

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Midway, Channel 251A, and Oakwood, Channel 233A.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 11-69 and ET Docket 09-234; FCC 13-91]

Private Land Mobile Radio Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission clarifies the rules regarding the certification and use of Terrestrial Trunked Radio (TETRA) equipment in response to a petition for clarification and/or reconsideration filed by Motorola Solutions, Inc. In essence, the Commission clarifies that the rules as enacted reflect the Commission's intent. Accordingly, there is no change to the CFR.

DATES: Effective August 9, 2013.

FOR FURTHER INFORMATION CONTACT: Tim Maguire, Mobility Division, Wireless Telecommunications Bureau at (202) 418-2155, or TTY (202) 418-7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Reconsideration*, adopted July 2, 2013, and released July 2, 2013. 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 email to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202)-418-0530 (voice), 202-418-0432 (tty).

Synopsis

1. Motorola Solutions, Inc. (MSI) seeks clarification and/or reconsideration of the *Report and Order* in this proceeding, which amended Part 90 of the Commission's Rules to permit the certification and use of Terrestrial

Trunked Radio (TETRA) equipment. In response, we clarify that the rules adopted in the *Report and Order* permit TETRA technology on all channels in the 809-824/854-869 MHz band, and permit any technology that meets the technical criteria adopted in the *Report and Order*, whether or not it is TETRA technology.

2. On September 21, 2012, the Commission released a *Report and Order* amending Sections 90.209 and 90.210 of its rules, and adding a new Section 90.221, to permit the certification and use of TETRA equipment in the 450-470 MHz and 809-824/854-869 MHz bands. Specifically, the rules permit the use of equipment in the 450-470 MHz and 809-824/854-869 MHz bands that meets certain adjacent channel power limits in lieu of operating within the Part 90 emission masks. MSI requests clarification of two issues: (1) Whether the Commission intended to include under the scope of the new rules 800 MHz Public Safety Pool channels that are not in the National Public Safety Planning Advisory Committee (NPSPAC) portion of the band, and (2) whether the rules permit the certification and use of only TETRA equipment, or of any equipment that satisfies the new technical parameters.

3. In the Discussion section of the *Report and Order*, the Commission stated, "we modify our rules to permit the use of TETRA technology in the 450-470 MHz and 809-824/854-869 MHz bands." As MSI notes, however, the Commission said in the Introduction section that it was amending the rules to permit TETRA technology in "the 450-470 MHz portion of the UHF band (421-512 MHz) and Business/Industrial Land Transportation [(B/ILT)] 800 MHz band channels (809-824/854-869 MHz) that are not in the National Public Safety Planning Advisory Committee (NPSPAC) portion of the band." In comparing these two sentences, the language from the Introduction regarding the specified 800 MHz frequencies could be read as covering only the B/ILT channels, thereby limiting use of TETRA technology to B/ILT licensees operating there, while the statement in the Discussion section refers to the same frequencies without qualification—frequencies that cover not only B/ILT channels, but also Specialized Mobile Radio (SMR) channels, Enhanced SMR channels, and certain Public Safety Pool channels that are not part of the NPSPAC plan. MSI therefore asks the Commission to clarify whether the use of TETRA technology is permitted on all channels in the 809-824/854-869 MHz band, including 800

MHz non-NPSPAC Public Safety Pool channels, or only on B/ILT channels within the 809-824/854-869 MHz band. We hereby clarify that the Commission did not intend to limit use of this technology in the 800 MHz band to B/ILT Pool licensees, and, as indicated in the Discussion of the *Report and Order* and in the amended rules themselves, TETRA technology is permitted on all channels in the 809-824/854-869 MHz band, not just the B/ILT channels.

4. As to the second issue on which MSI seeks clarification, whether the technical rules adopted in the *Report and Order* are technology-neutral or are intended only for TETRA equipment, we clarify that the rules permit any equipment that meets the applicable adjacent channel power limits of § 90.221. The application of the rule is not limited to TETRA equipment and it was not the Commission's intention to restrict the rule in this manner.

I. Procedural Matters

A. Final Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission prepared a regulatory flexibility analysis of the final rules adopted in the *Report and Order*. In this present *Order on Reconsideration*, the Commission promulgates no additional final rules, and our present action is, therefore, not an RFA matter.

B. Final Paperwork Reduction Act Analysis

6. This *Order on Reconsideration* does not contain new or modified information collection requirements.

C. Congressional Review Act

7. 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 the clarification provided in the *Order on Reconsideration* does not amend the Commission's rules.

8. Accordingly, *it is ordered* pursuant to Sections 1, 4(i), 303(f), 303(g), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(f), 303(g), 303(r), and 405(a), and Sections 1.2 and 1.429(a) of the Commission's Rules, 47 CFR 1.2, 1.429(a), that the Petition for Clarification and/or Reconsideration filed by Motorola Solutions, Inc. on November 9, 2012 *is granted* to the extent set forth herein.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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