

technologies, new stand-alone CMRS providers are permitted to exclude up to 15 percent of the counties or PSAP areas they serve due to heavy forestation that limits handset-based technology accuracy in those counties or areas but are required to file an initial list of the specific counties or portions of counties where they are utilizing their respective exclusions.

A. Updated Exclusion Reports. Under this information collection and pursuant to current rule section 9.10(h) new stand-alone CMRS providers and existing CMRS providers that have filed initial exclusion reports are required to file reports informing the Commission of any changes to their exclusion lists within thirty days of discovering such changes. The permitted exclusions properly but narrowly account for the known technical limitations of either the handset-based or network-based location accuracy technologies chosen by a CMRS provider, while ensuring that the public safety community and the public at large are sufficiently informed of these limitations.

B. Confidence and Uncertainty Data. Under this information collection and pursuant to current rule section 9.10(h), all CMRS providers and other entities responsible for transporting confidence and uncertainty data between the wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency service providers (collectively, System Service Providers (SSPs)) must continue to provide confidence and uncertainty data of wireless 911 calls to Public Safety Answering Points (PSAP) on a per call basis upon a PSAP's request. New stand-alone wireless carriers also incur this obligation. The transport of the confidence and uncertainty data is needed to ensure the delivery of accurate location information with E911 service.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024-07426 Filed 4-8-24; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1113; FR ID 212430]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before June 10, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060-1113.

Title: Election Whether to Participate in the Wireless Emergency Alerts.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 1,253 respondents; 5,176 responses.

Estimated Time per Response: 0.50-12 hours.

Frequency of Response: On occasion and semi-annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection is contained in 47 U.S.C. 151, 152, 154, 301, 303, 307, 309, 403, and 606, of the Communications Act of 1934, as amended, and 1201, 1203, 1204, and 1206 of the Warning Alert and Response Network Acts.

Total Annual Burden: 106,943 hours.

Total Annual Cost: \$ 7,050,800.

Needs and Uses: This modification to an existing collection will require all CMS providers to file their election regarding participation in the WEA system by submitting the information to an FCC-created and maintained WEA database that will be accessible to the FCC, FEMA, alerting authorities and the public. This will refresh CMS provider WEA-elections that were last required over a decade ago and provide a single source of information on WEA availability. The modifications proposed herein will also provide WEA messages to be made available by Participating CMS providers in English and the 13 most commonly spoken languages in the U.S., as well as American Sign Language. This will make these alerts available for the first time to the millions of Americans who are not native English speakers and to our hearing impaired population.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024-07427 Filed 4-8-24; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[ET Docket No. 19-138; FR ID 212490]

Use of the 5.850-5.925 Band

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (Commission) rejects a Petition for Reconsideration and a Petition for Partial Reconsideration of the *First Report and Order* filed by the Alliance for Automotive Innovation (Auto Innovators) and the 5G Automotive Association (5GAA), respectively. In the *First Report and Order*, the Commission repurposed the 5.850-5.895 GHz portion of the 5.850-5.925 GHz (5.9 GHz) band (lower 45 megahertz) from intelligent transportation system (ITS)

use to provide more flexible unlicensed use, while continuing to dedicate the 5.895–5.925 GHz portion of the 5.9 GHz band (upper 30 megahertz) for vital ITS applications. It also adopted technical and operating rules to minimize the potential for unlicensed operations in the lower 45 megahertz to cause harmful interference to incumbent 5.9 GHz band services—including federal incumbents and ITS operations. Auto Innovators, through its petition, sought reconsideration of the Commission's decision to redesignate the lower 45 megahertz for unlicensed use. 5GAA, through its petition, sought reconsideration of the unlicensed device out-of-band emissions (OOBE) limits into the upper 30 megahertz retained for ITS operations. For the reasons discussed below, the Commission denied the petitions and affirmed the Commission's decision to repurpose spectrum previously designated for ITS services to provide more flexibility for unlicensed device uses to help meet the burgeoning demand for wireless broadband in the United States.

