are operated as part of a single system. The call sign must be transmitted each hour within five minutes of the hour, or upon completion of the first transmission after the hour.

(g) Stations licensed in the 150–170 MHz and 450–470 MHz bands that are licensed on an exclusive basis, and normally employ digital signals for the transmission of data, text, control codes, or digitized voice, may also be identified by digital transmission of the call sign. A licensee that identifies its call sign in this manner must provide the Commission, upon request, information sufficient to decode the digital transmission and ascertain the call sign transmitted.

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Part 31

[FAR Case 2009–006; Docket 2010–0084, Sequence 1]

RIN 9000–AL39

**Federal Acquisition Regulation; FAR
Case 2009–006, Labor Relations Costs**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) propose to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 13494, Economy in Government Contracting, issued on January 30, 2009, and amended on October 30, 2009. This order treats as unallowable the costs of any activities undertaken to persuade employees, whether employees of the recipient of Federal disbursements or of any other entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employee's own choosing.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before June 14, 2010 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2009–006 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “FAR Case 2009–006” under the heading “Enter Keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “FAR Case 2009–006.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2009–006” on your attached document.

- *Fax:* 202–501–4067.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, ATTN: Hada Flowers, Washington, DC 20405.