



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2 and 90**

**[DA 18-282]**

**Modification of Rules to Codify New Procedure for Non-Federal Public Safety Entities to License Federal Interoperability Channels**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document adopts changes to the Commission's rules to conform them to a streamlining modification recently made by the National Telecommunications and Information Administration (NTIA). NTIA streamlined the coordination process which enables the Commission to grant licenses to non-federal public safety entities who seek to operate on forty federal government interoperability channels over which NTIA has jurisdiction.

**DATES:** Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, except for the addition of § 90.25, which contains a new information collection that requires review by the Office of Management and Budget under the Paperwork Reduction Act of 1995. The FCC will publish a document in the **Federal Register** announcing the effective date of that rule section.

**FOR FURTHER INFORMATION CONTACT:** Brian Marenco, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-0838.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order, DA 18-282, released on March 22, 2018. The complete text of this document 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. 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 or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). The complete text of this document is also available on the Commission's Web site at <http://www.fcc.gov>.

1. NTIA designated forty channels for interoperability communications among federal agencies and between federal agencies and non-federal entities with which federal agencies have a requirement to interoperate. A non-federal public safety entity may communicate on the federal interoperability channels for joint federal/non-federal operations, provided it first obtains a license from the Commission authorizing use of the channels.

2. In September 2015, NTIA streamlined the process which enables non-federal agencies to obtain an FCC license to use the federal interoperability channels. Under the new process, the Statewide Interoperability Coordinator (SWIC) or state appointed official in each state is responsible for coordinating access to the federal interoperability channels by non-federal public safety entities. Each SWIC/official will sign an agreement with a federal user with a valid assignment. The agreement may specify which federal interoperability channels are available for use in a particular state or territory and establish the conditions for their use by non-federal public safety entities.

3. Once the federal-state agreement for a given state is signed, non-federal public safety entities in that state may file an application with the Commission to license the designated federal interoperability channels under the new streamlined process. Before filing with the Commission, a non-federal public safety entity seeking to license mobile and portable units on the federal government interoperability channels must first obtain written concurrence from its SWIC/official. The non-federal agency must then include a copy of the written concurrence with its license application to the Commission.

4. NTIA's streamlined process eliminates the need for non-federal public safety entities to obtain written certification from a federal government agency and for the Commission to refer applications for the federal interoperability channels to the Interdepartment Radio Advisory Committee's (IRAC) Frequency Assignment Subcommittee for approval.

5. On March 22, 2018, the Public Safety and Homeland Security Bureau and the Office of Engineering and Technology, on delegated authority, jointly released an Order amending §§ 2.102(c)(4) and 90.173(c) and adopting new § 90.25 in order to conform the Commission's rules to the new streamlined process established by NTIA.

## **PROCEDURAL MATTERS**

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

6. The requirement in new § 90.25 that non-federal public safety agencies obtain written concurrence from the SWIC/official constitutes a new information collection subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review and public comment under section 3507(d) of the PRA.

7. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198 (see 44 U.S.C. 3506(c)(4)), the Commission's Public Safety and Homeland Security Bureau will seek specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

### **B. Congressional Review Act**

8. The Commission will not send a copy of this Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not "substantially affect the rights or obligations of non-agency parties.

## ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED**, pursuant to sections 4(i), 303(c) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), and 332, this *Order IS HEREBY ADOPTED*.

10. **IT IS FURTHER ORDERED** that the rules and requirements adopted herein **WILL BECOME** effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER, except for new § 90.25 that contains a new or modified information collection requirement that requires review by the OMB under the PRA. Section 90.25 **WILL BECOME EFFECTIVE** after OMB review and approval, on the effective date specified in a notice that the Commission will publish in the **Federal Register** announcing such approval and effective date.

11. This action is taken under delegated authority pursuant to section 155(c) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c) and §§ 0.31, 0.191, 0.241, and 0.392 of the Commission's rules, 47 CFR 0.31, 0.191, 0.241, and 0.392.

### List of Subjects

#### 47 CFR Part 2

Radio, Telecommunications

#### 47 CFR Part 90

Administrative practice and procedure, Radio

FEDERAL COMMUNICATIONS COMMISSION

Lisa Fowlkes,  
Chief, Public Safety and Homeland Security Bureau.

## Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 90 as follows.

### **PART 2— FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS**

1. The authority citation for part 2 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Amend § 2.102 by revising paragraph (c) to read as follows:

#### **§2.102 Assignment of frequencies.**

\* \* \* \* \*

(c) Non-Federal stations may be authorized to use Federal frequencies in the bands above 25 MHz:

(1) If the Commission finds, after consultations with the appropriate Federal agency or agencies, that such use is necessary for coordination of Federal and non-Federal activities.

