

TABLE 1 TO § 90.213(a)—MINIMUM FREQUENCY STABILITY
[Parts per million (ppm)]

Frequency range (MHz)	Fixed and base stations	Mobile stations	
		Over 2 watts output power	2 watts or less output power
* * * * *		*	*
24,450–24,650	5000	5000	5000
* * * * *		*	*

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 27, 90

[WT Docket No. 24–99; FCC 25–8; FR ID 280144]

Review of the Commission’s Rules Governing the 896–901/935–940 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In the document, the Federal Communications Commission (Commission) seeks comment on a proposed voluntary, negotiation-based process to transition the entire ten megahertz in the 900 MHz band for broadband use in counties where applicants and licensees reach private agreements to do so. In order to implement this proposed framework, the Commission seeks comment on whether the current 900 MHz broadband rules, such as the eligibility criteria, application requirements and procedures, licensing and operating rules, and technical requirements, are the appropriate vehicles for effectuating a ten megahertz broadband licensing framework. Additionally, pursuant to the Order, the Commission delegates to the Wireless Telecommunications Bureau of the Commission the authority to modify or terminate the current freeze on certain applications in the 900 MHz band.

DATES: Comments are due on or before May 16, 2025; and reply comments are due on or before June 16, 2025.

ADDRESSES:

Electronic filers: Comments may be filed electronically using the internet by accessing the Commission’s Electronic

Comment Filing System (ECFS): <https://www.fcc.gov/ecfs>.

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 courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission. Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary are accepted between 8 a.m. and 4 p.m. by the FCC’s mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. 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 courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

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

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Morgan Mendenhall of the Wireless Telecommunications Bureau (WTB), Mobility Division, at 202–418–0154 or morgan.mendenhall@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Notice of Proposed Rulemaking (NPRM) and Order, document FCC 25–8, adopted on January 15, 2025, and released on January 16, 2025, in WT Docket No. 24–99. The full text of this document is

available for public inspection at the following internet address: <https://www.fcc.gov/document/fcc-seeks-increase-broadband-services-900-mhz-band>.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document is available on <https://www.fcc.gov/proposed-rulemakings>.

Synopsis

1. In 2020, the Commission realigned the 900 MHz band to make available six of the band’s ten megahertz for the deployment of broadband services and technologies. To facilitate a rapid transition, the Commission adopted a negotiation-based mechanism that, if private agreements are reached, would make available on a county-by-county basis six megahertz of low-band spectrum for the development of broadband technologies and services (also referred to as “3/3” broadband because of the paired 3 megahertz spectrum), while reserving the remaining four megahertz of the band for continued narrowband operations. The Commission also implemented a framework whereby it would issue new initial licenses to applicants meeting certain eligibility requirements. The Commission also created rules that permit a 900 MHz broadband licensee to relocate mandatorily a limited percentage of covered incumbents—except those with complex systems—from the new broadband segment by paying reasonable relocation costs, including providing comparable facilities. In addition, the Commission adopted operational and technical rules to minimize harmful interference to narrowband operations. The Commission also issued an *Order of Proposed Modification* regarding AAR’s 900 MHz nationwide ribbon license to prevent disruptions to the railways, enhance rail safety, and fully clear a

virtually nationwide incumbent from the 3/3 900 MHz broadband segment.

2. On February 28, 2024, ten entities filed a petition for rulemaking asking the Commission to adopt a framework that would increase the existing broadband allocation in the 900 MHz band by providing an option for ten megahertz broadband (or “5/5” broadband) networks in the band. Petitioners stated that this ten megahertz broadband spectrum opportunity will aid in ensuring that utilities, critical infrastructure, and business enterprise entities have access to additional capacity to support their 900 MHz private wireless broadband deployments. Under their proposed plan, Petitioners asserted that narrowband incumbents would remain protected under the existing framework in the rules and would only vacate an existing narrowband segment to allow 5/5 megahertz broadband operations if the relevant parties made a private agreement to do so. Petitioners suggested that no changes are necessary to the current harmful interference, technical, or performance requirement rules to implement 5/5 megahertz broadband operations. Likewise, Petitioners proposed that, as with the current rules, the licensee of an authorization for an 5/5 900 MHz broadband segment could be required to make any necessary anti-windfall payments to the U.S. Treasury.

3. In the NPRM, the Commission proposes to implement a framework to transition the entire ten megahertz in the 900 MHz band for broadband use and seeks comment on the eligibility criteria, application requirements and procedures, licensing and operating rules, and technical requirements, among other issues. Additionally, in the Order, the Commission delegates authority to WTB to modify or terminate the current freeze on certain applications in the 900 MHz band.

Enabling Increased Broadband Deployment in the 900 MHz Band

4. *Band Realignment to Create a 5/5 900 MHz Broadband Segment.* In the NPRM, the Commission proposes to realign the 900 MHz band to create a 5/5 megahertz broadband segment that would be available on an optional and voluntary basis and in a manner that ensures the protection of incumbent and adjacent band licensees. The Commission seeks comment on whether this proposal aligns with and further advances the Commission’s important goals for this band to create additional market-driven opportunities for robust broadband networks, while maintaining the narrowband option for B/ILT and

SMR spectrum users. Additionally, the Commission seeks comment on whether this proposal furthers important goals of the Communications Act of 1934, as amended (the Act), including improving the efficiency of spectrum use.

5. The Commission proposes to designate the 896–897.5 MHz, 900.5–901 MHz, 935–936.5 MHz, and 939.5–940 MHz segments as a Miscellaneous Wireless Communications Service governed by part 27 of the Commission’s rules and add an informational reference to “Wireless Communications (Part 27)” in the Table of Frequency Allocations. The Commission seeks comment on this proposal and the conclusion that the proposed approach is consistent with the Commission’s authority in section 303(y) of the Act. The Commission seeks comment on the proposal to designate the entire band for broadband operation, the costs and benefits of this proposal, and any alternative proposals, and asks commenters to further develop the record by explaining why a ten megahertz broadband segment in the band is appropriate at this time.

6. *Voluntary, Negotiation-based Transition.* The Commission tentatively concludes that a market-driven, voluntary exchange process is the best approach for relocating site-based and geographic-based incumbents and further transitioning all ten megahertz in the 900 MHz band for broadband use, and seeks comment on this proposal. Additionally, the proposal in the NPRM will preserve the right to mandatorily relocate the remaining 10% (or less) of covered incumbents, if any, except for complex systems, only as it pertains to the 3/3 900 MHz broadband segment for both 3/3 900 MHz broadband licensees and 5/5 900 MHz broadband licensees. However, a 5/5 broadband applicant must negotiate a full, voluntary clearing or protection of all incumbents in the current four megahertz 900 MHz narrowband segment. The Commission seeks comment on this proposal and alternatives, such as allowing mandatory relocation across the entire ten megahertz of spectrum in the 900 MHz band under certain circumstances. The Commission seeks comment on continuing to protect complex systems, as defined in the rules, and whether the definition of complex systems should be maintained. The Commission asks commenters to address whether and how the Commission should be involved in the relocation of incumbents, especially because the entire 900 MHz band would be authorized for broadband, and any holdout incumbents would be relocated out of the 900 MHz band. Commenters

that support a mandatory relocation provision or an alternative approach should also explain whether any of our current rules would need to be altered in order to facilitate implementation in the 5/5 broadband context.