FOR FURTHER INFORMATION CONTACT: Howard Griboff, Office of Engineering and Technology, (202) 418–0657 or Howard.Griboff@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration—Use of the 5.850–5.925 GHz Band, ET Docket No. 19–138; FCC 24–32, adopted March 15, 2024, and released March 18, 2024. The full text of this document is available at: <https://www.fcc.gov/document/fcc-affirms-repurposing-59-ghz-band-between-wi-fi-and-auto-safety>. The full text of this document is also available for public inspection and copying during regular business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to FCC504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Procedural Matters

Regulatory Flexibility Act Analysis. In this present Order on Reconsideration, the Commission promulgates no additional final rules. Our present action is, therefore, not an RFA matter.

Paperwork Reduction Act. This Order on Reconsideration does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Thus, 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).

Congressional Review Act. The Commission will not send a copy of this Order on Reconsideration to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because no rule was adopted or amended.

Synopsis

Background

In 1999, in consultation with the Department of Transportation (DOT), the Commission designated 75 megahertz of spectrum in the 5.9 GHz band for Dedicated Short Range Communications (DSRC) systems in the ITS radio service, setting forth the rules and protocols for the radio systems designed to enable transportation and vehicle safety-related communications. A subsequent order in 2003 established licensing and service rules for DSRC operations. Under the adopted service rules, DSRC licensees shared the 5.9 GHz band with several other services, including amateur radio service and fixed-satellite service (for uplinks) as well as with federal radiolocation service (radar) systems. When the Commission designated the 5.9 GHz band for ITS, it was expected that the band would support widespread deployment of systems that would improve efficiency and promote safety within the nation's transportation infrastructure. However, in the time since the Commission designated the 5.9 GHz band for ITS service, DSRC deployment was minimal. Many automotive safety functions originally contemplated for the 5.9 GHz band over 20 years ago—such as alerting drivers to vehicles or other objects, lane-merging alerts, and emergency braking—are being met in other spectrum bands (e.g., 76–81 GHz) or by other technologies like radar, light detection and ranging (LiDAR), cameras, and other sensors.

Given the technological shift for delivering automotive safety functions and the public interest benefits that would be gained by repurposing spectrum lying fallow, the Commission adopted the *First Report and Order*, wherein it removed the lower 45 megahertz from ITS use and adopted rules expanding unlicensed national information infrastructure (U-NII) operations such as Wi-Fi into that spectrum. The Commission made this

decision partially because the DSRC services once contemplated for the 5.9 GHz band had not come to fruition in the 20 years since it allocated the spectrum for the ITS service. It concluded that rather than reserving the entire 75 megahertz of the 5.9 GHz band for vehicle-safety features that can be or are already being provided using other spectrum bands or alternative technology, 30 megahertz would be sufficient for ITS licensees to effectively use the spectrum for vehicle safety-related applications. The Commission found unconvincing claims about future plans for advanced DSRC-based ITS services and indicated that the future ITS services were too uncertain or remote to justify retaining the full 75 megahertz of the 5.9 GHz for ITS. Accordingly, the Commission concluded that reserving the entire 5.9 GHz band for possible additional ITS services would not be the most efficient or effective use of that band, nor in the public interest to continue to do so.

The Commission determined that its action modifying all existing ITS authorizations to transition such operations to only the upper 30 megahertz was well within the Commission's statutory authority under 47 U.S.C. 316, section 316 of the Communications Act of 1934, as amended, consistent with prior Commission practice, and furthers the promotion of the public interest, convenience, and necessity. The Commission found that this modification was manifestly in the public interest because it would make room for additional valuable unlicensed use in the lower 45 megahertz of the band, while allowing existing ITS operations sufficient spectrum to continue to provide substantially the same basic vehicular safety services. The Commission also found that its decision to repurpose the lower 45 megahertz to provide more flexible unlicensed use was not in conflict with any role assigned to it by Congress.

In making the lower 45 megahertz available for more flexible unlicensed use, the Commission found that, when added to U-NII spectrum in the adjacent 5.725–5.850 GHz (denoted as U-NII-3) band, the 45 megahertz of spectrum from the 5.850–5.895 GHz (denoted as U-NII-4) band would provide for increased high-throughput broadband applications in spectrum that is a core component of today's unlicensed ecosystem, thereby providing the American public with the most efficient and effective use of this valuable mid band spectrum. At the same time, the Commission recognized the importance of maintaining some spectrum to

support ITS applications, even though DSRC had sparsely been deployed and failed to become ubiquitously used for the broad range of traffic safety applications that were originally anticipated in the 5.9 GHz band. The Commission designated the upper 30 megahertz to improve automotive safety through ITS applications, and required that, within one year of the effective date of the First Report and Order, ITS licensees must cease operations on channels in the lower 45 megahertz and move to channels in the upper 30 megahertz. To help enhance the roll-out of ITS services and promote the most efficient and effective use of this ITS spectrum, the Commission updated the associated service rules for vehicular communications in the upper 30 megahertz to transition from the original DSRC protocol adopted in 1999 to a wireless technology-based protocol known as Cellular Vehicle-To-Everything (C-V2X), at the end of a transition period to be determined through the record generated by the FNPRM in this proceeding.

