

carrier no longer intends to deploy to a previously identified census block, it must inform the Commission, the Administrator, relevant state commission, and any affected Tribal government prior to filing its certification pursuant to § 54.313(b)(2).

\* \* \* \* \*

[FR Doc. 2013-19233 Filed 8-8-13; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 12-92; RM-11650, RM-11679, DA 13-1567]

#### Radio Broadcasting Services; Centerville, Lovelady, Midway, and Oakwood, Texas

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Media Bureau grants a Petition for Rule Making filed by Katherine Pyeatt by allotting alternate FM Channel 251A at Midway, Texas, and also grants a Counterproposal filed by Roy E. Henderson for a new allotment on Channel 233A at Oakwood, Texas. Additionally, the document clarifies the circumstances under which an otherwise timely filed counterproposal in an FM allotment proceeding may be amended to cure a conflict with a previously filed application. Finally, the Bureau bifurcates two hybrid applications filed by Henderson from the Counterproposal and will consider them at a later date. See **SUPPLEMENTARY INFORMATION**.

**DATES:** Effective September 9, 2013.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes or Rolanda F. Smith, Media Bureau, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 12-92, adopted July 11, 2013, and released July 12, 2013. See also *Notice of Proposed Rule Making*, 77 FR 25112, published April 27, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW.,

Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or via email [www.BCPIWEB.com](http://www.BCPIWEB.com). The Commission will send a copy of this *Report and Order* in a report to Congress and the Governmental Accountability Office, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed 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).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Although Henderson's Counterproposal was timely filed on the counterproposal deadline of May 29, 2012, a conflicting minor modification application was filed on May 21, 2012. Under the Note to Section 73.208(a)(3) of the Commission's Rules, if an otherwise timely filed counterproposal is in conflict with a previously filed application, the counterproposal can be considered if it is amended to remove the conflict within 15 days from the date the counterproposal appears on public notice. The Note also requires a counterproponent to show that it could not have known of the pending conflicting FM application by exercising due diligence. While Henderson submitted an amendment to resolve the conflict within 15 days from the release of the Public Notice accepting the counterproposal, the document explains that the facts of this case present a close question as to whether the necessary "due diligence" was exercised that would warrant acceptance of the Amendment. Under these circumstances, the Bureau concludes that the public interest is, on balance, better served by accepting Henderson's amendment and resolving this case on section 307(b) grounds than by basing its decision on a tenuous interpretation of the "due diligence" requirement of the rule.

The Bureau also clarifies how it will handle similar matters on a going-forward basis. First, the Bureau clarifies that prospective counterproponents in FM allotment rule making proceedings are required to take into account all FM application filings "released" by Broadcast Actions Public Notices more than 15 days from the counterproposal deadline. Unacceptable counterproposals under this fact

scenario will be dismissed. Second, applicants are required to confirm the acceptability of their engineering no more than five business days prior to the counterproposal deadline. If changes to the Commission's database occur between 5 and 15 days from the counterproposal deadline and result in a conflict, the counterproposal must note the conflict and must request release of a Public Notice starting a 15-day cure period. Failure to note a conflict under these circumstances results in dismissal of the counterproposal. Third, the Bureau clarifies that conflicting applications announced by Broadcast Actions Public Notices less than five business days from the counterproposal deadline do not have to be noted or accounted for in an otherwise timely filed counterproposal. Under these circumstances, we will issue a Public Notice, and counterproponents will have 15 days to resolve the conflict.

The reference coordinates for Channel 251A at Midway, Texas, are 31-03-40 NL and 95-45-00 WL. The reference coordinates for Channel 233A at Oakwood, Texas, are 31-39-42 NL and 95-52-53 WL. Further, the use of alternate Channel 251A at Midway eliminates the need for a related channel substitution at Centerville as proposed in the Notice. Likewise, Henderson's Amendment to his Counterproposal eliminates the need for the substitution of Channel 232A for vacant Channel 288A at Lovelady because it proposes to change the reference coordinates for Channel 288A at Lovelady in order to accommodate one of the "hybrid" applications. This aspect of the Counterproposal will be considered at a later date along with these non-mutually exclusive applications (File Nos. BPH-20120529ADK and BPH-20120529ADI).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.  
Federal Communications Commission.  
**Nazifa Sawez**,  
*Assistant Chief, Audio Division, Media Bureau.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336 and 339.

**§ 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.

[FR Doc. 2013-18177 Filed 8-8-13; 8:45 am]

BILLING CODE 6712-01-P

## 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](http://www.fcc.gov). Alternative formats are available to persons with disabilities by sending an email to [fcc504@fcc.gov](mailto: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.