7. Finally, the Commission has noted that it has broad authority to determine in the public interest what licensing scheme fits best with the characteristics of particular bands and services and tentatively concludes that it is authorized under section 309 of the Act to adopt a framework that would allow a complete transition of the 900 MHz band to broadband where incumbents and applicants can voluntarily negotiate a transition. The Commission seeks comment on this tentative conclusion.

8. *Eligibility for a 5/5 900 MHz Broadband License.* To effectuate the framework that proposed in the NPRM, the Commission tentatively concludes that the eligibility requirements for a 5/5 900 MHz broadband license will generally mirror the current eligibility requirements for a 3/3 900 MHz broadband license, with key differences as noted below. Specifically, the Commission proposes that in order for an applicant to be eligible for a 5/5 megahertz broadband license in a county, it must: (1) hold the licenses for more than 50% of the total amount of licensed 900 MHz spectrum (narrowband or broadband) for the relevant county; (2) sufficiently show that, as it pertains to the 3/3 broadband segment (897.5–900.5 MHz/936.5–939.5 MHz), the prospective licensee either: (a) holds a 3/3 900 MHz broadband license in the relevant county; or (b) itself holds, or has reached an agreement to clear through acquisition or relocation, or has demonstrated how it will provide harmful interference protection to, 90% or more of covered incumbent licensees collectively holding licenses in that segment, in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county; and (3) reach an agreement to clear through acquisition or relocation, or demonstrate how it will provide harmful interference protection to, all covered incumbent licensees collectively holding licenses in the narrowband segments in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county. The Commission seeks comment on the proposed eligibility requirements. The Commission also seeks comment on alternative eligibility criteria, such as whether to include incumbent licenses

where a broadband applicant negotiates a cancellation of the incumbent license for purposes of meeting the eligibility requirements or whether to adopt stricter eligibility requirements for 5/5 broadband licenses overall.

9. *Application Requirements and Procedures for a 5/5 900 MHz Broadband License.* The Commission tentatively concludes that it will apply similar application requirements and implementation procedures, with minor modifications, to 5/5 900 MHz broadband applications, including requiring an Eligibility Certification and Transition Plan for applications, as currently apply to 3/3 900 MHz broadband applications, and seeks comment on this conclusion. The Commission will use the information an applicant provides in its Eligibility Certification and Transition Plan to determine whether a grant of a 900 MHz broadband license is in the public interest. In the Eligibility Certification and Transition Plan, the Commission proposes requiring the 5/5 broadband license applicant to submit all information necessary to determine the validity of the applicant's eligibility, including information necessary to assess its ability to acquire, relocate, or protect covered incumbents.

10. In particular, the Commission proposes that a 5/5 broadband license application must include an Eligibility Certification that, at a minimum, shows that the applicant meets the specific edibility criteria proposed above. In addition, the Commission proposes that the 5/5 broadband license application must include a Transition Plan in which (1) the applicant must show it has reached an agreement to relocate or protect the necessary incumbent licensees collectively holding licenses in the 900 MHz band in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county, and (2) that applicants must describe in detail all information and actions necessary to accomplish the realignment to either 3/3 megahertz broadband or 5/5 megahertz broadband. The Commission seeks comment on these proposals, and alternatives. The Commission also seeks comment on whether narrowband licensees should be required to file Transition Plans. Further, the Commission proposes that the 5/5 broadband license applicant include in its Transition Plan a certification from a FCC-certified frequency coordinator that the Transition Plan's representations can be implemented consistent with Commission rules and seeks comment on this proposal. Finally, the

Commission proposes that applicants seeking to transition multiple counties simultaneously may file a single Transition Plan that covers all of its county-based applications.

11. The Commission proposes to commence the 5/5 broadband transition by issuing a public notice announcing the date that the Commission will begin accepting applications on a rolling basis consistent with the proposed eligibility and application requirements and seeks comment on this proposal and any other issues relating to the filing of applications. The Commission also proposes that, notwithstanding the presence of incumbents in the 5/5 broadband segment requiring clearing by agreement, the timeline for complying with the applicable construction obligations will commence upon the Commission's grant of the new license. The Commission seeks comment on these proposals and on any alternative procedures that the Commission should consider for the 5/5 900 MHz broadband framework.

Anti-Windfall Provisions

12. To facilitate the proposed voluntary exchange process and to mitigate the risk of an undue windfall to the prospective broadband licensee, the Commission proposes that a 5/5 broadband applicant would be required to return all narrowband licenses and 3/3 broadband license(s), if applicable, up to ten megahertz, that it holds in the counties in which the applicant seeks a 5/5 900 MHz broadband license. In addition, the applicant would make a monetary payment to the U.S. Treasury, prior to the grant of a 5/5 900 MHz broadband license, to account for any difference between the amount of spectrum that the applicant surrenders and what will be provided from the Commission's inventory. The Commission seeks comment on this proposal as well as related questions that may arise in a 5/5 broadband transition. The Commission also seeks comment generally on the risks that a prospective 5/5 broadband licensee would realize an undue windfall in markets where a voluntary exchange is achieved, and on what actions may be necessary to mitigate such risks.

13. The Commission seeks comment on questions related to altering anti-windfall provisions to account for various circumstances. The Commission proposes to make a one-time adjustment to the anti-windfall payment calculation to account for inflation since 2020, and seeks comment on whether to adjust the anti-windfall calculation for inflation on a one-time basis or annually. The Commission tentatively concludes that

the 600 MHz auction prices remain the best valuation source for anti-windfall payments for 900 MHz broadband licenses and that it has statutory authority to require a mandatory anti-windfall payment for a 5/5 broadband transition. The Commission seeks comment on both conclusions.

Licensing and Operating Rules for 5/5 900 MHz Broadband Licenses

14. In the proposed 5/5 broadband framework, the Commission proposes to designate the entire 900 MHz band as a Miscellaneous Wireless Communications Service governed by part 27 of the Commission's rules and tentatively concludes that the current licensing and operating rules that apply to the 3/3 broadband licenses will also apply to the 5/5 broadband licenses. The Commission seeks comment on this approach and ask commenters to identify any aspects of our general part 27 service rules that should be modified to accommodate the characteristics of the proposed 5/5 900 MHz broadband framework.

15. *License Area.* In order to effectuate our proposed framework, the Commission proposes to continue to license all broadband operations in the 900 MHz band on a geographic-area basis by county, defined using the United States Census Bureau's data reflecting county legal boundaries and names valid through January 1, 2017. The Commission seeks comment on this and whether alternative license areas should be considered and the costs and benefits of the various approaches for the most suitable license area for 900 MHz band 5/5 broadband licenses, especially with respect to rural areas.

16. *License Term.* As with the 3/3 900 MHz broadband segment, the Commission proposes that authorizations for 5/5 broadband licenses will have a term not to exceed 15 years from the date of the grant and 10 years from the date of any subsequent renewal. Further, where a 3/3 broadband licensee seeks to expand its current broadband authorization by applying for a 5/5 broadband license, the Commission proposes that the former license term(s) will no longer apply and instead the new 5/5 broadband 15-year initial and 10-year subsequent license terms, from the date of the grant of the 5/5 broadband license, will apply to all of the authorized frequencies. The Commission seeks comment on these proposals, as well as alternate proposals for the appropriate license term.