To protect incumbent 5.9 GHz band services, including federal incumbents and ITS operations, from potential harmful interference by unlicensed operations, the Commission imposed stringent power limits and operating requirements on unlicensed devices (*i.e.*, access points, subordinate devices, and client devices) operating in the lower 45 megahertz, restricting unlicensed use of the lower 45 megahertz to indoor locations. In addition, to protect the ITS operations during and after their transition to the upper 30 megahertz, the Commission set OOB limits allowed in the upper 30 megahertz for indoor unlicensed operations in the lower 45 megahertz based on, but not identical to, the previously-affirmed OOB limits for unlicensed operations in the 5.725–5.850 GHz (U–NII–3) band. Since the Commission restricted unlicensed use of the lower 45 megahertz to indoor use only, the Commission took advantage of building attenuation, as well as other factors such as path loss, to increase the OOB limits allowed in the upper 30 megahertz from the indoor unlicensed operations by an additional 20 dB as compared to the 5.725–5.850 GHz (U–NII–3) band OOB limits. The Commission found these OOB limits from indoor unlicensed operations mirror the OOB limits for unlicensed operations in the 5.725–5.850 GHz (U–NII–3) band after accounting for building attenuation. The Commission also permitted a root mean square (RMS) detector, instead of requiring a

peak detector, to be used to conduct all 5.9 GHz band unlicensed device OOB measurements. The Commission found that RMS measurement is more appropriate for ensuring that the potential for U–NII devices to cause harmful interference to adjacent-band operations is minimized because RMS measurements represent the continuous power being generated from a device, as opposed to peak power, which may only be reached occasionally and for short periods of time.

Discussion

In response to the *First Report and Order*, Auto Innovators and 5GAA filed petitions for reconsideration on June 2, 2021. 86 FR 37982 (July 19, 2021) (corrected notice). In its Petition for Reconsideration, Auto Innovators asks the Commission to reconsider its designation of the lower 45 megahertz for unlicensed uses and restore that portion of the 5.9 GHz band for ITS. In its Petition for Partial Reconsideration, 5GAA asks the Commission to reduce the OOB limits permitted in the upper 30 megahertz designated for ITS services from indoor unlicensed access points, subordinate devices, and client devices operating in the lower 45 megahertz. The Petitions for Reconsideration were collectively denied in this Order on Reconsideration.

While the reconsideration process remained pending, the Intelligent Transportation Society of America (ITS America) and the American Association of State Highway and Transportation Officials (AASHTO) petitioned the United States Court of Appeals for the D.C. Circuit to vacate the part of the *First Report and Order* repurposing the lower 45 megahertz for unlicensed operations. The Amateur Radio Emergency Data Network (AREDN) filed a separate petition asking the court to vacate the entire *First Report and Order*. As discussed below, many of the arguments presented by the reconsiderations petitioners overlap with the court petitioners' arguments. In *ITS America v. FCC*, the D.C. Circuit rejected each of those arguments and affirmed the Commission's decisions in the *First Report and Order*. 45 F.4th 406 (D.C. Cir. 2022).

Redesignation of the 5.850–5.895 Band for Unlicensed Use

In its Petition for Reconsideration, Auto Innovators asks the Commission to reconsider its decision to redesignate the lower 45 megahertz for unlicensed uses and to restore the lower 45 megahertz block to the ITS service. Auto Innovators contends the Commission

exceeded its legal authority in issuing the First Report and Order “over the objection of DOT [the Department of Transportation] . . . , particularly in light of Congress’s grant of authority to DOT to administer a nationwide ITS program.” Auto Innovators argues in the alternative that the First Report and Order merits reconsideration because the DOT and Congressional interests under the Biden Administration continue to express support for maintaining the entire 5.9 GHz band for automotive safety applications, as they did under the previous administration. Auto Innovators also claims that the entire 75 megahertz of the 5.9 GHz band is needed to facilitate the future of transportation (*e.g.*, automated driving, 5G technologies, advanced vehicle to everything (V2X) applications).

