

**§ 1800.202 Proportionate number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.**

The proportionate number of miles for each Gulf Coast State is determined by dividing each Gulf Coast State's number of miles of oiled shoreline determined in 1800.201 by the total number of affected miles. This calculation yields the following:

- (a) Alabama—8.04%.
- (b) Florida—15.63%.
- (c) Louisiana—58.92%.
- (d) Mississippi—14.19%.
- (e) Texas—3.22%.

**§ 1800.300 Inverse proportion of the average distance from Deepwater Horizon at the time of the explosion.**

Solely for the purpose of calculating the Spill Impact Formula, the following shall apply, rounded to one decimal place with respect to distance:

**§ 1800.301 Distances from the Deepwater Horizon at the time of the explosion.**

(a) Alabama—The distance from the nearest point of the Alabama shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 89.2 miles. The distance from the farthest point of the Alabama shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 103.7 miles. The average of these two distances is 96.5 miles.

(b) Florida—The distance from the nearest point of the Florida shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 102.3 miles. The distance from the farthest point of the Florida shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 207.6 miles. The average of these two distances is 154.9 miles.

(c) Louisiana—The distance from the nearest point of the Louisiana shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 43.5 miles. The distance from the farthest point of the Louisiana shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 213.7 miles. The average of these two distances is 128.6 miles.

(d) Mississippi—The distance from the nearest point of the Mississippi shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 87.7 miles. The distance from the farthest point of the Mississippi shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 107.9 miles. The average of these two distances is 97.8 miles.

(e) Texas—The distance from the nearest point of the Texas shoreline that experienced oiling from the *Deepwater*

*Horizon* oil spill was 306.2 miles. The distance from the farthest point of the Texas shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 356.5 miles. The average of these two distances is 331.3 miles.

**§ 1800.302 Inverse proportions.**

The inverse proportion for each Gulf Coast State is determined by summing the proportional average distances determined in 1800.301 and taking the inverse. This calculation yields the following:

- (a) Alabama—27.39%.
- (b) Florida—17.06%.
- (c) Louisiana—20.55%.
- (d) Mississippi—27.02%.
- (e) Texas—7.98%.

**§ 1800.400 Coastal county populations.**

Solely for the purpose of calculating the Spill Impact Formula, the coastal political subdivisions bordering the Gulf of Mexico within each Gulf Coast State are:

(a) The Alabama Coastal Counties, consisting of Baldwin and Mobile counties;

(b) The Florida Coastal Counties, consisting of Bay, Charlotte, Citrus, Collier, Dixie, Escambia, Franklin, Gulf, Hernando, Hillsborough, Jefferson, Lee, Levy, Manatee, Monroe, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota, Taylor, Wakulla, and Walton counties;

(c) The Louisiana Coastal Parishes, consisting of Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Mary, St. Tammany, Terrebonne, and Vermilion parishes;

(d) The Mississippi Coastal Counties, consisting of Hancock, Harrison, and Jackson counties; and

(e) The Texas Coastal Counties, consisting of Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, and Willacy counties.

**§ 1800.401 Decennial census data.**

The average populations in the 2010 decennial census for each Gulf Coast State, rounded to the nearest whole number, are:

(a) For the Alabama Coastal Counties, 297,629 persons;

(b) For the Florida Coastal Counties, 252,459 persons;

(c) For the Louisiana Coastal Parishes, 133,633 persons;

(d) For the Mississippi Coastal Counties, 123,567 persons; and

(e) For the Texas Coastal Counties, 147,845 persons.

**§ 1800.402 Distribution based on average population.**

The distribution of funds based on average populations for each Gulf Coast

State is determined by dividing the average population determined in 1800.401 by the sum of those average populations. This calculation yields the following results:

- (a) Alabama—31.16%.
- (b) Florida—26.43%.
- (c) Louisiana—13.99%.
- (d) Mississippi—12.94%.
- (e) Texas—15.48%.

**§ 1800.500 Allocation.**

Using the data from sections 1800.200 through 1800.402 of this subpart in the formula provided in section 1800.101 of this subpart yields the following allocation for each Gulf Coast State:

- (a) Alabama—20.40%.
- (b) Florida—18.36%.
- (c) Louisiana—34.59%.
- (d) Mississippi—19.07%.
- (e) Texas—7.58%.