17. *Performance Requirements.* The Commission also tentatively concludes that the current performance

requirements for 900 MHz broadband licensees will apply in the 5/5 broadband context. The Commission typically establishes performance requirements to ensure that spectrum is intensely and efficiently utilized, and it has applied different performance and construction requirements to different spectrum bands based on considerations relevant to those bands. Accordingly, to ensure that licensees begin providing service to consumers in a timely manner, the Commission proposes to apply our current performance requirement rules whereby a 5/5 900 MHz broadband licensee must: (1) provide reliable signal coverage and offer broadband service; and (2) meet either (a) a population coverage requirement, or (b) a geographic coverage requirement. The Commission also proposes that current 3/3 broadband licensees that expand their operations by applying for and receiving a 5/5 broadband license will receive two separate performance requirement deadlines—performance deadlines associated with its former 3/3 broadband license will continue to apply to those licenses, and performance deadlines for the newly authorized spectrum will commence upon grant of the 5/5 broadband license and apply throughout its term. The Commission proposes that the period for complying with these performance requirements would begin on the date that the license is granted. The Commission tentatively concludes that 12 years from the date of license grant will provide sufficient time for any 5/5 900 MHz broadband licensee to meet the proposed coverage requirements. After satisfying the 12-year, final performance benchmark, a 5/5 900 MHz broadband licensee would be required to continue to provide reliable signal coverage and offer service at or above that level for the remaining three years in the proposed 15-year license term in order to warrant license renewal. The Commission seeks comment on these proposals, including whether the proposals represent the appropriate balance between license-term length and a significant final performance benchmark and on the proposed performance requirements and any potential alternatives.

18. The Commission also seeks comment on whether narrowband licensees in the 900 MHz band should be required to satisfy more stringent performance requirements than those set forth in our existing rules, whether or not those licensees ultimately agree to relocate their facilities.

19. *Broadband Requirement.* The Commission proposes to require 5/5 900

MHz broadband licensees to deploy broadband technologies and offer broadband services to satisfy the proposed performance requirements. A 5/5 900 MHz broadband licensee could meet a safe harbor by offering broadband if the service has the following minimum features: provide 5/5 megahertz 3GPP standard LTE service offering for advanced services, basing its LTE network on 3GPP standard release 8 or a later release. The Commission seeks comment on this proposal and alternative approaches to the current broadband safe harbor rule that may be more appropriate in the 5/5 broadband context.

20. *Penalties.* In conjunction with our suggested performance benchmarks, the Commission proposes that if a 5/5 900 MHz broadband licensee fails to meet the interim performance benchmark, the licensee would be required to meet the final performance benchmark two years sooner (*i.e.*, at 10 years into the license term) and would have a reduced license term from 15 years to 13 years. Moreover, the Commission proposes that if a 5/5 900 MHz broadband licensee fails to meet the final performance benchmark, its authorization for that license area will terminate automatically without Commission action. Further, consistent with the Commission's rules for other broadband licenses, the Commission proposes that any 5/5 900 MHz broadband licensee that forfeits its license for failure to meet its performance requirements would be precluded from regaining that license. The Commission seeks comment on these proposals and on other penalties that would effectively ensure timely buildout.

21. *Renewal Term Construction Obligations.* The Commission seeks comment on whether it should implement renewal term construction obligations for the 5/5 broadband segment. Commenters advocating rules specific to the 5/5 900 MHz broadband segment should address the costs and benefits of their proposed rules, and they should discuss how a given proposal would encourage investment and deployment in areas that might not otherwise benefit from significant wireless coverage.

22. *Mobile Spectrum Holdings Policies.* The Commission seeks comment on whether any new basis exists to revisit the determination that a 900 MHz broadband segment is not included in the Commission's spectrum aggregation screen if the Commission ultimately adopts rules for the 5/5 megahertz broadband segment proposed herein.

Technical Rules

23. The Commission seeks comment on continuing to utilize flexible technical rules for broadband operations that enable a wide variety of services, while providing sufficient protection to the incumbent licensees utilizing narrowband spectrum as well as to licensees in the 3/3 broadband segment and on the appropriate technical rules for 5/5 900 MHz broadband operations.

24. *Broadband Operations.* The Commission tentatively concludes that it will apply the existing transmitter power limit rules in the 5/5 broadband context and seeks comment on this conclusion. More specifically, the Commission seeks comment on the likelihood of harmful interference under the current rules and whether the existing transmitter power limits rules are sufficient as currently written.

25. The Commission seeks comment generally on whether the existing out of band emission (OOBE) rules should be applied to a 5/5 megahertz broadband licensee, including whether the rules require any amendment. Because a 5/5 broadband segment would place a broadband signal immediately adjacent to dissimilar licensees in adjacent bands, having different technical characteristics and system architectures, the Commission seeks comment on whether a different or stricter OOBE limit is needed to prevent harmful interference. In particular, commenters should address whether there is a likelihood of harmful interference under the current rules with 5/5 900 MHz broadband operations. The Commission also seeks comment on whether there is a specific 3GPP standard that should apply to reduce the risk of harmful interference, either in-band or to adjacent band users and whether the current technical parameters for the 900 MHz broadband segment are consistent with the harmful interference resistance of current 900 MHz narrowband radio equipment and systems, and whether they will help ensure adequate harmful interference protection to narrowband operations. The Commission seeks comment on whether it should implement additional interference protections to ensure that 5/5 900 MHz broadband operations do not cause harmful interference to adjacent Narrowband PCS licensees.

26. The Commission seeks comment generally on whether the existing rules for interference protections and resolution would be sufficient to protect site-based narrowband operations if the proposal to authorize 5/5 broadband operations is adopted. The Commission seeks comment generally on whether

there are any additional requirements that the Commission should implement. The Commission tentatively concludes that it will extend the current field strength limit to a 5/5 broadband license, and seeks comment on this conclusion.

27. 900 MHz licensees with operations in the United States/Mexico and United States/Canada border regions are subject to, and their operations shall be in accordance with, international agreements and/or bilateral arrangements between the United States and Mexico and the United States and Canada. The Commission seeks comment on whether it should consider any additional rules or license conditions as it applies to a prospective 5/5 broadband licensee's cross-border operations.

28. *Narrowband Operations.* The Commission seeks comment on whether any changes to the existing technical and operational rules are necessary or desirable to sustain continued 900 MHz site-based narrowband operations. Where a county has successfully been transitioned to 5/5 broadband, would narrowband licensees in adjacent counties not transitioned to broadband require modified interference protection from newly licensed co-channel broadband operations? If so, commenters should specify the changes they believe should be made to the technical and operational rules for narrowband licenses.