In *ITS America v. FCC*, the D.C. Circuit considered each of these arguments in upholding the Commission’s First Report and Order. First, the court rejected the arguments that the Commission exceeded its legal authority by repurposing the lower 45 megahertz for unlicensed use. The court recognized that allocating spectrum among competing needs “is a difficult, highly technical task,” that “figuring out how much of the spectrum is needed to support a particular activity is exactly what the FCC does,” and that “the FCC is entitled to great deference when predicting the likelihood of [future] developments.” As the court explained, the 1998 Transportation Equity Act for the 21st Century, Public Law 105–178, 112 Stat. 107, “did not transfer away from the FCC its broad authority to manage the spectrum related to [ITS],” but instead “simply required the FCC to account for the [DOT]’s views and the needs of [ITS] when it does so,” which is what the Commission did.

Second, the court rejected the argument that the change in administration requires the Commission to revisit its decision. Specifically, the court stated that “the Department of Transportation’s concerns with the FCC’s order are no longer espoused by the Executive Branch” and in fact, “through the Department of Justice, the Executive Branch—which of course includes the Department of Transportation—joined the FCC’s brief defending the FCC’s order.” Finally, the court also upheld the Commission’s conclusion that retaining the upper 30 megahertz for ITS will be adequate to serve transportation safety needs. It agreed with the Commission that “other [non-5.9 GHz] technologies have alleviated the need for all 75 megahertz of the [5.9 GHz band] to remain dedicated to [ITS].” In addition, the

court refused to require the Commission to hold additional spectrum in reserve for “yet-to-arrive technologies” that the Commission found “too uncertain and remote to warrant the further reservation of spectrum.” The Commission affirms its decision to repurpose the lower 45 megahertz for the reasons discussed in the *First Report and Order*, including the cost-benefit analysis therein, because nothing in the petition by Auto Innovators persuades us otherwise. Moreover, the D.C. Circuit Court’s decision makes clear that the decision to repurpose that spectrum was well within the Commission’s authority.

Out-of-Band Emissions Limits Permitted in the 5.895–5.925 GHz Band From Unlicensed Operations in the 5.850–5.895 GHz Band

In its Petition for Partial Reconsideration, 5GAA asks the Commission to reconsider “the unwanted emission limits permitted from new indoor unlicensed access points and client devices operating in the [lower 45 megahertz]” to better protect ITS operations in the upper 30 megahertz. Specifically, 5GAA asks the Commission to protect ITS operating in the upper 30 megahertz by “afford[ing] C–V2X an additional 20 dB of protection from these [5.850–5.895 GHz] U–NII–4 emissions.” 5GAA objects to the Commission’s decision to base the OOB limits for unlicensed devices operating in the 5.850–5.895 GHz (U–NII–4) band on the existing OOB limits for unlicensed devices in the 5.725–5.850 GHz (U–NII–3) band, as “the technical realities of [5.850–5.895 GHz] U–NII–4 operations necessitate greater protection levels than afforded from [5.725–5.850 GHz] U–NII–3 operations.” 5GAA rejects the Commission’s assumption of 20 dB building attenuation loss for all indoor access points, contending that “[w]hile many unlicensed access points will experience some building attenuation loss, a 20 dB loss cannot be assumed in every instance.” Further, 5GAA claims the Commission’s choice of RMS measurement, rather than peak measurement, results in an additional 10–20 dB of unwanted emissions into the C–V2X frequencies. 5GAA concludes that, combined, these decisions permit an unwanted emission limit into the upper 30 megahertz that is 30–40 dB more relaxed than the 5.725–5.850 GHz (U–NII–3) band limit. 5GAA asserts that its suggestion to reduce the allowed 5.850–5.895 GHz (U–NII–4) band OOB limits by 20 dB “would provide necessary protection for critical safety services” in the upper 30

megahertz, while “still provid[ing] for robust indoor unlicensed operations.”