**Justin R. Ehrenwerth,**

*Executive Director, Gulf Coast Ecosystem Restoration Council.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 90**

[PS Docket No. 15-199; FCC 15-105]

**Enable Railroad Police Officers To Access Public Safety Interoperability and Mutual Aid Channels**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document seeks comment on proposals to amend the Commission's rules to provide railroad police with access to public safety interoperability and mutual aid channels. By this action, the Commission affords interested parties an opportunity to submit comments on these proposed rule changes.

**DATES:** Comments are due on or before November 13, 2015 and reply comments are due on or before November 30, 2015.

**ADDRESSES:** You may submit comments, identified by PS Docket No. 15-199, by any of the following methods:

- *Federal Communications Commission's Web site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

**FOR FURTHER INFORMATION CONTACT:** John Evanoff, Attorney-Advisor of the Public Safety and Homeland Security Bureau, Policy and Licensing Division, at (202) 418-0848, or by email to [john.evanoff@fcc.gov](mailto:john.evanoff@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 15-105, released on September 1, 2015. The document is available for download at <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 email to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

In the Notice of Proposed Rulemaking (NPRM) in PS Docket No. 15-199, the Commission initiates a new proceeding to amend the part 90 rules governing access to public safety interoperability and mutual aid channels. The Commission seeks comment on expanding eligibility to allow railroad police officers employed by Class I, Class II and Class III railroads as defined by the U.S. Department of Transportation's Surface Transportation Board (STB) and recognized by the Federal Railroad Administration (FRA) to operate on public safety interoperability and mutual aid channels. Further, the Commission seeks comment on alternatives for defining eligible railroad police officers, including expanding the definition to include part-time rail police and Amtrak. The Commission also seeks comment on requiring railroad police officers to obtain governmental authorization to operate on the 700 MHz interoperability channels as required by § 90.523 of the Commission's rules and Section 337(f)(1) of the Communications Act of 1934, as amended. Additionally, the Commission seeks comment on requiring railroad police officers seeking to license the interoperability channels to obtain frequency coordination and submit a license application, in the event that it is decided that railroads can operate base and control stations on interoperability channels.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may

be filed using the Commission's Electronic Comment Filing System (ECFS). 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://fjallfoss.fcc.gov/ecfs2/>.

- **Paper Filers:** Parties who choose to file by paper must file an original and one copy 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. 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. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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.

**People with Disabilities:** To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty). Commenters who file information that they believe should be withheld from public inspection may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 13 FCC Rcd 24816 (1998), Order on Reconsideration, 14 FCC Rcd

20128 (1999). Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. See 47 CFR 0.461; 5 U.S.C. 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA) the Commission prepared this 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 Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be filed by the same dates as listed on the first page of the *NPRM* and must have a separate and distinct heading designating them as responses to this IRFA. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

### Need for, and Objectives of, the Proposed Rules

The NPRM is intended to determine whether it is in the public interest, convenience and necessity to amend the Part 90 rules to reduce regulatory barriers and facilitate railroad police access to public safety interoperability and mutual aid channels. Specifically, in response to a Petition for Rulemaking filed by the National Public Safety Telecommunications Council (NPSTC), the NPRM seeks comment on expanding eligibility to allow railroad police officers employed by a Class I, Class II and Class III railroad as defined by the U.S. Department of Transportation's Surface Transportation Board (STB) and recognized by the Federal Railroad Administration (FRA) to operate on public safety interoperability channels in the VHF and UHF bands below 512 MHz, 700 MHz narrowband and 800 MHz NPSPAC band. Commenters were uniformly supportive of the NPSTC proposal, which the Public Safety and Homeland Security Bureau placed on Public Notice. These commenters, including the U.S. Department of Transportation, cited the safety of life and property role that railroad police officers play in emergencies. In certain emergencies, such as accidents involving railroads or security incidents involving the U.S. rail network, public safety personnel may need to communicate with railroad police. Additionally, Congress enacted the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Recommendations Act), which provides that railroad grant funding may be used, *inter alia*, to acquire "communications equipment, including equipment that is

interoperable with Federal, State, and local agencies and tribal governments[.]” Therefore, in light of the record and expression of Congressional intent, the NPRM seeks comment on amending the eligibility rules applicable to interoperability spectrum.

