

ACTION: Proposed rule.

SUMMARY: The EPA proposes to determine that the Sandpoint nonattainment area in Idaho attains the National Ambient Air Quality Standard for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM₁₀).

DATES: Comments must be received on or before July 22, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2010-0294, by any of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* body.steve@epa.gov.

- *Mail:* Steve Body, U.S. EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

- *Hand Delivery/Courier:* U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. *Attention:* Steve Body, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Steve Body at telephone number: (206) 553-0782, *e-mail address:* body.steve@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION:

For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. EPA is approving the attainment determination as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule.

If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse

comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: May 28, 2010.

Dennis J. McLerran,

Regional Administrator, EPA Region 10.

[FR Doc. 2010-14894 Filed 6-21-10; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02-55; DA 10-695]

Improving Public Safety Communications in the 800 MHz Band; New 800 MHz Band Plan for Puerto Rico and the U.S. Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document summarizes the Third Further Notice of Proposed Rulemaking portion of the Third Report and Order and Third Further Notice of Proposed Rulemaking, which portion seeks comment on adopting a new 800 MHz band plan for the U.S. Virgin Islands.

DATES: Comments are due July 22, 2010.

ADDRESSES: Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.

Filers should follow the instructions provided on the Web site for submitting comments.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience

delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

- *People with Disabilities:* 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).

- Parties should send a copy of their filings to John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, Federal Communications Commission, Room 7-B550, 445 12th Street, SW., Washington, DC 20554, or by e-mail to john.evanoff@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

- Documents in WT Docket No. 02-55 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, (202) 418-0848.

SUPPLEMENTARY INFORMATION: This is a summary of the Third Further Notice of

Proposed Rulemaking portion of the Commission's Third Report and Order and Third Further Notice of Proposed Rule Making, DA 10-695, released on April 26, 2010. This summary should be read in conjunction with its companion document, the summary of the Third Report and Order portion of the Third Report and Order and Third Further Notice of Proposed Rule Making, published elsewhere in this issue of the **Federal Register**. The complete text of the 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. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Synopsis of the Third Further Notice of Proposed Rulemaking

In a July 2004 Report and Order, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band, 69 FR 67823, November 22, 2004. In a Second Memorandum Opinion and Order, adopted in May 2007, the Commission determined that an alternative band plan was appropriate for the Commonwealth of Puerto Rico (Puerto Rico) due to the unique nature of 800 MHz incumbency in the Puerto Rico market compared to other markets, 72 FR 39756, July 20, 2007. Rather than specify a band plan for Puerto Rico, the Commission directed the 800 MHz Transition Administrator (TA) to propose an alternative band plan and negotiation timetable for Puerto Rico applying certain criteria. The Commission delegated authority to the Public Safety and Homeland Security Bureau (Bureau) to approve or modify the proposed band plan and timetable, and suspended the rebanding timetable for Puerto Rico until a new band plan was adopted. On October 19, 2007, the TA filed the requested band plan proposal in this docket (TA Proposal). On June 30, 2008, the Bureau sought comment on the TA Proposal for 800 MHz band reconfiguration in Puerto Rico as well as alternative band plans, 73 FR 40274, July 14, 2008.

The TA recommended that we also apply the Puerto Rico band plan to the U.S. Virgin Islands (USVI) because of the similar incumbencies in the two

areas, e.g., the USVI is in the same Economic Area (EA) as Puerto Rico, the same EA licensees must relocate to the ESMR Band, and there is a similar shortage of ESMR spectrum to accommodate ESMR-eligible licensees that wish to relocate. The TA also noted that the USVI, like Puerto Rico, has site-based licensees that must be relocated from the ESMR Band.

Subsequently, in light of the TA's recommendation to adopt the same band plan for the USVI as for Puerto Rico, the Commission delegated authority to PSHSB to seek comment on the USVI portion of the TA Proposal and to adopt a rebanding plan for the USVI. In the Third Report and Order and Third Further Notice of Proposed Rule Making, the PSHSB tentatively concluded to adopt, for the USVI, the same band plan it adopted for Puerto Rico. The Bureau seeks comment on its tentative conclusion. The Bureau also seeks comment on the appropriate rebanding timetable for the USVI. Should the Bureau implement an 18-month timetable similar to the Puerto Rico timetable (commencing on the effective date of the rules adopted for rebanding in the USVI), or is a different, possibly shorter, timetable appropriate?