5GAA also contends that the Commission’s choice of acceptable 5.850–5.895 GHz (U–NII–4) band OOB limits based on the existing OOB limits for unlicensed devices in the 5.725–5.850 GHz (U–NII–3) band is arbitrary and capricious as it fails to satisfy the Administrative Procedure Act (5 U.S.C. 551–559) obligation to fully consider the relevant facts underlying its assumptions and articulate a reasoned explanation to support its decision. 5GAA argues that C–V2X will have a “much more robust deployment” than the “thinly deployed” DSRC, while the “heavy use of the [5.850–5.895 GHz] U–NII–4 band will result in longer sustained periods of interference” to the upper 30 megahertz. Therefore, 5GAA claims that the more extensive C–V2X operations warrant greater protections than those provided from 5.725–5.850 GHz (U–NII–3) band operations. 5GAA also contends that the Commission’s choice of the RMS measurement standard is arbitrary and capricious because the First Report and Order offers “no meaningful analysis of whether C–V2X operations will be able to tolerate the additional unwanted emissions that the RMS measurement approach will permit.” 5GAA further states that the Commission does not explain why the RMS measurement technique approved to evaluate the indoor unlicensed operations’ OOB levels “is more suitable for assessing the impact of unwanted emissions on C–V2X services” than the peak measurement approach.

In its Petition, 5GAA incorporates by reference a study submitted with its comments on the FNPRM, referred to here as “5GAA’s Coexistence Analysis.” 5GAA claims this study demonstrates the Commission’s OOB limits adopted in the First Report and Order are detrimental to C–V2X, *i.e.*, that the adopted OOB levels for unlicensed operations “significantly reduce C–V2X’s communications range by more than 50% when compared against 5GAA’s preferred approach.” 5GAA argues that “permitting excessive unwanted emissions could raise concerns about the viability of safety services in the [upper 30 megahertz], delaying or even denying the network effects policymakers and transportation stakeholders hope and expect to achieve.”

5GAA’s Coexistence Analysis does not convince us to reconsider the OOB limits decision for indoor unlicensed operations adopted in the First Report and Order. First, 5GAA’s Coexistence Analysis assumes an average activity

factor (also known as duty cycle) of 2 percent for the percentage of time when an individual indoor unlicensed device is transmitting in the lower 45 megahertz, *i.e.*, adjacent to the lower edge of the upper 30 megahertz. In contrast, in the 6 GHz First Report and Order (89 FR 874) (expanding unlicensed operations in 6 GHz U–NII bands, *i.e.*, adjacent to the upper edge of the upper 30 megahertz), the Commission assessed the potential for Low Power Indoor unlicensed devices operating in the 6 GHz U–NII bands to cause harmful interference and determined that the appropriate activity factor per unlicensed device is only 0.4%. That activity factor was based on measurement data for 5 GHz U–NII routers. Therefore, unlicensed 5.850–5.895 GHz (U–NII–4) band devices operating in the lower 45 megahertz can be assumed to operate with that same activity factor in determining 5.850–5.895 GHz (U–NII–4) devices’ potential to cause harmful interference to ITS operations in the upper 30 megahertz. Thus, 5GAA’s assumption leads to approximately 7 dB over-estimation in the average duty cycle power per unlicensed device’s transmissions over time.

Second, 5GAA’s Coexistence Analysis uses a relatively low 20 dBm (100 mW) on-board unit (OBU) transmit power, where under our current rules, it could have used a higher OBU transmit power limit as currently permitted in the 47 CFR 95.3189 OBU technical standards. Section 95.3189 (47 CFR 95.3189) currently requires compliance with the Institute of Electrical and Electronics Engineers (IEEE) 802.11p–2010 standard: Amendment 6: Wireless Access in Vehicular Environments. Under the IEEE standard, OBUs operated by entities other than state and local governments are allowed up to 33 dBm EIRP, *i.e.*, 20 times as strong as 5GAA used in the Coexistence Study. By using 20 dBm in its analysis, 5GAA artificially sets the OBU EIRP at a level that significantly increases the potential for 5.850–5.895 GHz (U–NII–4) band OOB to cause harmful interference to ITS operations in the upper 30 megahertz.

