

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 90****[WT Docket No. 96–86; FCC 01–10]****Public Safety Communications****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: In this document, the Commission proposes to establish rules governing the migration to a 6.25 kHz technology on the 700 MHz public safety band General Use channels. By establishing such rules, the Commission will increase the efficiency of that spectrum, with the potential of allowing additional public safety use of that band.

DATES: Comments are due March 19, 2001, Reply Comments are due April 2, 2001.

ADDRESSES: Federal Communications Commission, 445 12th St., SW., Room TW–A325, Washington, DC 20554. Comments may also be filed using the Commission's Electronic Filing System, which can be accessed via the Internet at www.fcc.gov/e-file/ecfs.html.

FOR FURTHER INFORMATION CONTACT: Michael Connelly, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418–0132.

SUPPLEMENTARY INFORMATION:

1. The Commission's Fifth Notice of Proposed Rule Making (5th NPRM), WT Docket No. 96–86, FCC 01–10, was adopted January 11, 2001, and released on January 17, 2001. The full text of this 5th NPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037. The full text may also be downloaded at: <http://www.fcc.gov/wtb/releases/fcc0110.doc>. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

Summary of the 5th NPRM

2. The Commission seeks comment on proposals regarding implementing to a voice efficiency standard of one voice channel per 6.25 kHz bandwidth for the General Use channels in the 700 MHz public safety band. Based on comments received from public safety entities,

communication directors, and equipment manufacturers, the Commission believes that there are two broad groups proposing different “migration paths” to a more spectrum-efficient standard. The first, which includes Com-Net Ericsson, Nokia, and the North American TETRA Forum (NATF), urges immediate adoption of the concept of one voice channel per 6.25 kHz. The second, which includes the Association of Public-Safety Communications Officials—International (APCO), the International Association of Chiefs of Police (IACP), Motorola, the Federal Law Enforcement Wireless Users Group, and the Project 25 Steering Committee, set forth a migration path consisting of five stages and spanning a total of twenty-one years.

3. Com-Net Ericsson, Nokia, and NATF recommend immediate adoption of a 6.25 kHz efficiency standard, *i.e.*, one voice path per 6.25 kHz of occupied bandwidth, for voice operations on the General Use channels. Com-Net Ericsson, for example, asserts that compliant technologies are available today, and further technological advances are anticipated between now and when 700 MHz-band public safety equipment becomes available. Nokia and NATF recommend that in 2005, the Commission evaluate equipment deployed in the 700 MHz band and the progress of the technical development and, based on this information, consider a formal migration path to 6.25 kHz interoperability. Nokia contends that equipment utilizing 6.25 kHz efficiency is already fully developed and available for general use from a wide array of manufacturers, including leading U.S. manufacturers, and believes that adopting this efficiency standard will encourage equipment manufacturers to devote their research and development resources to 6.25 kHz conventional technology.

4. Under the five-step, twenty-one year plan put forth by APCO and IACP, step one is immediate adoption of Project 25 Phase I as the Interoperability standard. Step two requires that as of December 31, 2006, or within six months following Commission notice that at least fifteen of the Top twenty metropolitan areas have been cleared of relevant television stations, whichever is later, all newly type-accepted radios for use in the band must have the capability to provide one voice channel per 6.25 kHz and must still meet the Project 25 Phase I standard for the Interoperability channels. Within ten years after the date established in step two, all General Use operations must be at 6.25 kHz in the Top fifty metropolitan

areas for step three. Step four requires that all General Use operations must be at 6.25 kHz by fifteen years after the date established in Step two. Finally, as of the date established in step two, the Commission must re-examine technological and marketplace developments and determine whether it is possible to develop a migration path for the subsequent transition.

5. The Commission seeks comment on the proper approach for achieving a 6.25 kHz standard for the General Use channels. At the same time, in order to facilitate the prompt use of the 700 MHz Band spectrum, the Commission had determined in the *Fourth Report and Order* in this proceeding that it will not require new systems to use 6.25 kHz technology before December 31, 2005. The Commission has also concluded that any 12.5 kHz-based systems constructed and placed in operation prior to December 31, 2005, will be able to continue to purchase and deploy 12.5 kHz equipment for system expansion or maintenance. The Commission has also concluded that such 12.5 kHz systems will not be required to cease operations and convert to 6.25kHz technology prior to December 31, 2015, at the earliest. While nothing in the Commission's Rules would prohibit the use of 6.25 kHz technology now, the Commission is concerned that mandating the use of 6.25 kHz technology would only serve to delay the use of the 700 MHz Band spectrum. Commenters should address the advantages and disadvantages associated with various approaches that are consistent with this “safe harbor” provision.

6. The Commission seeks comments to identify such factors and the potential impact that they would have on the duration of a migration period and to discuss what would be an appropriate length for migration and the reasoning therefore. The Commission seeks comment on whether the Commission should adopt different migration paths for rural and urban markets, given their different needs. Given the differing needs of public safety entities in rural and urban areas, as well as possible differences in timing when the 700 MHz public safety spectrum may be available to those entities, it may be appropriate to establish multiple migration paths for different types of entities. The Commission encourages commenters that would urge the Commission to adopt multiple migration paths to offer specific proposals.

Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory

Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this *Fifth Notice of Proposed Rule Making (Fifth Notice)*. Written public comments are requested regarding this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Fifth Notice* provided in paragraph 103. The Commission will send a copy of the *Fifth Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

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

8. In the *Fifth Notice*, we continue our evaluation of rules applicable to the use of public safety spectrum in the frequencies at 764–776 MHz and 794–806 MHz (the 700 MHz band). Specifically, the *Fifth Notice* seeks comment on a “migration path” to a more spectrum-efficient technology standard for public safety general use frequencies in the 700 MHz band. We seek comment on only the issue of what path the Commission should adopt. Adopting such a path should provide for the prompt entry of public safety entities onto the 700 MHz band when that band is cleared of its present occupants.

B. Legal Basis

9. Authority for issuance of this item is contained in Sections 1, 4(i), 7, 301, 302, 303, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157, 301, 302, 303, 337.

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

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small business concern” under Section 3 of the Small Business Act. A small business concern is one that: (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. Nationwide, as of 1992, there were approximately 275,801 small organizations. “Small governmental

jurisdiction” generally means “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.” As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (ninety-one percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

11. *Public Safety Radio Pool Licensees.* As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337. Non-Federal governmental entities, as well as private businesses, are licensees for these services. As indicated above, all governmental entities with populations of less than 50,000 fall within the definition of a small entity. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward public service licensees. Therefore, the applicable definition of small business is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small business is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were public safety licensees, nearly all would be small businesses under the SBA’s definition, if independently owned and operated.

12. *Radio and Television Equipment Manufacturers.* We anticipate that at least six radio equipment manufacturers will be affected by our decisions in this proceeding. According to the Small Business Administration’s regulations, a radio and television broadcasting and communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small

business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities. We do not have information that indicates how many of the six radio equipment manufacturers associated with this proceeding are among these 778 firms. Motorola and Ericsson, however, are major, nationwide radio equipment manufacturers, and thus, we conclude that they would not qualify as small businesses.

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

13. The *Fifth Notice* does not propose a rule that will entail reporting, recordkeeping, and/or third-party consultation.

E. Significant Alternatives Minimizing the Economic Impact on Small Entities

14. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603. In this proceeding, we have several options for migrating from 12.5 kHz technology to 6.25 kHz technology. We seek to determine the most efficient, cost effective, and quickest migration path for the public safety community.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

None.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio requirements.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

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