As discussed below, the Commission has endeavored to keep the burdens associated with this rule change as simple and minimal as possible. The NPRM seeks comment on requiring railroad police officers to obtain governmental authorization to operate on the 700 MHz interoperability channels as required by § 90.523 of the Commission's rules and Section 337(f)(1) of the Communications Act of 1934, as amended. Further, the NPRM seeks comment on requiring railroad police officers seeking to license the interoperability channels to obtain frequency coordination and submit a license application, in the event that it is decided that railroads can operate base and control stations on interoperability channels. Additionally, the NPRM seeks comment on alternatives to licensing on the interoperability channels in order to minimize the burden on railroad entities, as discussed below. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Finally, we propose to update § 90.20 of the Commission's rules to explicitly identify the nationwide interoperability channels to facilitate interoperability among Federal, State, Local, Tribal and Railroad Police entities. The Commission concludes that it is necessary to eliminate uncertainty and to codify the flexible licensing approach concerning the use of all the public safety interoperability channels.

### Legal Basis

These proposed actions are taken under Sections 1, 2, 4(i), 4(j), 301, 303, 316, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 303, 316, 332 and 337.

### 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, if 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." "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." The official count of local governments in the United States for 2012 was 90,056, comprising 38,910 general-purpose governments and 51,146 special-purpose governments. General purpose governments include those classified as counties, municipalities, and townships. For this category, census data for 2012 show that there were approximately 37,132 counties, cities and towns that have populations of fewer than 50,000. 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 SBA. Below, we describe and estimate the number of small entities that may be affected by the rules changes proposed in this *NPRM*.

Private Land Mobile Radio Licensees. PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. Because of the vast array of PLMR users, which includes railroads, the Commission has not developed a small business size standard specifically applicable to PLMR users. The SBA rules, however, contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. For this category, census data for 2007 show that there were 11,163 establishments that operated for the entire year. Of this total, 10,791 establishments had employment of 999 or fewer employees and 372 had employment of 1000

employees or more. Under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. The Commission, however, does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. We note that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

Public Safety Radio Pool Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337. Non-Federal governmental entities may be eligible licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity. According to the Commission's records, there were (1) 1,318 public safety licensees licensed on at least one of the VHF and UHF public safety interoperability channels; (2) 59 public safety licensees licensed on at least one of the narrowband interoperability channels in the public safety band between 764–776 MHz/794–806 MHz; and (3) 4,715 public safety licensees operating in the public safety band between 806–809/851–854 MHz (NPSPAC band). In total there are 6,092 public safety entities, including small governmental jurisdictions, licensed to operate on at least one of the interoperability and mutual aid channels.

Class I, Class II, and Class III Railroads. NPSTC proposes expanding eligibility to operate on the interoperability channels to include full-time railroad police employed by a Class I, II, or III railroad, as defined by the STB and recognized by the FRA. The SBA stipulates "size standards" for small entities. It provides that the largest a for-profit railroad business firm may be and still be classified as a "small entity" is 1,500 employees for "Line-Haul" railroads, and 500 employees for "Short-Line" railroads. SBA size standards may be altered by Federal agencies in consultation with SBA, and in conjunction with public comment. Pursuant to the authority provided to it by SBA, the FRA has published a final

policy, which formally establishes small entities as railroads that meet the line haulage revenue requirements of a "Class III railroad." This threshold is based on the STB's threshold for a Class III railroad carrier, which is adjusted by applying the railroad revenue deflator adjustment. Consistent with FRA's approach, we are using this definition for this rulemaking. Approximately 700 railroads meet the criteria for small entity. We are using this as our estimate of the universe of small entities that could be directly impacted by the proposed rule.

