

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 52 as follows:

PART 52—NUMBERING

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: Secs. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154 and 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–205, 207–09, 218, 225–27, 251–52, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332 unless otherwise noted.

■ 2. Section 52.26 is amended by revising paragraph (a) as follows:

§ 52.26 NANC Recommendations on Local Number Portability Administration.

(a) Local number portability administration shall comply with the recommendations of the North American Numbering Council (NANC) as set forth in the report to the Commission prepared by the NANC's Local Number Portability Administration Selection Working Group, dated April 25, 1997 (*Working Group Report*) and its appendices, which are incorporated by reference pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. *Except that:* Section 7.10 of *Appendix D* and the following portions of *Appendix E*: Section 7, Issue Statement I of *Appendix A*, and *Appendix B* in the *Working Group Report* are not incorporated herein.

* * * * *

■ 3. Section 52.35 is revised to read as follows:

§ 52.35 Porting Intervals.

(a) All telecommunications carriers required by the Commission to port telephone numbers must complete a simple wireline-to-wireline or simple intermodal port request within one business day unless a longer period is requested by the new provider or by the customer. The traditional work week of Monday through Friday represents mandatory business days and 8 a.m. to 5 p.m. represents minimum business hours, excluding the current service provider's company-defined holidays. An accurate and complete Local Service Request (LSR) must be received by the current service provider between 8 a.m. and 1 p.m. local time for a simple port request to be eligible for activation at midnight on the same day. Any simple

port LSRs received after this time will be considered received on the following business day at 8 a.m. local time.

(b) Small providers, as described in the 2009 LNP Porting Interval Order, must comply with this section by February 2, 2011.

(c) Unless directed otherwise by the Commission, any telecommunications carrier granted a waiver by the Commission of the one-business day porting interval described in paragraph (a) must complete a simple wireline-to-wireline or simple intermodal port request within four business days unless a longer period is requested by the new provider or by the customer.

(d) All telecommunications carriers required by the Commission to port telephone numbers must complete a non-simple wireline-to-wireline or non-simple intermodal port request within four business days unless a longer period is requested by the new provider or by the customer.

(e) For purposes of this section:

(1) The term “telecommunications carrier” includes an interconnected Voice over Internet Protocol (VoIP) provider as that term is defined in § 52.21(h);

(2) The term “local time” means the predominant time zone of the Number Portability Administration Center (NPAC) Region in which the telephone number is being ported; and

(3) The term “intermodal ports” includes

(i) Wireline-to-wireless ports;

(ii) Wireless-to-wireline ports; and

(iii) Ports involving interconnected VoIP service.

■ 4. Section 52.36 is added to read as follows:

§ 52.36 Standard data fields for simple port order processing.

(a) A telecommunications carrier may require only the data described in paragraphs (b) and (c) of this section to accomplish a simple port order request from an end user customer's new telecommunication's carrier.

(b) *Required standard data fields.*

(1) Ported telephone number;

(2) Account number;

(3) Zip code;

(4) Company code;

(5) New network service provider;

(6) Desired due date;

(7) Purchase order number;

(8) Version;

(9) Number portability direction indicator;

(10) Customer carrier name abbreviation;

(11) Requisition type and status;

(12) Activity;

(13) Telephone number of initiator; and

(14) Agency authority status.

(c) *Optional standard data field.* The Passcode field shall be optional unless the passcode has been requested and assigned by the end user.

(d) For purposes of this section, the term “telecommunications carrier” includes an interconnected VoIP provider as that term is defined in § 52.21(h).

[FR Doc. 2010–15073 Filed 6–21–10; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02–55; DA 10–695]

Improving Public Safety Communications in the 800 MHz Band; New 800 MHz Band Plan for Puerto Rico and the U.S. Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document summarizes the Third Report and Order portion of the Third Report and Order and Third Further Notice of Proposed Rulemaking, which portion establishes a new 800 MHz band plan for the Commonwealth of Puerto Rico (Puerto Rico).

DATES: Effective July 22, 2010.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, (202) 418–0848.