Such operations must meet the following requirements:

(i) Non-Federal operation on Federal frequencies shall conform with the conditions agreed upon by the Commission and NTIA;

(ii) Such operations shall be in accordance with NTIA rules governing the service to which the frequencies involved are allocated;

(iii) Such operations shall not cause harmful interference to Federal stations and, should harmful interference result, that the interfering non-Federal operation shall immediately terminate; and

(iv) Non-Federal operation has been certified as necessary by the Federal agency involved and this certification has been furnished, in writing, to the non-Federal licensee with which communication is required; or

(2) Pursuant to the provisions of § 90.25 of this chapter, provided that such operations shall not cause harmful interference to Federal stations and, should harmful interference result, that the interfering non-Federal operation shall immediately terminate.

\* \* \* \* \*

3. Amend § 2.106 by revising pages 24 and 27 of the Table of Frequency Allocations, and by adding footnote US55 to the list of United States (US) Footnotes to read as follows:

**§ 2.106 Table of Frequency Allocations.**

\* \* \* \* \*

			157.1875-161.575	157.1875-157.45 MOBILE except aeronautical mobile US266 5.226 NG111	Maritime (80) Aviation (87) Private Land Mobile (90)
				157.45-161.575 FIXED LAND MOBILE NG28 NG111 NG112 5.226 NG6 NG70 NG124 NG148 NG155	Public Mobile (22) Remote Pickup (74D) Maritime (80) Private Land Mobile (90)
			161.575-161.625	161.575-161.625 MARITIME MOBILE 5.226 US52 NG6 NG17	Public Mobile (22) Maritime (80)
			5.226 US52		
			161.625-161.9625	161.625-161.775 LAND MOBILE NG6 5.226	Public Mobile (22) Remote Pickup (74D) Low Power Auxiliary (74H)
				161.775-161.9625 MOBILE except aeronautical mobile US266 NG6	Maritime (80) Private Land Mobile (90)
5.226	5.226		US266	5.226	
161.9625-161.9875 FIXED MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.228F	161.9625-161.9875 AERONAUTICAL MOBILE (OR) MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space)	161.9625-161.9875 MARITIME MOBILE Aeronautical mobile (OR) 5.228E Mobile-satellite (Earth-to-space) 5.228F	161.9625-161.9875 AERONAUTICAL MOBILE (OR) (AIS 1) MARITIME MOBILE (AIS 1) MOBILE-SATELLITE (Earth-to-space) (AIS 1)	5.228C US52	Satellite Communications (25) Maritime (80)
5.226 5.228A 5.228B	5.228C 5.228D	5.226			
161.9875-162.0125 FIXED MOBILE except aeronautical mobile 5.226 5.229	161.9875-162.0125 FIXED MOBILE 5.226		161.9875-162.0125	161.9875-162.0125 MOBILE except aeronautical mobile 5.226	Maritime (80)
162.0125-162.0375 FIXED MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.228F	162.0125-162.0375 AERONAUTICAL MOBILE (OR) MARITIME MOBILE MOBILE-SATELLITE (Earth-to-space)	162.0125-162.0375 MARITIME MOBILE Aeronautical mobile (OR) 5.228E Mobile-satellite (Earth-to-space) 5.228F	162.0125-162.0375 AERONAUTICAL MOBILE (OR) (AIS 2) MARITIME MOBILE (AIS 2) MOBILE-SATELLITE (Earth-to-space) (AIS 2)	5.228C US52	Satellite Communications (25) Maritime (80)
5.226 5.228A 5.228B 5.229	5.228C 5.228D	5.226			
162.0375-174 FIXED MOBILE except aeronautical mobile	162.0375-174 FIXED MOBILE		162.0375-173.2 FIXED MOBILE US8 US11 US13 US55 US73 US300 US312 G5	162.0375-173.2 US8 US11 US13 US55 US73 US300 US312	Remote Pickup (74D) Private Land Mobile (90)
			173.2-173.4	173.2-173.4 FIXED Land mobile	Private Land Mobile (90)
			173.4-174 FIXED MOBILE	173.4-174	
5.226 5.229	5.226 5.230 5.231 5.232		G5		