900 MHz Band Freeze

29. Under the current freeze on certain applications in the 900 MHz band, no applications for new or expanded 900 MHz B/ILT or SMR operations will be accepted unless the application pertains to the relocation of incumbents for broadband transition purposes. When the Commission implemented and subsequently modified the freeze, it found that this freeze serves the public interest because it aids in preserving and stabilizing the current landscape of authorized operations in the band while the transition of the 900 MHz band is ongoing. In the NPRM, the Commission seeks general comment on how it should address future licensing of the 900 MHz band for new or modified operations, and whether it is appropriate at this time to modify or terminate the freeze in whole or in part. If the Commission modifies the freeze, the Commission seeks comment on the circumstances and criteria under which it should do so.

30. Commenters should also address whether any other modifications to the freeze are necessary at this time. For

example, should the Commission modify the freeze to allow applicants to apply for new licenses in areas with no 900 MHz licenses (e.g., MTA-50 Guam and the Northern Mariana Islands, and MTA-51 American Samoa)? If the Commission determines that a freeze modification is necessary and in the public interest, it seeks comment on whether it should do so pursuant to specific parameters or over a specific timeframe?

31. In addition to seeking comment generally on modifying or fully terminating the freeze, the Commission asks commenters to address whether terminating the freeze in whole or modifying in part is necessary at this time taking into consideration the Commission's proposal to increase the broadband segment in the band. How, if at all, do these changes impact the analysis of the terminating or modifying the freeze? The Commission asks commenters to address whether there are any other circumstances under which a modification or termination of the freeze would be appropriate.

Other Issues

32. The Commission also seeks comment on improvements that could be made to the current 3/3 900 MHz broadband rules. More specifically, are there other efficiencies that could be made to the eligibility, licensing, or mandatory relocation rules based on stakeholders' experience over the past three years? The Commission proposes, for example, that licensees seeking mandatory relocation must file the required notifications, as outlined in § 27.1504 of our rules, in the Commission's Universal Licensing Service as pleadings to the relevant licenses in addition to the current requirements, and seeks comment on this proposal. The Commission also seeks comment on whether applicants and/or licensees should be required to take additional steps to identify and/or contact complex systems, incumbent license holders, or holdouts? Should the current mandatory relocation rules for 900 MHz broadband be revised to include a timeframe or deadline for negotiations? Further, should any of the 5/5 broadband framework rules and requirements proposed above be applied in the 3/3 broadband context?

33. Recognizing that certain areas, including MTA-50 Guam and the Northern Mariana Islands and MTA-51 American Samoa, have no 900 MHz incumbents, the Commission seeks comment on how to ensure that valuable spectrum in those places does not remain unused. For example, should the Commission adopt new or revise

existing eligibility and service rules that would permit a single entity to obtain a license for 900 MHz broadband in areas with no 900 MHz incumbents and what should those eligibility and service rules include to ensure the spectrum is put to use by a qualified applicant in a manner that avoids issues relating to mutually exclusive application? What approach would allow for efficient 900 MHz broadband deployment in areas that have otherwise not been served through the Commission's current licensing structures?

Order

34. The Commission also directs the Bureau to lift, in whole or in part, or otherwise modify the freeze upon a finding by the Bureau that doing so is necessary to achieve the Commission's goal of efficient spectrum management and that maintaining the freeze in its current form is no longer in the public interest. The Commission instructs the Bureau to consider the record in this proceeding in exercising its delegated authority, to announce that finding, and the date on which the termination or modification will be effective, by public notice.

Procedural Matters

35. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." Accordingly, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy proposals contained in this *Notice of Proposed Rulemaking*. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *Notice of Proposed Rulemaking* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

36. *Initial Paperwork Reduction Act Analysis.* This *Notice of Proposed Rulemaking* may contain potential new or revised information collection requirements. Therefore, the Commission seeks comment on potential new or revised information collections subject to the Paperwork Reduction Act of 1995. If the Commission adopts any new or revised information collection requirements, the Commission will publish a notice in the

Federal Register inviting the general public and the Office of Management and Budget to comment on the information collection requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. 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 seeks specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

37. *Ex Parte Rules*. The 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) of the Commission’s rules. In proceedings governed by § 1.49(f) of the Commission’s rules 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

38. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has 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 the *Notice of Proposed Rulemaking (NPRM)*. 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 in the *NPRM*. 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

39. The *NPRM* proposes to realign the 896–901/935–940 MHz band (900 MHz band) to create an additional, expanded broadband segment. More specifically, the *NPRM* seeks comment on the Commission’s proposal to realign the 900 MHz band to create a ten megahertz broadband segment option to enable private broadband network solutions. This broadband segment would be composed of two five megahertz segments (5/5 900 MHz broadband). The *NPRM* also proposes to permit a voluntary, market-driven approach between incumbents to effectuate band clearing and realignment to authorize broadband deployment. The objective of this proposal is to increase access to spectrum to promote innovative broadband services and private broadband networks that improve spectrum efficiency and expand operational flexibility, while continuing to accommodate use by narrowband incumbents where needed. In addition, the increased access to spectrum will be an economic boon to small entities that provide or utilize services in the band.

40. The *NPRM* also seeks comment on a voluntary, negotiation-based process to transition the entire ten megahertz segment in the 900 MHz band for broadband use in counties where broadband proponents and incumbent licensees reach private agreements to do so. This proposal would balance the needs of incumbents, some of which are small entities, while permitting additional broadband where incumbents enter private agreements to realign the band. In order to implement this proposed framework, the *NPRM* seeks

comment on whether the current 900 MHz broadband rules in part 27 of the Commission’s rules, such as the eligibility criteria, application requirements and procedures, licensing and operating rules, and technical requirements, are the appropriate vehicles for effectuating a ten megahertz broadband licensing framework. The Commission’s proposed framework in the *NPRM* will further important Commission goals for this band by creating additional opportunities for robust private broadband networks that support critical communication systems while taking into account the need for continued narrowband operations.

Legal Basis

41. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(j), 301, 302a(a), 303, 307–310, 319, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 302a(a), 303, 307–310, 319, 324, and 332, and section 1.411 of the Commission’s Rules, 47 CFR 1.411.

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

42. 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.” 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 that: (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.

43. *Small Businesses, Small Organizations, Small Governmental Jurisdictions*. The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

44. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

45. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2022 Census of Governments indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,845 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts) with enrollment populations of less than 50,000. Accordingly, based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 entities fall into the category of “small governmental jurisdictions.”

46. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the

SBA’s small business size standard, most of these providers can be considered small entities.

47. *Private Land Mobile Radio Licensees—900 MHz Band (PLMR MHz Band)*. Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. The 900 MHz band (896–901/935–940 MHz) is designated for narrowband PLMR communications by Business/Industrial/Land Transportation (B/ILT) licensees and for Specialized Mobile Radio (SMR) providers, with deployed systems primarily used for two-way communication by land transportation, utility, manufacturing, and petrochemical companies, as well as for broadband by 900 MHz broadband licensees. Only B/ILT, SMR, and 900 MHz broadband licensees are eligible to operate in the 900 MHz band. Wireless Telecommunications Carriers (except Satellite) is the closest industry with a SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates licensees in this can be considered small.