SUPPLEMENTARY INFORMATION: This is a summary of the Third Report and Order portion of the Commission's Third Report and Order and Third Further Notice of Proposed Rulemaking, DA 10–695, released on April 26, 2010. This summary should be read in conjunction with the summary of the Third Further Notice of Proposed Rulemaking portion of the Third Report and Order and Third Further Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**. The complete text of the Third Report and Order and Third Further Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile

(202) 863-2898, or via e-mail at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Synopsis of the Third Report and Order

In a July 2004 Report and Order, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band, 69 FR 67823, November 22, 2004. In a Second Memorandum Opinion and Order, adopted in May 2007, the Commission determined that an alternative band plan was appropriate for Puerto Rico due to the unique nature of 800 MHz incumbency in the Puerto Rico market compared to other markets, 72 FR 39756, July 20, 2007. Rather than specify a band plan for Puerto Rico, the Commission directed the 800 MHz Transition Administrator (TA) to propose an alternative band plan and negotiation timetable for Puerto Rico, based on certain criteria established by the Commission. The Commission delegated authority to the Public Safety and Homeland Security Bureau (Bureau) to approve or modify the proposed band plan and timetable, and suspended the rebanding timetable for Puerto Rico until a new band plan was adopted. On October 19, 2007, the TA filed the requested band plan proposal in this docket (TA Proposal). On June 30, 2008, the Bureau sought comment on the TA Proposal for 800 MHz band reconfiguration in Puerto Rico as well as alternative band plans, 73 FR 40274, July 14, 2008. The Bureau received three comments and three reply comments in response to the Further Notice of Proposed Rulemaking.

Based on the record, the Bureau adopted the TA Proposal for the non-ESMR portion of the band because it best fulfills the Commission's goal to separate—to the greatest extent possible—public safety and other non-cellular licensees from licensees that employ cellular technology in the 800 MHz band. The non-ESMR band plan adopted contains the following elements:

- All NPSPAC licensees will be relocated from their current 821–824/866–869 MHz channel assignments to channel assignments 15 MHz lower in frequency, *i.e.*, to the 806–809/851–854 MHz band segment.
- As with the non-border U.S. Band Plan, all Puerto Rico incumbents in the 806–809/851–854 MHz band segment will be relocated to comparable spectrum in the Interleaved, Expansion, or ESMR Band, depending on their eligibility.

- All licensees currently operating in the Interleaved Band will remain on their current frequencies, except those relocating to the ESMR band.

- All non-ESMR incumbents that are not public safety licensees and that currently operate in the Expansion Band, as modified, will remain on their current frequencies.

- Licensees in the modified Guard Band may, at their option, relocate to the Interleaved or Expansion Band.

- All licensees that currently operate between 817–821/862–866 MHz and are not eligible to remain in the ESMR band will be relocated to the 809–816.5/854–861.5 MHz band segment, which includes the Interleaved and Expansion Bands of the Puerto Rico Band Plan.

The ESMR Band in Puerto Rico is identical to the U.S. non-border 817–824/862–869 MHz ESMR band segment. Because not all ESMR and ESMR-eligible licensees in Puerto Rico may be accommodated within that ESMR Band segment, the Bureau apportioned the Puerto Rico ESMR Band and directed the TA to use the following procedure:

- The TA will attempt to assign replacement channels to the EA-based non-Sprint ESMR and ESMR-eligible licensees on a 1:1 basis relative to their existing Puerto Rico holdings. If ESMR channels remain after this assignment, the TA shall assign them to Sprint.
- If, however, sufficient ESMR channels are not available to assign them on a 1:1 basis to all non-Sprint ESMR and ESMR-eligible licensees electing to relocate to the ESMR band, then the number of Sprint ESMR channels will be reduced to the extent necessary to assign channels to the non-Sprint licensees on a 1:1 basis.
- If sufficient ESMR channels are not available following the apportionment, *supra*, then the holdings of all ESMR and ESMR-eligible licensees electing to relocate to the ESMR band will be reduced pro rata such that all such licensees are accommodated in the band.

The Bureau adopted a single 90-day mandatory negotiation period for the remaining incumbent licensees that must be retuned from the 816.5–821/861.5–866 MHz portion of the band. Thereafter, if Sprint and an incumbent licensee have not negotiated a Frequency Reconfiguration Agreement with Sprint, they must enter mandatory TA-sponsored mediation. The Bureau also established an 18-month transition period to complete rebanding in Puerto Rico. The transition period will start 60 days after the effective date of this Third Report and Order and Third Further Notice of Proposed Rulemaking.

The Bureau also extended the filing freeze on new applications in the Puerto Rico region until thirty working days after the date for completion of mandatory negotiations. However, the freeze does not apply to applications for modification of license that do not change an 800 MHz frequency or expand an 800 MHz station's existing coverage area (*e.g.*, administrative updates), assignments/transfers, or renewal-only applications. In addition, licensees in the Puerto Rico region may expand their facilities or add channels during the freeze, but only pursuant to Special Temporary Authorization (STA). Requests for STA must be accompanied by a demonstration that, without the new or expanded facilities, there would be a specific, material and serious adverse effect on the safety of life or property.