Procedural Matters

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Third Further Notice of Proposed Rulemaking portion of the Third Report and Order and Third Further Notice of Proposed Rule Making (Third FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the first page of the Third Report and Order and Third Further Notice of Proposed Rule Making. The Commission will send a copy of the Third Report and Order and Third Further Notice of Proposed Rule Making including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Third Report and Order and Third Further Notice of Proposed Rule Making and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

In this Third FNPRM, we consider the 800 MHz Transition Administrator's (TA) proposal to reconfigure the band plan for the U.S. Virgin Islands (USVI). In the Second Memorandum Opinion and Order, the Commission stated that the alternative band plan would be confined to Puerto Rico since no party had identified any comparable channel shortage outside of Puerto Rico. However, because Puerto Rico and USVI are in the same EA, EA 174, and have the same EA licensees, the USVI faces the same shortage of ESMR spectrum as Puerto Rico. Similarly, there are also high-site incumbents in the USVI to be relocated from the ESMR band. Given these circumstances, the TA determined that the USVI is served best by the same alternative band plan as Puerto Rico. Using the same alternative band plan for the entire EA will also permit frequency planning and future spectrum coordination to be performed more efficiently. Therefore, the TA proposed that the Puerto Rico band plan be applied to the USVI. In light of the TA's recommendation to adopt the same band plan for the USVI as for Puerto Rico, the Commission has delegated authority to the Bureau to seek comment on the USVI portion of the TA Proposal and to adopt a rebanding plan for the USVI.

Under the TA's proposal, and consistent with the U.S. Band Plan and the new Puerto Rico band plan, all US Virgin Island incumbents in the 806-809/851-854 MHz (Channel 1-120) band segment would be relocated to comparable spectrum in the Interleaved, Expansion, or ESMR Band, depending on their eligibility. All NPSPAC licensees would be relocated from their 821-824/866-869 MHz channel assignments to channel assignments 15 MHz downward in the 806-809/851-854 MHz band segment. Under the TA Proposal, the USVI band plan would be the same as the band plan for non-border regions of the United States (U.S. Band Plan), except that the Expansion Band would be expanded by 0.5 MHz in bandwidth through elimination of the lower 0.5 MHz portion of the Guard Band. Under the TA Proposal, the ESMR Band in EA 174 would remain in the same channels as in the U.S. Band Plan. The TA has determined that there will not be sufficient capacity to accommodate fully all ESMR and ESMR-eligible licensees in the ESMR Band. The TA Proposal provides that the TA will apportion the USVI ESMR Band (817-824/862-869 MHz) in accordance with the provisions set forth

by the Commission the 800 MHz Second Memorandum Opinion and Order. The TA proposes that all USVI licensees would be subject to a single 90-day mandatory negotiation period, after which any licensee that fails to negotiate a Frequency Reconfiguration Agreement with Sprint Nextel would enter TA-sponsored mediation. The reconfiguration of the 800 MHz band in the USVI is in the public interest because it will allow the Commission to eliminate interference in these regions to public safety and other land mobile communication systems. Interference is eliminated by separating to the greatest extent possible—public safety and other non-cellular licensees from licensees that employ cellular technology in the 800 MHz band. In that connection, it is the Bureau's intent to proceed with rebanding in the USVI as quickly as is feasible consistent with the Commission's goals in this proceeding.

Legal Basis

The legal basis for any action that may be taken pursuant to this Third Report and Order and Third Further Notice of Proposed Rule Making is contained in Sections 4(i), 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f) and (r), and 332.

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

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. 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 "small business concern" under the Small Business Act. A small business concern is one which: (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 (SBA).

A small organization is generally any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Nationwide, as of 1992, there were approximately 275,801 small organizations. A "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 included 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 entities—applicants and licensees—that may be affected by the proposals, if adopted, in this Third FNPRM.

Public Safety Radio Licensees. Public safety licensees that operate 800 MHz systems in the USVI would be required to relocate their station facilities according to the band plan proposed in this Third FNPRM. As indicated above, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

Business, I/LT, and SMR Licensees. Business and Industrial Land Transportation (B/ILT) and Specialized Mobile Radio (SMR) licensees which operate 800 MHz systems in the USVI would be required to relocate their station facilities according to the band plan proposed in this Third FNPRM. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward these licensees.

ESMR Licensees. Enhanced Specialized Mobile Radio (ESMR) licensees and ESMR-eligible licensees which operate 800 MHz systems in the USVI would be required to relocate their station facilities according to the band plan proposed in this Third FNPRM. Neither the Commission nor the SBA has developed a definition of small businesses directed specifically toward these licensees.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Third FNPRM does not propose a rule that will entail additional reporting, recordkeeping, and/or third-party consultation or other compliance efforts.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant, specifically small business 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) exemption from coverage of the rule, or any part thereof, for small entities."

The TA has recommended that we apply the Puerto Rico band plan to the USVI because of the similar incumbencies in the two areas. The USVI is in the same Economic Area (EA) as Puerto Rico, the same EA licensees must relocate to the ESMR Band, and there is a similar shortage of ESMR spectrum to accommodate ESMR-eligible licensees that wish to relocate. The TA also noted that the USVI, like Puerto Rico, has site-based licensees that must be relocated from the ESMR Band.

To the extent that adoption of the TA's proposal may impose an economic impact in the USVI on relocating non-ESMR and site-based incumbents, including public safety, to the non-ESMR band, that impact will be borne by Sprint Nextel Corp. (Sprint) because Sprint must pay the costs of 800 MHz band reconfiguration. Under Small Business Administration criteria, Sprint is a large entity. Furthermore, there is no evidence in the record that non-Sprint licensees in the USVI market, including small wireless cellular, public safety, governmental entities or other wireless entities, would suffer adverse economic consequences. Indeed, these licensees are likely to enjoy several benefits, including improved interference protection, as a result of band reconfiguration.