48. Based on Commission data, as of December 14, 2021, there were 2,716 active licenses (714 B/ILT and 2,002 SMR licenses) in the 900 MHz band (896–901/935–940 MHz). The Commission’s small business size standards with respect to PLMR licenses in the 900 MHz band involve eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of 900 MHz SMR licenses, the Commission defined a “small business” as an entity with average annual gross revenues of \$15 million or less in the three preceding calendar years and a “very small business”, as an entity with average gross revenues that are not more than \$3 million for the preceding three years. Pursuant to these definitions, approximately 59 winning bidders claiming small business credits won approximately 263 licenses and 3 winning bidders claiming small business credits won approximately 7 licenses. None of the winning bidders claiming a small business status classification in these 900 MHz band

PLMR license auctions had an active license as of December 2021.

49. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time the Commission is not able to estimate the number of licensees with active licenses that would qualify as small under the SBA’s small business size standard. Nevertheless, the Commission believes that a majority of B/ILT and SMT PLMR—900 MHz Band licenses are held by small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

50. The potential rule changes proposed in the NPRM, if adopted, could impose new reporting, recordkeeping, or other compliance requirements on some small entities. In addition to the proposed rule changes associated with the proposed realignment of the 900 MHz band, there could also be new service rule compliance obligations. For the operations in the newly created ten megahertz broadband segment, the NPRM seeks comment on various service rules that should apply, including performance, construction, and technical operating requirements. Additionally, the NPRM seeks comment on the costs and benefits of the proposed realignment approaches and any associated rule changes or requirements.

51. *Band Realignment And Transition Mechanism*. To effectuate a 5/5 megahertz broadband option in the 900 MHz band, the proposal in the NPRM would change the allocations in the Table of Allocations to allow broadband across all ten megahertz. The Commission seeks comment on this proposal, on potential alternatives, and the need for a further expansion of broadband in the 900 MHz band at this time. The NPRM further proposes to permit a market-driven approach through voluntary exchanges between incumbents to effectuate band clearing and realignment, while preserving existing rights and protections for licensees and incumbents, some of

which are small entities. The Commission seeks comment on this voluntary transition mechanism for 5/5 900 MHz broadband.

52. *Eligibility and Applications.* In the NPRM, the Commission proposes that an applicant meet certain eligibility criteria to obtain a 5/5 900 MHz broadband license and that applications reflect the prospective licensee's qualifications. The NPRM proposes that an application for a 5/5 900 MHz broadband license must include: (1) a certification that the applicant satisfies the eligibility restrictions (Eligibility Certification), and (2) a plan for transitioning the band in the particular county (Transition Plan) that describes the private agreements between the prospective broadband licensee and all covered incumbents. The Commission also proposes that the Eligibility Certification must show: (1) the applicant holds the licenses for more than 50% of the total amount of licensed 900 MHz spectrum (narrowband or broadband) for the relevant county; (2) as it pertains to the 3/3 broadband segment (897.5–900.5 MHz/936.5–939.5 MHz), the prospective licensee either: (a) holds a 3/3 900 MHz broadband license in the relevant county; or (b) has reached an agreement to clear through acquisition or relocation, or demonstrated how it will provide harmful interference protection to 90% or more of covered incumbent licensees collectively holding licenses in that segment, in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county; and (3) the applicant itself holds and/or has either reached an agreement to clear through acquisition or relocation, or demonstrates how it will provide harmful interference protection to all covered incumbent licensees collectively holding licenses in the remainder of the 900 MHz band in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county.

53. Additionally, in the NPRM the Commission proposes that the Transition Plan must describe in detail all information and actions necessary to accomplish the realignment, including that the applicant must demonstrate one or more of the following for incumbent licensees collectively holding licenses in the 900 MHz band in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county, when

including its license holdings in the county as applicable: (1) agreement by covered incumbents to relocate from the broadband and/or narrowband segments, as applicable; (2) protection of site-based covered incumbents through compliance with minimum spacing criteria; (3) protection of site-based covered incumbents through new or existing letters of concurrence agreeing to lesser base station separations; (4) protection of geographically-based covered incumbents through private contractual agreements; and/or (5) evidence that it holds licenses for the site-channels in the county and within 70 miles of the county boundary and geographically licensed channels where the license area completely or partially overlaps the county. Further, the Commission proposes that the 5/5 broadband license applicant include in its Transition Plan a certification from an FCC-certified frequency coordinator that the Transition Plan's representations can be implemented consistent with Commission rules.

54. Small entities may require the expertise of engineers to analyze steps necessary to effectuate relocation to the narrowband segment, but the Commission expects such tasks could be completed by engineering staff that already oversee their licensed operations and would not require small entities to hire additional staff. Similarly, while small entities may desire the advice of legal counsel in negotiating the Transition Plan, the Commission does not anticipate that such matters will be so complex as to require additional legal or regulatory compliance staff. The Commission seeks comment and supporting information from small entities who may disagree with this presumption.

55. *Anti-Windfall Provisions.* The NPRM proposes that a 5/5 900 MHz broadband license applicant must return to the Commission all of its licensed 900 MHz narrowband and/or broadband spectrum, up to ten megahertz, for the relevant county in which it seeks a 5/5 900 MHz broadband license. Whenever a 5/5 900 MHz broadband license applicant relinquishes less than ten megahertz of spectrum in exchange for receiving a ten megahertz broadband license, it must make a monetary payment to the U.S. Treasury, prior to the grant of a 5/5 900 MHz broadband license under the proposal. The Commission seeks comment on this approach and potential alternatives.

56. *Licensing and Operating Rules.* The Commission proposes to designate 900 MHz broadband service as a Miscellaneous Wireless Service and that

broadband licensees in the 5/5 900 MHz broadband segment would be required to comply with current licensing and operating rules that are applicable to 3/3 900 MHz broadband licensees and seeks comment on this approach. This proposal would maintain the same license area, license term, and performance requirements that are applicable to a 3/3 900 MHz broadband licensee in parts 1 and 27. Specifically, the NPRM proposes a 15 year license term with 10 year renewals for licenses based on county boundaries. A licensee that expanded an existing 3/3 900 MHz broadband license would be subject to a new license term upon grant of a 5/5 900 MHz broadband license under the proposal. Small entities, particularly those who do not currently hold licenses subject to the Commission's part 27 rules, may need to hire professionals to facilitate compliance with the licensing and operating rules applicable to part 27 services.

57. *Performance Requirements.* Additionally, the NPRM seeks comment and proposes to maintain the current performance requirements, which require a 5/5 900 MHz broadband licensee to provide reliable signal coverage and offer service to at least forty-five (45) percent of the population in each of its license areas within six years of the license issue date (first performance benchmark), and to at least eighty (80) percent of the population in each of its license areas within 12 years from the license issue date (second performance benchmark). A licensee that expanded an existing 3/3 900 MHz broadband license would be subject to two performance deadlines, one for the initial 3/3 license and one for the new 5/5 license under the proposal. Further, recognizing the potential use of the 5/5 900 MHz broadband segment by private wireless users such as electric utilities or other B/ILT eligibles, the NPRM seeks comment on whether alternative metrics may be necessary to accommodate such users. Along with performance benchmarks, the NPRM also seeks comment on proposed penalties it believes will most effectively ensure timely buildout. Specifically, the NPRM proposes that, in the event a 5/5 900 MHz broadband licensee fails to meet the first performance benchmark, the licensee's second benchmark and license term would be reduced by two years, thereby requiring it to meet the second performance benchmark two years sooner (at 10 years into the license term) and reducing its license term to 13 years. Further, the NPRM proposes that, in the event a 5/5 900 MHz broadband

licensee fails to meet the second performance benchmark for a particular license area, its authorization for each license area in which it fails to meet the performance requirement shall terminate automatically without Commission action.