The Bureau also directed the TA to develop, within 30 days of the effective date of the Third Report and Order and Third Further Notice of Proposed Rulemaking, a detailed Puerto Rico band reconfiguration timetable with milestones for completion of each stage of the process. The timetable shall take into account variations in licensee characteristics and shall enumerate the specific steps required to implement both Stage 1 relocation of non-public safety licensees and Stage 2 relocation of NPSPAC licensees, EA/ESMR licensees and high-site incumbents. If necessary, the timetable should also take into account Stage 3 relocation of Preferred Communications Systems, Inc. (PCSI), and Preferred Acquisitions, Inc. (PAI) EA licenses and, as necessary, pro rata apportionment of ESMR spectrum as described above. The Bureau envisions that the sequence of band reconfiguration in Puerto Rico will occur in the following stages:

Stage 1

- Clear non-Sprint incumbent licensees from Channels 1–120.
- Defer assigning replacement spectrum for PCSI's and PAI's EA licenses.

Stage 2

- Relocate NPSPAC licensees 15 MHz lower in frequency to the new NPSPAC band.
- Relocate EA and site-based ESMR licensees (except PCSI and PAI) from the Interleaved channels to the ESMR band.
- Relocate high-site incumbents from the ESMR band to the cleared Interleaved channels.
- Relocate EA/ESMR licensees from the Guard Band to the cleared ESMR channels.

Stage 3 (if necessary)

- Relocate PCSI's and PAI's EA and site based channels to the ESMR band.
- If the ESMR band cannot accommodate all ESMR band licensees, then:
 - Relieve the shortfall by redesignating Sprint channels for use by other licensees, and, if necessary,
 - Reduce the number of all licensees' channels pro rata in order to accommodate all licensees within the ESMR band.

Procedural Matters*Final Regulatory Flexibility Certification*

The Regulatory Flexibility Act of 1980 (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities." The RFA generally defines "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). We certify that the rule changes and actions in this Third Report and Order will have no significant economic impact on a substantial number of small entities.

In this Third Report and Order, the Public Safety and Homeland Security Bureau, on delegated authority, establishes a revised 800 MHz band plan for Puerto Rico in order to accomplish the Commission's goals for band reconfiguration. The band plan is identical to the band plan that the Commission previously adopted in this proceeding with one exception—the Puerto Rico band plan includes a slightly larger Expansion Band and a slightly smaller Guard Band. The Puerto Rico Expansion and Guard Bands we establish will not have a significant impact on a substantial number of small businesses, and our aim is to provide interference protection to non-ESMR licensees. Furthermore, although ESMR licensees and ESMR-eligible licensees may be subject to a pro rata apportionment of spectrum, the number of such entities is not substantial, their operating capacity would not be significantly reduced, and the economic effect on their operations would not be significant. Therefore, we certify that

the requirements of this Third Report and Order will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore it does not contain any new or modified "information burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

Congressional Review Act

The Commission will send a copy of this Third Report and Order and Third Notice of Proposed Rulemaking in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.

Ordering Clauses

Accordingly, it is ordered, pursuant to Sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332, and Sections 0.191 and 0.392 of the Commission's rules, 47 CFR 0.191, 0.392, that this Third Report and Order and Third Further Notice of Proposed Rulemaking *is adopted*.

It is further ordered that the amendments of the Commission's rules, set forth below, are effective 30 days from the date of publication in the **Federal Register**.

It is further ordered that the Final Regulatory Flexibility Certification required by Section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, and as set forth above is *adopted*.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Third Report and Order and Third Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Certification and Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Private land mobile radio services.

Federal Communications Commission.

James Arden Barnett, Jr.,

Rear Admiral (Ret.), Chief, Public Safety and Homeland Security Bureau.

Final Rules

- For the reasons discussed in the preamble, the Federal Communications

Commission amends 47 CFR Part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

Authority: 4(i), 11, 303(g), 303(r), and 302(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

- 2. Section 90.617 is amended by revising paragraphs (k)(1), and (k)(2), and adding paragraphs (k)(3) and (k)(4) to read as follows:

§ 90.617 Frequencies in the 809.750–824/824.750–869 MHz, and 896–901/935–940 MHz bands available for trunked, conventional or cellular system use in non-border areas.

* * * * *

(k) * * *
(1) Mobile units (except in Puerto Rico):

(i) For channels 511 to 524—the minimum median desired signal levels specified in § 22.970(a)(1)(i) of this chapter and § 90.672(a)(1)(i) shall apply;

(ii) For channels 524 to 534—the minimum median desired signal level shall increase linearly from the values specified in § 22.970(a)(1)(i) of this chapter and § 90.672(a)(1)(i) to –70 dBm;

(iii) For channels 534 to 550—the minimum median desired signal level shall increase linearly from –70 dBm to –65 dBm.