5GAA’s claims that while “there may be 20 dB [of building] attenuation in some cases, [] there exist other situations where very little attenuation would lead to harmful interference to C–V2X operations” do not persuade us to reconsider the OOB limits adopted in the First Report and Order. 5GAA concedes that 20 dB of building attenuation as compared to the 5.725–5.850 GHz (U–NII–3) OOB limits is appropriate “in some cases.” 5GAA

does not take into account other factors the Commission considered that would accommodate cases with less building attenuation, such as the path loss due to the separation distance between indoor unlicensed devices and C-V2X receivers. 5GAA's Coexistence Analysis also fails to adequately consider the reduction in antenna gain caused by the directionality of C-V2X receiving antennas. 5GAA assumes the randomness of peaks and nulls in the real antenna gain patterns of both unlicensed devices and C-V2X devices to have a zero dB average. However, C-V2X antennas are typically horizontal in nature in front of and behind vehicles and positioned to maximize coverage along road surfaces. This orientation generally will provide some measure of isolation between unlicensed devices' transmissions and OBU receivers and help reduce unlicensed devices' OOB levels received by a C-V2X device in the upper 30 megahertz. Because the antenna patterns and coverage requirements differ between unlicensed and C-V2X operations, the assumption of a zero dB average gain is incorrect. C-V2X transmissions received by an OBU from other OBUs is more likely to occur in or near the main lobe of the OBU receiving antenna, which will result in a higher average gain for the reception of C-V2X transmissions than the zero dB average assumed in 5GAA's Coexistence Analysis. In sum, building attenuation, coupled with attenuation due to path loss and the C-V2X OBU receiving antenna angular discrimination, sufficiently support the Commission's decision that its adopted 5.850–5.895 GHz (U-NII-4) band OOB limits that fall in the upper 30 megahertz will not cause harmful interference to C-V2X operations.

5GAA notes that in *Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, Memorandum Opinion and Order, 81 FR 19896 (2016), the Commission adopted relaxed OOB limits for 5.725–5.850 GHz (U-NII-3) band (which form the basis of the 5.850–5.895 GHz (U-NII-4) band OOB limits adopted in the First Report and Order) to accommodate unlicensed fixed point-to-point antennas in that band; since 5.850–5.895 GHz (U-NII-4) indoor unlicensed access points do not use such antennas, the Commission should not have established even more relaxed 5.850–5.895 GHz (U-NII-4) band OOB limits than those for 5.725–5.850 GHz (U-NII-3). However, in 2016, the Commission chose to provide "a single, consistent OOB requirement for

all equipment" that operates in the 5.725–5.850 GHz (U-NII-3) band rather than "apply different OOB requirements based on a variety of situations." As such, 5GAA's distinction between types of unlicensed equipment in this case is inapplicable and thus, the Commission's decision to base OOB limits for the 5.850–5.895 GHz (U-NII-4) band equipment on the OOB limits for the 5.725–5.850 GHz (U-NII-3) band was appropriate.

The Commission disagrees with 5GAA's assertion that RMS measurement of unlicensed devices' OOB power, as opposed to peak measurement, permits more power from these OOB in the adjacent band, resulting in the receipt of an additional 10–20 dB of unwanted OOB on the C-V2X frequencies in the upper 30 megahertz. Measurements of infrequent worst-case peak OOB of short duration are not an accurate or realistic assessment of the potential for a device to cause harmful interference. As the Commission explained in the First Report and Order, instances of peak OOB power in an unlicensed device's transmitted signal only occur occasionally and are of limited duration; RMS measurement of OOB will provide a more accurate assessment of an unlicensed device's potential to cause harmful interference because RMS measurements represent the continuous power being generated from a device.

The Commission also disagrees with 5GAA's assertion that the Commission "traditionally" uses a peak measurement for assessing 5 GHz U-NII OOB. As a general rule, the Commission establishes OOB measurement procedures based on the technical and operational characteristics of the equipment operating in the specific band under consideration and the design characteristics of equipment used in adjacent-bands. Peak measurements may be required when the Commission determines that peak emissions would have significant interference effects, as was the case for compliance testing of 5.725–5.850 GHz (U-NII-3) band devices' unwanted emissions to protect federal terminal Doppler weather radars in the 5.470–5.725 GHz (denoted as U-NII-2C) band. In contrast, in the 6 GHz Order, the Commission adopted OOB levels based on RMS measurement (as well as other appropriate techniques for measuring average power) to protect ITS operations in the 5.9 GHz band from the OOB of unlicensed operations in the adjacent 5.925–6.425 GHz (denoted as U-NII-5) band. Compliance testing of 5.850–5.895 GHz (U-NII-4) band devices' unwanted emissions to protect ITS operations

above the 5.850–5.895 GHz (U-NII-4) band is comparable to compliance testing of 5.925–6.425 GHz (U-NII-5) band devices' unwanted emissions to protect ITS operations below the 5.925–6.425 GHz (U-NII-5) band, and thus, RMS detection is appropriate in the case of measuring 5.850–5.895 GHz (U-NII-4) band OOB levels. Moreover, allowing the flexible RMS measurement technique will help promote shared spectrum technologies and drive greater productivity and efficiency in spectrum usage.