The NPRM seeks comment on expanding eligibility to operate on the interoperability channels. The primary beneficiaries of this increased flexibility would be railroads, including small railroads, and PLMR licensees, including small governmental jurisdictions, that have a need to interoperate with each other. The FCC notes that the requirement that railroads obtain governmental authorization to operate on the 700 MHz interoperability channels is statutorily required and the Commission is without authority to exempt railroads from this requirement. Additionally, railroad entities may be required to obtain frequency coordination and submit a license application on FCC Form 601 in order to license, construct and operate base and control stations on the interoperability channels. The NPRM seeks comment on additional flexibility that may reduce the impact on railroad police officers operating on the interoperability channels. Those alternatives are discussed below.

#### **Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

This NPRM contains modified information collection requirements 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 under Section 3507(d) of the PRA. The NPRM seeks comment on whether railroad police officers who are certified and/or commissioned as a police officer under the laws of any state, in accordance with the regulations issued by the Secretary of the U.S. Department of Transportation and employed full time as a railroad police officer for a Class I, II, or III railroad, as defined by the U.S. Department of Transportation's Surface Transportation Board and recognized by the Federal Railroad Administration (FRA) should be eligible to operate on the nationwide interoperability and mutual aid channels specified in §§ 90.20 and

90.525 of the Commission's rules. The NPRM also seeks comment on alternatives for defining eligible railroad police officers, including expanding the definition to include part-time rail police and Amtrak consistent with FRA regulations. The NPRM seeks comment on its tentative conclusion that the definition of railroad police officers established by the Department of Transportation best captures the eligibility criteria for railroad police use of the interoperability and mutual aid channels.

The NPRM also seeks comment on requiring railroad police officers to obtain governmental authorization to operate on the 700 MHz interoperability channels as required by § 90.523 of the Commission's rules and Section 337(f)(1) of the Communications Act of 1934, as amended. In accordance with the Paperwork Reduction Act, the Office of Management and Budget (OMB) has already approved the collection of state and local government certifications from non-governmental organizations that seek to operate on the 700 MHz narrowband channels. See ICR Reference Number: 201403–3060–018, OMB Control No. 3060–0805. The nationwide interoperability and mutual aid channels are designed to meet a variety of public safety interoperability needs, but railroad entities have traditionally been licensed in the Industrial/Land Transportation/Business spectrum bands and thus have not been subject to the licensing requirements applicable to the interoperability and mutual aid channels. We do not propose to change the wording of the OMB-approved collection in any material or substantive manner, but we do seek to determine whether railroad police meet the statutory eligibility criteria to operate on the 700 MHz interoperability channels. If so, then only the number of respondents would change as we would expect that railroad police officers will comply with these existing statutory requirements and regulations, which are the minimum necessary to ensure effective use of the spectrum and to minimize interference potential to public safety entities, including State, local and tribal governments. Thus, requiring railroad police to obtain governmental authorization in order to operate on the 700 MHz interoperability channels would increase the number of respondents by approximately 763 entities. See ICR Reference Number: 201308–2130–009, OMB Control No. 2130–0537.

The NPRM also seeks comment on licensing base and control stations on the interoperability and mutual aid

channels. The NPRM notes that licensing base and control stations would require frequency coordination (e.g. railroad police officers would be required to submit a license application on Form 601 demonstrating evidence of frequency coordination). Similarly, mobile-only authorizations require frequency coordination and submission of FCC form 601. Railroad entities seeking licenses in the Industrial Land Transportation and Business Pool are required to obtain coordination from certain frequency coordinators as specified in § 90.35 of the Commission's rules. However, the interoperability and mutual aid channels are subject to frequency coordination from the four certified public safety frequency coordinators as specified in § 90.20(c). OMB has already approved the information collection requirements, including frequency coordination requirement associated with Form 601. See ICR Reference Number: 201311-3060-018, OMB Control No. 3060-0798. We do not propose any substantive or material changes to the wording of the existing information collection. Instead, if we amend to rules to allow railroad police officers to license the interoperability and mutual aid channels, then the number of respondents subject to the existing information collections would increase by approximately 763 entities.

Additionally, the NPRM notes that the 700 MHz interoperability channels are administered by State entities and/or regional planning committees. OMB has already approved the information collections associated with obtaining State/RPC concurrence to operate on the 700 MHz interoperability channels. See ICR Reference Number: 201404-3060-023, OMB Control No. 3060-1198. We do not propose any substantive or material changes to the wording of this existing information collection but if we allow railroad police to operate on these interoperability channels, then the number of respondents subject to the existing information collections would increase by approximately 763 entities.