58. The proposed performance benchmarks would apply to any small entity that obtains a new 5/5 900 MHz broadband license. Given the proposal to require that the prospective broadband licensee hold the existing licenses, the Commission anticipates the new broadband licensee will have existing operations in, and be familiar with, the 900 MHz band. While the prospective broadband licensee may already have the engineering staff and expertise necessary to provide existing narrowband services in the 900 MHz band, given the proposal to require broadband services for the purposes of satisfying performance benchmarks, the new licensee may need to hire additional staff to ensure compliance with those requirements. The Commission seeks comment from small entities regarding this issue.

59. *Technical Rules.* The NPRM generally proposes to keep the same technical rules in place for 5/5 900 MHz broadband operation, for transmitter power limits, field strength, and harmful interference resolution, and seeks comment on whether the Commission's current rules on OOB should be applied to a 5/5 900 MHz broadband licensee. Additionally, the NPRM notes that future broadband licensees in the 900 MHz band would be subject to any new or modified international agreements and/or bilateral arrangements governing border-area operations and seeks comment on whether additional rules or license conditions are necessary. The proposed technical rules in the NPRM largely mirror existing part 27 and 90 technical rules, and small entities that are existing operators would likely already have staff with the requisite expertise to ensure compliance. For small entities that are not existing operators and do not have existing staffing dedicated to tailoring technical systems, engineering expertise may be necessary for the purposes of making ensuring compliance with the proposed technical parameters and interference protection criteria.

60. *Application Freeze.* In order to preserve the spectral landscape while this rulemaking proceeding was pending, the Wireless Telecommunications Bureau suspended acceptance and processing of applications for new and expanded use of 900 MHz B/ILT channels. In the

Report and Order, Order of Proposed Modification, and Order, the Commission lifted the freeze for the limited purpose of permitting covered incumbents to file applications to relocate their operations to different frequencies, as long as the application is part of a Transition Plan for a prospective broadband applicant or related to an agreement with a broadband license after license grant (e.g., as part of mandatory relocation). The *Order* also permitted the Wireless Telecommunications Bureau to adjust the freeze, if necessary, to implement the transition as needed. The NPRM seeks comment on this application freeze, including whether it should be modified or ended, and, if so, under what circumstances.

61. The Commission invites comment on the costs and burdens of the proposals in the NPRM that may impact small entity callers. The Commission expects the information received in comments, including, where requested, cost and benefit analyses, will help the Commission identify and evaluate relevant compliance matters for small entities that may result if the proposals and associated requirements discussed in the NPRM are ultimately adopted.

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

62. 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 such 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 such small entities.”

63. As discussed above, the proposals contained in the NPRM are designed to enable broadband operations in the 900 MHz band to facilitate use of this band for next-generation technologies and services. This action is critical to the continuation of technological advancement, furthers the goals of the Telecommunications Act of 1996, and serves the public interest. The Commission is likewise committed to ensuring that the disruption to incumbent operations, and the economic impact of this proceeding on

both incumbent licensees and new broadband licensees, is minimal. The Commission has taken steps to enable it to minimize the economic burden on small entities that could occur if some or all of the rule changes or approaches proposed in the NPRM are adopted and, in developing these proposals, has also considered significant alternatives to those approaches. For example, the Commission considered but rejected proposals such as two county licensing schemes for 3/3 broadband, shorter broadband license terms, and the filing by applicants of multiple Transition Plans for instances where the applicants are seeking to transition multiple counties simultaneously. In the NPRM, however, the Commission seeks to identify whether small entities face any special or unique issues with respect to the proposed eligibility, licensing, and operating rules such that they would require certain accommodations or additional time to comply by seeking comment on this issue. The Commission also seeks comment on modifications that could be made to our rules regarding administrative processes that would reduce the economic impacts of proposed rule changes on small entities. Comments provided by small entities that are particularly impacted by the proposed rules, if adopted, should provide the Commission with the requisite data needed for it to effectively consider the most cost-effective approach to minimizing the economic impact for such small entities while still achieving its statutory objectives.

64. In developing our proposals further realigning the 900 MHz band, the Commission considered how its proposal impacts narrowband operations in the 900 MHz band, which includes small entities as well as other applicants and licensees. The Commission finds that increased access to broadband would serve the public interest if existing narrowband operations can be accommodated. Rather than proposing rules that would create an undue burden to incumbent operations, the Commission proposes rules that require the protection of 900 MHz band incumbents and ensure that incumbents' status quo environment will be maintained at a minimum. For example, the Commission considered adopting some version of our current mandatory relocation rules for the current 900 MHz narrowband segment that would permit a broadband licensee to mandatorily relocate only a limited number of holdouts, and the rules the Commission proposes in the NPRM reflect a market-driven approach. In the NPRM the Commission proposes that,

the 900 MHz band will be transitioned only in markets where it is achievable through substantially successful negotiations; no incumbent systems will be subject to mandatory relocation unless provided with comparable facilities, and systems that meet a certain threshold number of integrated sites are not even subject to mandatory relocation.

65. In order to minimize the economic impact resulting from the proposed rules on small entities and other licensees in the 900 MHz band, the technical rules applicable to operations in the two narrowband segments would largely remain unchanged under the proposal in the *NPRM*. In other words, despite the creation of the $\frac{2}{5}$ megahertz broadband segment, 900 MHz narrowband B/ILT and SMR users and 3/3 900 MHz broadband licensees would operate under the same technical rules as today and would not impose any additional economic impact for small entities. For example, the technical rules the Commission proposes to apply to all broadband licensees maintain the 900 MHz band's current strict interference base station distance separation protections; thus, incumbents will not be subject to closer separations than provided under current rules unless agreed upon through negotiation.

66. The Commission finds an overriding public interest in encouraging investment in wireless networks, facilitating access to scarce spectrum resources, and promoting the rapid deployment of mobile services to Americans. All licensees, including small entities, play a crucial role in achieving these goals. Thus, to identify additional approaches that could further minimize the economic impact on small entities the Commission seeks comment on alternative obligations, timing for implementation, scope of subject

licenses, and other measures that could accommodate the needs and resources of small entities. Prior to adopting final rules in this proceeding, the Commission will evaluate comments filed in response to the *NPRM*, and carefully consider these matters and the impact of all rule changes on small entities.

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

67. None.

Ordering Clauses

68. *It is ordered*, pursuant to the authority found in sections 1, 2, 4(i), 4(j), 301, 302, 303, 307–310, 319, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 302a, 303, 307–310, 319, 324, and 332, and section 1.411 of the Commission's Rules, 47 CFR 1.411, that this *Notice of Proposed Rulemaking and Order are hereby adopted*.