Accounting for the above-noted weaknesses in 5GAA's Coexistence Analysis, as well as considering the restriction on unlicensed use of the lower 45 megahertz to indoor locations and the requirement for RMS measurements for analyzing the potential impact of the adopted unlicensed device OOB limits, the Commission concludes that the indoor unlicensed device OOB limits the Commission adopted in the First Report and Order will sufficiently protect C-V2X communications in the upper 30 megahertz from harmful interference. Consequently, the Commission would not expect that C-V2X operations will experience reduced communications range from unlicensed OOB falling within the ITS band.

In response to 5GAA's claim that the Commission's choices of acceptable OOB limits and RMS measurement of OOB levels are arbitrary and capricious, the Commission notes that in *ITS America v. FCC*, the U.S. Court of Appeals for the District of Columbia Circuit determined that the Commission was not acting arbitrarily and capriciously when it implemented "restrictions on unlicensed devices using the lower 45 megahertz—such as emissions limits and indoor-use-only rules—to keep those devices from interfering with intelligent transportation systems in the upper 30 megahertz." The court reiterated its inclination to "uphold the Commission if it makes a technical judgment that is supported with even a modicum of reasoned analysis, absent highly persuasive evidence to the contrary." The Commission has explained in detail its technical judgment that the adopted restrictions will minimize the potential for harmful interference to the extent appropriate in this context and 5GAA has not provided highly persuasive evidence to refute the Commission's judgment. 5GAA's argument that the Commission was arbitrary and capricious by not increasing OOB protections of C-V2X in anticipation of possible heavier uses of both the lower 45 megahertz by unlicensed operations

and the upper 30 megahertz via C-V2X deployment is speculative and similarly fails. Therefore, the Commission rejects 5GAA's claim that the Commission's decisions regarding protecting ITS operations in the upper 30 megahertz from unlicensed devices' OOBE are arbitrary and capricious, and the Commission declines to reconsider the indoor unlicensed device OOBE limits adopted in the First Report and Order.

Ordering Clauses

Accordingly, *it is ordered* that pursuant to 47 CFR 1.429, the Petition for Reconsideration filed on June 2, 2021 by Auto Innovators and the Petition for Partial Reconsideration filed on June 2, 2021 by 5GAA *are denied*.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2024-07428 Filed 4-8-24; 8:45 am]

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FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS24-09]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council

ACTION: Notice of Special Closed Meeting.

Description: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) met for a Special Closed Meeting on this date.

Location: Virtual meeting via Webex.

Date: April 3, 2024.

Time: 10:55 a.m. ET.

Action and Discussion Item

Personnel Matter

The ASC convened a Special Closed Meeting to discuss a personnel matter pursuant to section 1104(b) of Title XI (12 U.S.C. 3333(b)). No action was taken by the ASC.

James R. Park,

Executive Director.

[FR Doc. 2024-07472 Filed 4-8-24; 8:45 am]

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FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than April 24, 2024.

A. Federal Reserve Bank of Minneapolis (Stephanie Weber, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291. Comments may also be sent electronically to MA@mpls.frb.org:

1. *Frederick C. Lewis II, Duluth, Minnesota*; to retain voting shares of North Shore Financial Corporation and thereby indirectly retain voting shares of North Shore Bank of Commerce, both of Duluth, Minnesota.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024-07506 Filed 4-8-24; 8:45 am]

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FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than May 9, 2024.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments may also be submitted at Applications.Comments@atl.frb.org:

1. *Volunteer State Bancshares, Inc., Portland, Tennessee*; to merge with Fourth Capital Holdings, Inc., and therefore indirectly acquire Fourth Capital Bank, both of Nashville, Tennessee.