(2) Portable units (except in Puerto Rico):

(i) For channels 511 to 524—the minimum median desired signal levels specified in § 22.970(a)(1)(i) of this chapter and § 90.672(a)(1)(i) shall apply;

(ii) For channels 524 to 530—the minimum median desired signal level shall increase linearly from the values specified in § 22.970(a)(1)(i) of this chapter and § 90.672(a)(1)(i) to –80 dBm;

(iii) For channels 530 to 534—the minimum median desired signal level shall increase linearly from –80 dBm to –70 dBm;

(iv) For channels 534 to 550—the minimum median desired signal level shall increase linearly from –70 dBm to –65 dBm.

(3) Mobile units operating in Puerto Rico:

(i) For channels 511 to 530—the minimum median desired signal levels specified in § 22.970(a)(1)(i) of this chapter and § 90.672(a)(1)(i) shall apply;

(ii) For channels 531 to 534—the minimum median desired signal level shall increase linearly from –80.2 dBm to –70 dBm;

(iii) For channels 534 to 550—the minimum median desired signal level shall increase linearly from –70 dBm to –65 dBm.

(4) Portable units operating in Puerto Rico:

(i) For channels 511 to 530—the minimum median desired signal levels specified in § 22.970(a)(1)(i) of this chapter and § 90.672(a)(1)(i) shall apply;

(ii) For channels 531 to 534—the minimum median desired signal level shall increase linearly from –80 dBm to –70 dBm;

(iii) For channels 534 to 550—the minimum median desired signal level shall increase linearly from –70 dBm to –65 dBm.

■ 3. Sections 90.677 is amended by revising paragraphs (b) and (c) to read as follows:

§ 90.677 Reconfiguration of the 806–824/851–869 band in order to separate cellular systems from non-cellular systems.

* * * * *

(b) *Voluntary negotiations.* Thirty days before the start date for each NPSPAC region other than Region 47, the Chief, Public Safety and Homeland Security Bureau will issue a public notice initiating a three-month voluntary negotiation period. During this voluntary negotiation period, Nextel and all incumbents may negotiate any mutually agreeable relocation agreement. Sprint Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator.

(c) *Mandatory negotiations.* If no agreement is reached by the end of the voluntary period, a three-month mandatory negotiation period will begin during which both Sprint Nextel and the incumbents must negotiate in “good faith.” In Region 47, a 90-day mandatory negotiation period will begin 60 days after the effective date of the Third Report and Order and Third Further Notice of Proposed Rulemaking in WT Docket 02–55. Sprint Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator. All parties are charged with the obligation of utmost “good faith” in the negotiation process.

Among the factors relevant to a “good-faith” determination are:

(1) Whether the party responsible for paying the cost of band reconfiguration has made a bona fide offer to relocate the incumbent to comparable facilities;

(2) The steps the parties have taken to determine the actual cost of relocation to comparable facilities; and

(3) Whether either party has unreasonably withheld information, essential to the accurate estimation of relocation costs and procedures, requested by the other party. The Transition Administrator may schedule mandatory settlement negotiations and mediation sessions and the parties must conform to such schedules.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 365 and 387

[Docket No. FMCSA–2010–0189]

RIN 2126–AB21

Cargo Insurance for Property Loss or Damage

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Motor Carrier Safety Administration eliminates the requirement for most for-hire motor common carriers of property and freight forwarders to maintain cargo insurance in prescribed minimum amounts and file evidence of this insurance with FMCSA. Household goods motor carriers and household goods freight forwarders will continue to be subject to this cargo insurance requirement.

DATES: Effective March 21, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothea Grymes, FMCSA Insurance Team, Commercial Enforcement Division, telephone (202) 385–2400.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Entities That Are Discussed in This Final Rule

This proceeding applies only to for-hire motor carriers and freight forwarders as defined in 49 U.S.C. 13102. The term “motor carrier” means a person providing motor vehicle transportation for compensation. (§ 13102(14)). The term “freight forwarder,” in § 13102(8) means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) Assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to jurisdiction under 49 U.S.C. subtitle IV—Interstate Transportation.

The term “freight forwarder” does not include a person using transportation of an air carrier subject to part A of subtitle VII of title 49, United States Code—Aviation Programs.

Of the approximately 252,600 total for-hire carriers and freight forwarders, there are about 166,700 for-hire motor carriers and 1,600 freight forwarders registered with FMCSA to provide transportation or services that could be subject to cargo insurance requirements if FMCSA fully implemented its authority to require motor carriers and freight forwarders subject to 49 U.S.C. 13906(a)(4) and 13906(c)(2). See Table 1 below. Of these, about 154,700 entities (contract only and “exempt” type) have not been subject to the cargo insurance requirements in the past. About 97,900 of the 252,600 entities are currently subject to the cargo insurance requirements. About 4,000 entities have authority to transport household goods, which are defined at 49 U.S.C. 13102(10).