The NPRM also seeks comment on less burdensome alternatives to licensing, constructing and operating base stations on the interoperability and mutual aid channels. Specifically, the NPRM seeks comment on allowing railroad police officers to (1) operate mobile stations on these channels under a "blanket" licensing approach or (2) allowing public safety licensees to share their facilities with railroad police pursuant to a sharing agreement. With regard to blanket licensing, we would essentially clarify that Section 90.421 permits railroad police to operate

mobile stations so long as their employer holds a PLMR license and therefore would not impose any new or modified information collections requirements. However, allowing public safety entities to "share" their facilities with railroad police would require reducing such an arrangement into writing as required by § 90.179. OMB has already approved the information collection requirements in § 90.179 and we do not propose any substantive or material changes to the wording of the existing information collection. See ICR Reference Number: 200111-3060-016, OMB Control No. 3060-0262. If we amend the eligibility rules, then the number of respondents would increase by approximately 763 entities.

The Commission believes that applying the same information collection rules equally to public safety and railroad police entities in this context will promote interoperability and advance Congressional objectives. The Commission does not believe that the costs and/or administrative burdens associated with the rules will unduly burden small entities. The rule revisions the Commission proposes should benefit public safety and railroad police entities by giving them more flexibility, and more options for gaining access to interoperability and mutual aid spectrum. As noted above, the FCC invites comment on these new or modified information collection requirements.

Finally, the rule amendment proposed relative to § 90.20(i) has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase burden hours imposed on the public.

#### **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 and reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof

for small entities. We have evaluated our proposals in this NPRM in the context of small business entities and find no alternatives, to the benefit of small entities that would achieve our goals of facilitating interoperability between public safety entities and railroad police officers and efficient use of nationwide interoperability spectrum. Additionally, this NPRM proposes rules that are deregulatory in nature and consistent with Federal railroad interoperability mandates. Accordingly, the proposed rule changes minimize any significant economic impact on small entities.

The NPRM also seeks comment on four alternatives that may minimize the impact on small entities, including small railroads. First, the NPRM seeks comment on issuing a mobile-only license that would allow railroad police officers to operate mobiles on the interoperability channels without having to construct and operate base and control stations. Second, the NPRM seeks comment on "blanket licensing", an approach that would allow railroad police officers to operate on the interoperability channels provided their railroad employer already holds a license for PLMR spectrum. Third, the NPRM seeks comment on amending Section 90.421 of the Commission's rules to allow railroad police officers to operate mobiles under the license of public safety licensees. Fourth, the NPRM seeks comment on amending Section 90.179 to allow public safety entities to "share" their facilities with railroad police. Any significant alternative presented in the comments will be considered.

Finally, we propose to amend Section 90.20 of the Commission's rules to explicitly identify the nationwide interoperability channels *i.e.* the VHF, UHF and 700 MHz interoperability channels, and the 800 MHz mutual aid channels. We believe that flexible licensing policies are necessary to encourage the use of the most spectrally efficient technology to meet user-defined needs. Recognizing the budgetary constraints that small public safety entities face, we seek to make explicit in the Commission's rules the flexible licensing approach that the Commission previously adopted for all of the public safety interoperability channels.

#### **Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

None.

#### *Ordering Clauses*

Accordingly, IT IS ORDERED, pursuant to sections 1, 2, 4(i), 4(j), 301,

302, 303, 308, 309, 316, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 302a, 303, 308, 309, 324, 316, 332 and 337, that this Notice of Proposed Rulemaking is hereby ADOPTED.

It is further ordered that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on the NPRM on or before November 13, 2015, and reply comments on or before November 30, 2015. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 90**

Radio.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend CFR 47 part 90 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), 332(c)(7) and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156.

■ 2. Amend § 90.20 by adding paragraphs (a)(2)(xiv) and (i) as follows:

**§ 90.20 Public Safety Pool.**

- (a) \* \* \*
- (2) \* \* \*

(xiv) Railroad police officers are a class of users eligible to operate on the nationwide interoperability and mutual aid channels listed in paragraph (i) of this section. Eligible users include part time railroad police officers and Amtrak employees who qualify as railroad police officers under this subsection. Railroads and railroad police departments may obtain licenses for the nationwide interoperability and mutual aid channels of behalf of railroad police officers in their employ. Additionally, railroad police officers may be authorized to operate on interoperability and mutual aid channels if their

employer holds a Private Land Mobile Radio (PLMR) license of any radio category, including Industrial/Business (I/B).

