

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 99–87; RM–9332; FCC 03–34]

Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended and Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission (FCC) amends its rules to include a long-term schedule for the migration of Private Land Mobile Radio (PLMR) systems, using frequencies in the 150–174 MHz and 421–512 MHz bands, to narrowband technology. Review of the FCC's equipment certification rules and the record revealed a slower pace to narrowband technology than is desired. Therefore, the FCC amended its rules to encourage spectral efficiency in the shared PLMR bands and to facilitate timely transition to narrowband technology in the shared PLMR bands. These amendments to the FCC's rules are intended to produce more efficient use of PLMR spectrum in the 150–174 MHz and 421–512 MHz bands.

DATES: Effective September 15, 2003.

FOR FURTHER INFORMATION CONTACT: Karen Franklin, Esq. Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554, at (202) 418–0680, TTY (202) 418–7233, or via E-mail at kfrankli@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's *Report and Order*, FCC 03–34, adopted on February 25, 2003, and released on February 12, 2003. 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 FCC's copy contractor, Qualex International, 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 contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at bmillin@fcc.gov.

1. The major decisions adopted in the Order are as follows. The Order:

- Prohibits the filing of applications for new operations using 25 kHz

channels, beginning six months after publication of the Order in the **Federal Register**.

- Prohibits any modification applications that expand the authorized contour of an existing station if the bandwidth for transmissions specified in the modification application is greater than 12.5 kHz, beginning six months after publication of the Order in the **Federal Register**.

- Prohibits the certification of any equipment capable of operating at one voice path per 25 kHz of spectrum, *i.e.* equipment that includes a 25 kHz mode, beginning January 1, 2005.

- Prohibits the manufacture and importation of any 150–174 MHz and 421–512 MHz band equipment that can operate on a 25 kHz bandwidth, beginning January 1, 2008.

- Imposes deadlines for migration to 12.5 kHz technology for PLMRS systems operating in the 150–174 MHz and 421–512 MHz bands. The deadlines are: January 1, 2013 for non-public safety systems, and January 1, 2018 for public safety systems.

Procedural Matters

A. Regulatory Flexibility Act Analyses

2. As required by the Regulatory Flexibility Act (RFA), *see* 5 U.S.C. 604, the FCC has prepared a Final Regulatory Flexibility Analysis of the possible impact of the rule changes contained in this Order on small entities. The Final Regulatory Flexibility Act analysis is set forth further. The FCC's Consumer Information Bureau, Reference Information Center, will send a copy of this Order including the Final to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Act of 1995 Analysis

3. This Order does not contain any new or modified information collection. Therefore, it is not subject to the requirements for a paperwork reduction analysis, and we have not performed one.

Final Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Order in WT Docket 99–87. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Reason for, and Objectives of, the Order

5. The Order adopts rules to promote the transition to narrowband technology in bands 150–174 MHz and 421–512 MHz. Specifically, the FCC amends its

rules to impose a deadline for migration to 2.5 kHz technology for non-public safety PLMRS systems operating on those bands, beginning January 1, 2013 and for public safety systems operating on those bands, beginning January 1, 2018. In addition, the FCC amends its rules to prohibit the certification of any equipment capable of operating at one voice path per 25 kHz of spectrum, *i.e.*, multi-mode equipment that includes a 25 kHz mode, beginning January 1, 2005. The FCC also prohibits the manufacture and importation of 25 kHz equipment (including multi-mode equipment that can operate on a 25 kHz bandwidth) beginning January 1, 2008. The FCC amends its rules to prohibit any applications for new operations using 25 kHz channels beginning six months after notice of the Order is published in the **Federal Register**. Further, the FCC amends its rules to prohibit any modification applications that expand the authorized contour of an existing licensee if the bandwidth subject to the modification application is greater than 12.5 kHz, beginning six months after notice of the Order is published in the **Federal Register**. These actions will effect a transition to a narrowband channel plan. The resulting gain in efficiency will ease congestion on the PLMRS channels in these bands.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

6. No comments or reply comments were filed in direct response to the IRFA. The FCC has, however, reviewed the general comments that may impact small businesses. Much of the potential impact on small businesses arises from the mandatory migration to 12.5 kHz technology beginning on January 1, 2013, the ban on importation and manufacture of 25 kHz equipment after January 1, 2008 and the freeze on new 25 kHz applications. The costs associated with replacement of current systems were cited in opposition to mandatory conversion proposals.

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

7. 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 rules adopted. The RFA generally defines the term “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