69. *It is further ordered* that, pursuant to the authority found in sections 4 and 5 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 155, and sections 0.201, 0.331, and 1.103 of the Commission's rules, 47 CFR 0.201, 0.331, 1.103, this *Order* delegating authority to the Wireless Telecommunications Bureau *shall be effective* upon publication in the **Federal Register**.

70. *It is further ordered* that the Petition for Rulemaking filed by Ameren Services Company; Anterix, Inc.; Enterprise Wireless Alliance; Evergy, Inc.; Lower Colorado River Authority; Portland General Electric; San Diego Gas & Electric; Southern Communications Services, Inc.; Utility Broadband Alliance; and Xcel Energy Services, Inc. in the Commission's rulemaking proceeding RM–11977 is *granted* to the extent specified herein, that RM–11977

is incorporated into this proceeding, WT Docket No. 24–99, and that RM–11977 is *terminated*.

71. *It is further ordered* that the Commission's Office of the Secretary 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

47 CFR Parts 2 and 27

Telecommunications.

47 CFR Part 90

Business and industry,
Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 2, 27, 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. Section 2.106 is amended by:

■ a. Revising pages 31 and 32 in the Table of Frequency Allocations in paragraph (a); and

■ b. Revising paragraph (c)(116) and (c)(268).

The revisions read as follows:

§ 2.106 Table of Frequency Allocations.

(a) * * *

* * * * *

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Table of Frequency Allocations		894-1400 MHz (UHF)		Page 31	
International Table			United States Table		
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	FCC Rule Part(s)
890-942 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 Radiolocation	890-902 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation 5.318 5.325 902-928 FIXED Amateur Mobile except aeronautical mobile 5.325A Radiolocation 5.150 5.325 5.326 928-942 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation	890-942 FIXED MOBILE 5.317A BROADCASTING Radiolocation	890-902 US116 US268 G2 902-928 RADIOLOCATION G59 5.150 US218 US267 US275 G11 928-932 US116 US268 G2 932-935 FIXED US268 G2 935-941	(See previous page) 894-896 AERONAUTICAL MOBILE US116 US268 896-897.5 FIXED MOBILE except aeronautical mobile US116 US268 897.5-900.5 FIXED MOBILE except aeronautical mobile US116 US268 900.5-901 FIXED MOBILE except aeronautical mobile US116 US268 901-902 FIXED MOBILE US116 US268 902-928 5.150 US218 US267 US275 928-929 FIXED US116 US268 NG35 929-930 FIXED LAND MOBILE US116 US268 930-931 FIXED MOBILE US116 US268 931-932 FIXED LAND MOBILE US116 US268 932-935 FIXED US268 NG35 935-936.5 FIXED MOBILE except aeronautical mobile US116 US268 936.5-939.5 FIXED MOBILE except aeronautical mobile US116 US268	Public Mobile (22) Wireless Communications (27) Private Land Mobile (90) Wireless Communications (27) Private Land Mobile (90) Wireless Communications (27) Private Land Mobile (90) Personal Communications (24) RF Devices (15) ISM Equipment (18) Private Land Mobile (90) Amateur Radio (97) Public Mobile (22) Private Land Mobile (90) Fixed Microwave (101) Private Land Mobile (90) Personal Communications (24) Public Mobile (22) Public Mobile (22) Fixed Microwave (101) Wireless Communications (27) Private Land Mobile (90) Wireless Communications (27) Private Land Mobile (90)

(c) * * *
 (116) US116 In the bands 890–902 MHz and 935–941 MHz, no new assignments are to be made to Federal radio stations after July 10, 1970, except on case-by-case basis to experimental stations. Federal assignments existing prior to July 10, 1970, shall be on a secondary basis to stations in the non-Federal mobile except aeronautical mobile service and shall be subject to adjustment or removal from the bands 890–902 MHz, 928–932 MHz, and 935–941 MHz at the request of the FCC.
 * * * * *

(268) US268 The bands 890–902 MHz and 928–942 MHz are also allocated to the radiolocation service for Federal ship stations (off-shore ocean areas) on the condition that harmful interference is not caused to non-Federal stations in the mobile except aeronautical mobile service. The provisions of footnote US116 apply.
 * * * * *

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 3. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, 1451, and 1452, unless otherwise noted.

■ 4. Section 27.1 is amended by revising paragraph (b)(16) to read as follows:

§ 27.1 Basis and purpose.

* * * * *
 (b) * * *
 (16) 896–901 MHz and 935–940 MHz.
 * * * * *

■ 5. Section 27.5 is amended by revising paragraph (n) to read as follows:

§ 27.5 Frequencies.

* * * * *
 (n) *900 MHz band.* The paired 897.5–900.5 MHz and 936.5–939.5 MHz bands and 896–901 MHz and 935–940 MHz bands are available for assignment on a geographic basis. For operations in the 897.5–900.5 MHz and 936.5–939.5 MHz bands (designated as Channels 120–360 in § 90.613 of this chapter), no new applications will be accepted in 3/3 900 MHz broadband transitioned markets for narrowband systems under part 90, subpart S of this chapter. For operations in the 896–901 MHz and 935–940 MHz bands (designated as Channels 1–399) in § 90.613 of this chapter), no new applications will be accepted in 5/5 900 MHz broadband transitioned markets for narrowband systems under part 90, subpart S of this chapter.
 * * * * *

■ 6. Section 27.13 is amended by revising paragraph (n) to read as follows:

§ 27.13 License period.

* * * * *
 (n) 900 MHz broadband. Authorizations for broadband licenses in the 896–901 MHz and 935–940 MHz bands will have a term not to exceed 15 years from the date of initial issuance and ten (10) years from the date of any subsequent renewal.
 * * * * *

■ 7. The heading for subpart P is revised to read as follows:

Subpart P—Regulations Governing Licensing and Use of 900 MHz Broadband Service in the 896–901 MHz and 935–940 MHz Bands

■ 8. Section 27.1500 is revised to read as follows:

§ 27.1500 Scope.

This subpart sets out the regulations governing the licensing and operations of 900 MHz broadband systems operating in the 897.5–900.5/936.5–939.5 MHz band or in the 896–901/935–940 MHz band, depending on the scope of the license. It includes eligibility requirements and operational and technical standards for stations licensed in this band. It also supplements the rules regarding application procedures contained in part 1, subpart F of this chapter. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern with respect to licensing and operation in these frequency bands.

■ 9. Section 27.1501 is amended by:

- a. Revising the definition of “900 MHz broadband”;
- b. Adding the definitions of “3/3 900 MHz broadband”, “3/3 900 MHz broadband licensee”, “3/3 900 MHz broadband segment”, “5/5 900 MHz broadband”, and “5/5 900 MHz broadband licensee” in alphabetical order; and
- c. Revising the definition of “Covered incumbent”.

The revisions and additions read as follows:

§ 27.1501 Definitions.

* * * * *
900 MHz broadband. The 900 MHz broadband systems in the 897.5–900.5/936.5–939.5 MHz band and in the 896–901/935–940 MHz band licensed separately by the Commission pursuant to the provisions of this subpart.
 * * * * *

3/3 900 MHz broadband. The 900 MHz broadband systems in the 897.5–900.5/936.5–939.5 MHz band licensed by the Commission pursuant to the provisions of this subpart.