(A) Railroad police officer means peace officer who is commissioned in his or her state of legal residence or state of primary employment and employed by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.

(B) Commissioned means that a state official has certified or otherwise designated in writing a railroad employee as qualified under the licensing requirements of that state to act as a railroad police officer in that state.

(C) Property means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad.

\* \* \* \* \*

(i) *Nationwide Interoperability Channels.* The nationwide interoperability channels are listed below for the VHF, UHF, 700 MHz and 800 MHz bands. (See §§ 90.20(d)(80), 90.531(b)(1), 90.617(a)(1) and 90.720). Any licensee holding a Part 90 public safety license may operate hand-held and vehicular mobile units on these channels without needing a separate authorization. Base stations or control stations operating on these channels must be licensed separately:

VHF Interoperability channel (MHz)	Purpose
151.1375 MHz (base/mobile).	Tactical.
154.4525 MHz (base/mobile).	Tactical.
155.7525 MHz (base/mobile).	Calling.
158.7375 MHz (base/mobile).	Tactical.
159.4725 MHz (base/mobile).	Tactical.

VHF Mutual aid channel (MHz)	Purpose
220.8025 MHz (base/mobile).	Tactical.
220.8075 MHz (base/mobile).	Tactical.
220.8125 MHz (base/mobile).	Tactical.
220.8175 MHz (base/mobile).	Tactical.
220.8225 MHz (base/mobile).	Tactical.
220.8275 MHz (base/mobile).	Tactical.
220.8325 MHz (base/mobile).	Tactical.

VHF Mutual aid channel (MHz)	Purpose
220.8375 MHz (base/mobile).	Tactical.
220.8425 MHz (base/mobile).	Tactical.
220.8475 MHz (base/mobile).	Tactical.

UHF Interoperability channel (MHz)	Purpose
453.2125 MHz (base/mobile).	Calling.
458.2125 MHz (mobile).	Tactical.
453.4625 MHz (base/mobile).	Tactical.
458.4625 MHz (mobile).	Tactical.
458.7125 MHz (mobile).	Tactical.
453.7125 MHz (base/mobile).	Tactical.
453.8625 MHz (base/mobile).	Tactical.
458.8625 MHz (mobile).	Tactical.

700 MHz Interoperability channel (MHz)	Purpose
769.14375 MHz (base/mobile).	Tactical.
799.14375 MHz (mobile).	Calling.
769.24375 MHz (base/mobile).	Tactical.
799.24375 MHz (mobile).	Tactical.
769.39375 MHz (base/mobile).	Tactical.
799.39375 MHz (mobile).	Tactical.
769.49375 MHz (base/mobile).	Tactical.
799.49375 MHz (mobile).	Tactical.
769.64375 MHz (base/mobile).	Tactical.
799.64375 MHz (mobile).	Tactical.
769.74375 MHz (base/mobile).	Tactical.
799.74375 MHz (mobile).	Tactical.
769.99375 MHz (base/mobile).	Tactical.
799.99375 MHz (mobile).	Tactical.
770.14375 MHz (base/mobile).	Tactical.
800.14375 MHz (mobile).	Tactical.
770.24375 MHz (base/mobile).	Tactical.
800.24375 MHz (mobile).	Tactical.
770.39375 MHz (base/mobile).	Tactical.