Additionally, while apportioning spectrum in the ESMR band may result in a reduction in ESMR spectrum availability, licensees can accommodate these reductions by employing more spectrum-efficient technologies and higher-quality digital technologies. ESMR and ESMR-eligible licensees are also likely to receive a number of benefits as a result of modifying the USVI Band Plan. For example, as a consequence of 800 MHz band reconfiguration, ESMR-eligible licensees will be able to relocate EA and site-based facilities to the ESMR band that are currently located below the ESMR band. If these facilities are relocated and integrated into an ESMR band system, these licensees (1) will be relieved of the cost and limitations associated with abating interference created by the interleaving of ESMR stations with high-site systems used by public safety and others in the non-ESMR portion of the band and (2) will be able to take

advantage of spectrally efficient technologies.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Paperwork Reduction Act Analysis

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Therefore it does not contain any new or modified "information burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.

Congressional Review Act

The Commission will not send a copy of this Third Report and Order and Third Notice of Proposed Rulemaking in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.

Ordering Clauses

Accordingly, it is ordered, pursuant to Sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 332, and Sections 0.191 and 0.392 of the Commission's rules, 47 CFR 0.191, 0.392, that this Third Report and Order and Third Further Notice of Proposed Rule Making *is adopted*.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Third Report and Order and Third Further Notice of Proposed Rule Making, including the Final Regulatory Flexibility Certification and Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

It is further ordered that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on July 22, 2010, and reply comments are due August 6, 2010.

Federal Communications Commission.

James Arden Barnett, Jr.,

Rear Admiral (Ret.), Chief, Public Safety and Homeland Security Bureau.

[FR Doc. 2010-14994 Filed 6-21-10; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 195

[Docket PHMSA-2008-0186]

RIN 2137-AE36

Pipeline Safety: Applying Safety Regulation to All Rural Onshore Hazardous Liquid Low-Stress Lines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: PHMSA is proposing to amend its pipeline safety regulations to apply safety regulations to rural low-stress hazardous liquid pipelines that are not covered by safety regulations in 49 CFR Part 195. This change complies with a mandate in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act).

DATES: Anyone interested in filing written comments on this Notice of Proposed Rulemaking (NPRM) must do so by August 23, 2010. PHMSA will consider late comments filed so far as practical.

ADDRESSES: Comments should reference Docket No. PHMSA-2008-0186 and may be submitted in the following ways:

- *E-Gov Web site:* <http://www.regulations.gov>. This Web site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1-202-493-2251.
- *Mail:* DOT Docket Management System: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington DC, 20590-0001.
- *Hand Delivery:* DOT Docket Management System; West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the Docket ID PHMSA-2008-0186 at the beginning of your comments. If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <http://www.regulations.gov>. **Note:** Comments are posted without changes or edits to

<http://www.regulations.gov>, including any personal information provided. There is a privacy statement published on <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For technical contents of the NPRM contact Mike Israni by phone at 202-366-4571 or by e-mail at Mike.Israni@dot.gov. For all other information contact Tewabe Asebe by phone at 202-366-4595 or by e-mail at tewabe.asebe@dot.gov.

SUPPLEMENTARY INFORMATION: Until 2008, unless a rural low-stress pipeline crossed a commercially navigable waterway, a hazardous liquid pipeline operating at low-stress in a rural area was not regulated under Federal pipeline safety regulations in 49 CFR Part 195. Section 195.2 defines a "rural area" as outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area, such as a subdivision, a business or shopping center, or community development.

Because of the potential environmental damage a release from these lines could pose, in 2006, PHMSA issued a NPRM (71 FR 52504), proposing to apply a threat-focused set of safety requirements to larger-diameter (8 5/8-inches or greater) rural onshore hazardous liquid low-stress pipelines located in or within a quarter mile of an "unusually sensitive area (USA)." USAs are defined in § 195.6 as drinking water or other ecological resources that are unusually sensitive to environmental damage from a hazardous liquid pipeline release.

The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act), was signed into law on December 29, 2006, (Pub. L. 109-468). Section four of the PIPES Act (codified at 49 U.S.C. 60102(k)) requires PHMSA to "issue regulations subjecting low-stress hazardous liquid pipelines to the same standards and regulations as other hazardous liquid pipelines." The Act also provides the new regulations could be issued in phases.

The threat-focused set of requirements PHMSA proposed in the 2006 NPRM, although drawn from Part 195, would not have satisfied the "same standards and regulations" requirement in the PIPES Act. PHMSA concluded it would be inefficient to finalize that proposal and then later impose the rest of the Part 195 requirements.

Implementation of the PIPES Act Mandate

PHMSA decided to implement the PIPES Act mandate in phases, in part because PHMSA did not have complete data on the extent of rural low-stress