\* \* \* \* \*

International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
400.15-401 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.208B 5.209 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth)			400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to- Earth) US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth)	400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 MOBILE-SATELLITE (space-to- Earth) US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth)	Satellite Communications (25)
5.262 5.264			5.264	5.264	
401-402 METEOROLOGICAL AIDS SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile			401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) EARTH EXPLORATION- SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	MedRadio (95I)
402-403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile			402-403 METEOROLOGICAL AIDS (radiosonde) US70 EARTH EXPLORATION- SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) US64 US384	402-403 METEOROLOGICAL AIDS (radiosonde) US70 Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space) US64 US384	
403-406 METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile			403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64 G6	403-406 METEOROLOGICAL AIDS (radiosonde) US70 US64	
406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267			406-406.1 MOBILE-SATELLITE (Earth-to-space) 5.266 5.267		Maritime (EPIRBs) (80V) Aviation (ELTs) (87F) Personal Radio (95)
406.1-410 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY			406.1-410 FIXED MOBILE RADIO ASTRONOMY US74	406.1-410 RADIO ASTRONOMY US74	Private Land Mobile (90)
5.149			US13 US55 US117 G5 G6	US13 US55 US117	
410-420 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-space) 5.268			410-420 FIXED MOBILE SPACE RESEARCH (space-to-space) 5.268 US13 US55 US64 G5	410-420 US13 US55 US64	Private Land Mobile (90) MedRadio (95I)

\* \* \* \* \*

### **United States (US) Footnotes**

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US55 In the bands 162.0375-173.2 MHz and 406.1-420 MHz, the FCC may authorize public safety applicants to use the 40 Federal Interoperability Channels that are designated for joint federal/non-federal operations for law enforcement, public safety, emergency response and disaster response in section 4.3.16 of the NTIA Manual, subject to the condition that that these non-Federal mobile (including portable) interoperability communications shall conform to the national plans specified therein, and in particular, shall not cause harmful interference to Federal stations. The procedure for authorizing such use is set forth in 47 CFR 90.25.

\* \* \* \* \*

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

4. 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), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, 126 Stat. 156.

5. Add § 90.25 to subpart B to read as follows.

#### **§ 90.25 Non-Federal Use of the Federal Interoperability Channels.**

The Commission may authorize non-Federal licensees to operate mobile and portable radio units on the frequencies listed below in Tables 1 and 2, provided the applicant includes with its application to the Commission, written concurrence from the Statewide Interoperability Coordinator (SWIC) or state appointed official stating that the

application conforms to the agreement with a federal agency with a valid assignment from the National Telecommunications and Information Administration.

Table 1 - Law Enforcement Plans (MHz).

LE VHF Plan			LE UHF Plan		
Identifier	Mobile Transmit	Mobile Receive	Identifier	Mobile Transmit	Mobile Receive
LEA	167.0875 (S)	167.0875	LEB	414.0375 (S)	414.0375
LE1	162.0875	167.0875	LE10	418.9875	409.9875
LE2	162.2625	167.2500	LE11	419.1875	410.1875
LE3	162.8375	167.7500	LE12	419.6125	410.6125
LE4	163.2875	168.1125	LE13	414.0625 (S)	414.0625
LE5	163.4250	168.4625	LE14	414.3125 (S)	414.3125
LE6	167.2500 (S)	167.2500	LE15	414.3375 (S)	414.3375
LE7	167.7500 (S)	167.7500	LE16	409.9875 (S)	409.9875
LE8	168.1125 (S)	168.1125	LE17	410.1875 (S)	410.1875
LE9	168.4625 (S)	168.4625	LE18	410.6125 (S)	410.6125

(S) - Simplex

Table 2 - Incident Response Plans (MHz)

IR VHF Plan			IR UHF Plan		
Identifier	Mobile Transmit	Mobile Receive	Identifier	Mobile Transmit	Mobile Receive
NC1 Calling	164.7125	169.5375	NC2 Calling	419.2375	410.2375
IR1	165.2500	170.0125	IR10	419.4375	410.4375
IR2	165.9625	170.4125	IR11	419.6375	410.6375
IR3	166.5750	170.6875	IR12	419.8375	410.8375
IR4	167.3250	173.0375	IR13	413.1875 (S)	413.1875
IR5	169.5375 (S)	169.5375	IR14	413.2125 (S)	413.2125
IR6	170.0125 (S)	170.0125	IR15	410.2375 (S)	410.2375
IR7	170.4125 (S)	170.4125	IR16	410.4375 (S)	410.4375
IR8	170.6875 (S)	170.6875	IR17	410.6375 (S)	410.6375
IR9	173.0375 (S)	173.0375	IR18	410.8375 (S)	410.8375

(S) - Simplex

6. Amend § 90.173 by revising paragraph (c) to read as follows.

**§ 90.173 Policies governing the assignment of frequencies.**

\* \* \* \* \*

(c) Frequencies assigned to Federal Government radio stations by the National Telecommunications and Information Administration may be authorized under the provisions set forth in § 2.102(c) of this chapter.

[FR Doc. 2018-08790 Filed: 5/4/2018 8:45 am; Publication Date: 5/7/2018]