700 MHz Interoperability channel (MHz)	Purpose	700 MHz Interoperability channel (MHz)	Purpose
800.39375 MHz (mobile)	Tactical.	804.60625 MHz (mobile)	Tactical.
770.49375 MHz (base/mobile).		774.85625 MHz (base/mobile).	
800.49375 MHz (mobile)		804.85625 MHz (mobile)	
770.64375 MHz (base/mobile).	Tactical.	800 MHz mutual aid channel (MHz)	
800.64375 MHz (mobile)		851.0125 MHz (base/mobile).	Calling.
770.89375 MHz (base/mobile).	Tactical.	806.0125 MHz (mobile)	
800.89375 MHz (mobile)		851.5125 MHz (base/mobile).	
770.99375 MHz (base/mobile).	Tactical.	806.5125 MHz (mobile)	Tactical.
800.99375 MHz (mobile)		852.0125 MHz (base/mobile).	
773.00625 MHz (base/mobile).	Tactical.	807.0125 MHz (mobile)	Tactical.
803.00625 MHz (mobile)		852.5125 MHz (base/mobile).	
773.10625 MHz (base/mobile).	Tactical.	807.0125 MHz (mobile)	Tactical.
803.10625 MHz (mobile)		853.0125 MHz (base/mobile).	
773.25625 MHz (base/mobile).	Calling.	808.0125 MHz (mobile)	Tactical.
803.25625 MHz (mobile)			
773.35625 MHz (base/mobile).	Tactical.		
803.35625 MHz (mobile)			
773.50625 MHz (base/mobile).	Tactical.		
803.50625 MHz (mobile)			
773.60625 MHz (base/mobile).	Tactical.		
803.60625 MHz (mobile)			
773.75625 MHz (base/mobile).	Tactical.		
803.75625 MHz (mobile)			
773.85625 MHz (base/mobile).	Tactical.		
803.85625 MHz (mobile)			
774.00625 MHz (base/mobile).	Tactical.		
804.00625 MHz (mobile)			
774.10625 MHz (base/mobile).	Tactical.		
804.10625 MHz (mobile)			
774.25625 MHz (base/mobile).	Tactical.		
804.25625 MHz (mobile)			
774.35625 MHz (base/mobile).	Tactical.		
804.35625 MHz (mobile)			
774.50625 MHz (base/mobile).	Tactical.		
804.50625 MHz (mobile)			
774.60625 MHz (base/mobile).	Tactical.		

■ 3. Amend § 90.720 by revising paragraphs (a) introductory text, (a)(2) and (b) as follows:

**§ 90.720 Channels available for public safety/mutual aid.**

(a) Part 90 licensees who meet the eligibility criteria of §§ 90.20(a)(1), 90.20(a)(2)(i), 90.20(a)(2)(ii), 90.20(a)(2)(iii), 90.20(a)(2)(iv), 90.20(a)(2)(vii), 90.20(a)(2)(ix), 90.20(a)(2)(xiii) or 90.20(a)(2)(xiv) are authorized by this rule to use mobile and/or portable units on Channels 161–170 throughout the United States, its territories, and possessions to transmit:

\* \* \* \* \*

(2) Communications to facilitate interoperability among entities eligible under §§ 90.20(a)(1), 90.20(a)(2)(i), 90.20(a)(2)(ii), 90.20(a)(2)(iii), 90.20(a)(2)(iv), 90.20(a)(2)(vii), 90.20(a)(2)(ix), 90.20(a)(2)(xiii) and 90.20(a)(2)(xiv); or

\* \* \* \* \*

(b) Any Government entity and any non-Government entity eligible to obtain a license under §§ 90.20(a)(1), 90.20(a)(2)(i), 90.20(a)(2)(ii), 90.20(a)(2)(iii), 90.20(a)(2)(iv), 90.20(a)(2)(vii), 90.20(a)(2)(ix), 90.20(a)(2)(xiii) or 90.20(a)(2)(xiv) is also eligible to obtain a license for base/mobile operations on Channels 161 through 170. Base/mobile or base/portable communications on these

channels that do not relate to the immediate safety of life or to communications interoperability among the above-specified entities, may only be conducted on a secondary non-interference basis to such communications.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 229**

**[Docket No. 150306230–5230–01]**

**RIN 0648–BE88**

**List of Fisheries for 2016**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2016, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2016 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements. In addition, NMFS begins publishing online fact sheets for Category III fisheries.

**DATES:** Comments must be received by October 29, 2015.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2015–0055, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal

1. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2015-0055](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2015-0055).

2. Click the “Comment Now!” icon, complete the required fields

3. Enter or attach your comments.

- *Mail:* Submit written comments to Chief, Marine Mammal and Sea Turtle