



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 90**

**[WT Docket No. 96-86; DA 12-1942]**

**Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805**

**MHz Bands**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission amends its rules to change the date of the “substantial service” benchmarks applicable to 700 MHz narrowband State licenses. This is intended to conform the dates used for the substantial service benchmarks under the Commission rules to the deadlines specified in the Commission’s July 2011 Declaratory Ruling.

**DATES:** Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Difie Osborne, Esq., Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-3627, or by email at [Difie.Osborne@fcc.gov](mailto:Difie.Osborne@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Order in WT Docket No. 96-86, DA 12-1942, adopted on December 2, 2012, and released on December 3, 2012. The document is available for download at [http://fjallfoss.fcc.gov/edocs\\_public/](http://fjallfoss.fcc.gov/edocs_public/). The complete text of this document is also 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. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

1. In 1998, the Commission established the initial band plan and service rules for the 24 megahertz of public safety spectrum in the 700 MHz band that was reallocated from television

broadcast use as a result of the DTV transition. In 2000, the Commission designated 2.4 megahertz of the 700 MHz narrowband spectrum for statewide geographic licensing. In addition, the Commission also established “substantial service” performance requirements for the narrowband State licenses, which included five- and ten-year benchmarks for state licensees to establish specified levels of substantial service within their statewide license areas. The Commission determined that these benchmarks would be calculated based upon the anticipated completion date of the DTV transition: January 1, 2007. Accordingly, the Commission established its five- and ten-year benchmark deadlines listed in § 90.529 based upon this January 1, 2007 date. Subsequently, however, the Commission extended the DTV transition date to June 12, 2009.

2. In July 2011, the Commission issued a Declaratory Ruling establishing that the five- and ten-year substantial service deadlines set forth in § 90.529 begin with the June 12, 2009 amended DTV transition date. Accordingly, the five- and ten-year substantial service deadlines occur on June 13, 2014 and June 13, 2019, respectively.

3. In this Order, the Commission’s Public Safety and Homeland Security Bureau, on delegated authority, conforms the “substantial service” deadlines in § 90.529(b) for 700 MHz public safety state-licensees to comply with the deadlines listed in the Commission’s July 2011 Declaratory Ruling. Thus, this Order revises the language of § 90.529(b) to accurately reflect the date determined in the Declaratory Ruling.

4. The Order merely revises the language in § 90.529(b) to accurately reflect the substantial service deadlines. These revisions are thus ministerial, non-substantive, and editorial.

Accordingly, the Bureau found good cause to conclude that notice and comment procedures are unnecessary and would serve no useful purpose. Because the rule revisions will not affect the substantive rights or interests of any licensee, the Bureau also found good cause to make these non-substantive, editorial revisions of the rules effective upon publication in the Federal Register.

5. The Bureau adopted this Order pursuant to its delegated authority to “conduct[] rulemaking proceedings” in matters pertaining to public safety and homeland security. Pursuant to § 0.392 of the Commission’s rules, the Bureau Chief is “delegated authority to perform all functions of the Bureau, described in . . . § 0.191” with certain specified exceptions. Specifically, § 0.392(e) provides that the Bureau can make ministerial amendments to rule parts, with specific exceptions “where novel questions of fact, law or policy are not involved.” None of those exceptions is present here.

## **PROCEDURAL MATTERS**

### **A. Final Regulatory Flexibility Analysis**

6. Because the Commission adopted this Order without the publication of a notice of proposed rulemaking, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., does not require the Commission to prepare a regulatory flexibility analysis.

### **B. Paperwork Reduction Act of 1995 Analysis**

7. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. Therefore, 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).

## **ORDERING CLAUSES**

8. Accordingly, **IT IS ORDERED** that, pursuant to sections 1, 2, 4(i), 303(r), 332 and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 303(r), 332 and 337, and §§ 0.191 and 0.392(e), 47 CFR 0.191, 0.392(e), the Order in WT Docket No. 96-86, DA 12-1942 **IS HEREBY ADOPTED**.

9. **IT IS FURTHER ORDERED** that, pursuant to 5 U.S.C. 553(d)(3), the rules adopted herein will **BECOME EFFECTIVE UPON PUBLICATION IN THE FEDERAL REGISTER.**

10. **IT IS FURTHER ORDERED** that the Bureau **SHALL SEND** a copy of the Order in WT Docket No. 96-86, DA 12-1942 in a report to Congress and the General Accounting Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 90

Radio.

FEDERAL COMMUNICATIONS COMMISSION.

David G. Simpson, Rear Admiral, USN (ret.)  
Chief, Public Safety and Homeland Security Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 90 to read as follows:

**PART 90 – PRIVATE LAND MOBILE RADIO SERVICES**

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

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

2. Section 90.529 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

**§ 90.529 State License.**

\* \* \* \* \*

(b) \* \* \*

(1) Providing or prepared to provide “substantial service” to one-third of their population or territory by June 13, 2014, i.e., within five years of the date that incumbent broadcasters are required to relocate to other portions of the spectrum;

(2) Providing or prepared to provide “substantial service” to two-thirds of their population or territory by June 13, 2019, i.e., within ten years of the date that incumbent broadcasters are required to relocate to other portions of the spectrum.

\* \* \* \* \*

[FR Doc. 2014-08181 Filed 04/10/2014 at 8:45 am; Publication Date: 04/11/2014]