3/3 900 MHz broadband licensee. An entity that holds a 3/3 900 MHz broadband license issued pursuant to this subpart.

3/3 900 MHz broadband segment. The segment of realigned 900 MHz spectrum (*i.e.*, the 897.5–900.5/936.5–939.5 MHz band) licensed by the Commission pursuant to the provisions of this subpart.

5/5 900 MHz broadband. The 900 MHz broadband systems in the 896–901/935–940 MHz band licensed by the Commission pursuant to the provisions of this subpart.

5/5 900 MHz broadband licensee. An entity that holds a 5/5 900 MHz broadband license issued pursuant to this subpart.
 * * * * *

Covered incumbent. Any 900 MHz site-based licensee in the 900 MHz band that is required under § 90.621(b) to be protected by a broadband licensee with a base station at any location within the county, or any 900 MHz geographic-based SMR licensee in the 900 MHz band, whose license area completely or partially overlaps the county.
 * * * * *

■ 10. Section 27.1503 is revised to read as follows:

§ 27.1503 Broadband license eligibility and application requirements.

(a) *Eligibility.* (1) *3/3 900 MHz broadband license.* For an applicant to be eligible for a 3/3 900 MHz broadband license in a county, it must:

(i) Hold the licenses for more than 50% of the total amount of licensed 900 MHz SMR (site-based or geographically licensed) and B/ILT (site-based) spectrum for the relevant county, including credit for spectrum included in an application to acquire or relocate covered incumbents filed with the Commission on or after March 14, 2019; and

(ii) Hold spectrum in the 3/3 900 MHz broadband segment or reach an agreement to clear through acquisition or relocation, including credit for spectrum included in an application to acquire or relocate covered incumbents filed with the Commission on or after March 14, 2019, or demonstrate how it will provide interference protection to, covered incumbent licensees collectively holding licenses in that segment for at least 90% of the site-channels in the county and within 70 miles of the county boundary, and geographically licensed channels where

the license area completely or partially overlaps the county.

(2) *5/5 900 MHz broadband license.*

For an applicant to be eligible for a 5/5 900 MHz broadband license in a county, it must:

(i) Hold the licenses for more than 50% of the total amount of licensed 900 MHz SMR (site-based or geographically licensed), B/ILT (site-based), or 3/3 900 MHz broadband spectrum for the relevant county, including credit for spectrum included in an application to acquire or relocate covered incumbents filed with the Commission on or after March 14, 2019; and

(ii) Demonstrate that it either:

(A) Holds a 3/3 900 MHz broadband license in the relevant county; or
(B) Meets the requirements as outlined in paragraph (a)(1)(ii) of this section; and

(iii) Hold spectrum in the 900 MHz narrowband segment (as defined in § 27.1501) or reach an agreement to clear through acquisition or relocation, including credit for spectrum included in an application to acquire or relocate covered incumbents filed with the Commission on or after March 14, 2019, or demonstrate how it will provide interference protection to, all covered incumbent licensees collectively holding licenses in the 900 MHz narrowband segment, in the county and within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the county.

(3) To provide interference protection, an applicant may:

(i) Protect site-based covered incumbent(s) through compliance with minimum spacing criteria set forth in § 90.621(b) of this chapter;

(ii) Protect site-based covered incumbent(s) through new or existing letters of concurrence agreeing to lesser base station separations as set forth in § 90.621(b); and/or

(iii) Protect geographically based covered incumbent(s) through a private contractual agreement.

(4) If any site of a complex system is located within the county and/or within 70 miles of the county boundary, an applicant must either hold the license for that site or reach an agreement to acquire, relocate, or protect it in order to demonstrate eligibility.

(5) The applicant may use its current 900 MHz holdings in the narrowband segment to relocate covered incumbents to apply for a 3/3 900 MHz broadband license. Spectrum used for the purpose of relocating incumbent(s) may not exceed the incumbent's current spectrum holdings in the relevant county, unless additional channels are

necessary to achieve equivalent coverage and/or capacity.

(b) *Application.* (1) Applications must be filed in accordance with part 1, subpart F of this chapter.

(2) An applicant for a 900 MHz broadband license must submit with its application an Eligibility Certification that:

(i) Lists the licenses the applicant holds in the 900 MHz band to demonstrate that it holds the licenses for more than 50% of the total licensed 900 MHz spectrum, whether SMR, B/ILT, or 3/3 900 MHz broadband, as applicable to meet the requirements outlined in paragraph (a)(1)(i) or (a)(2)(i) of this section, for the relevant county including credit for spectrum included in an application to acquire or relocate any covered incumbents filed on or after March 14, 2019;

(ii) A statement that it has filed a Transition Plan detailing how it meets the requirements outlined in paragraph 27.1503(a)(1)(ii) or (a)(2)(ii) of this section; and

(iii) A statement that it has filed a Transition Plan detailing how it meets the requirements outlined in paragraph 27.1503(a)(2)(iii) of this section, if applicable.

(3) An applicant for a 900 MHz broadband license must submit with its application a Transition Plan that provides:

(i) A showing of one or more of the following:

(A) Agreement by covered incumbents to relocate from the broadband segment or the band, as applicable;

(B) Protection of site-based covered incumbents through compliance with minimum spacing criteria;

(C) Protection of site-based covered incumbents through new or existing letters of concurrence agreeing to lesser base station separations;

(D) Protection of geographically-based covered incumbents through private contractual agreements; and/or

(E) Evidence that it holds licenses for the site-channels and/or geographically licensed channels.

(ii) Descriptions of the agreements outlined in paragraph 27.1503(a)(1)(ii), (a)(2)(ii), and (a)(2)(iii) of this section, if applicable.

(iii) Descriptions in detail of all information and actions necessary to accomplish the realignment, as follows:

(A) The applications that the parties to the agreements will file in order to relocate or repack licensees;

(B) A description of how the applicant will provide interference protection to, and/or acquire or relocate covered incumbents as outlined in paragraph 27.1503(a)(1)(ii) and (a)(2)(ii)–(iii) of this section, if applicable.

(C) Any rule waivers or other actions necessary to implement an agreement with a covered incumbent; and

(D) Such additional information as may be required.

(iv) A certification from an FCC-certified frequency coordinator that the Transition Plan's representations can be implemented consistent with Commission rules. The certification must establish that the relocations proposed therein take into consideration all relevant covered incumbents and are consistent with the existing part 90 interference protection criteria if the covered incumbent is site-based, and include any private contractual agreements between the prospective broadband licensee and a geographically-licensed covered incumbent.

(4) Applicants seeking to transition multiple counties may simultaneously file a single Transition Plan with each of its county-based applications.

(c) *Anti-windfall provisions.* (1) The applicant must return to the Commission all of its licensed 900 MHz spectrum, up to six megahertz for a 3/3 900 MHz broadband license and up to ten megahertz for a 5/5 900 MHz broadband license, for the county in which it seeks a broadband license. The applicant will be required to file, within 15 days of filing its broadband license application, an application(s) to cancel all of its 900 MHz broadband, SMR, and B/ILT spectrum, as applicable, up to six megahertz for a 3/3 900 MHz broadband license and up to ten megahertz for a 5/5 900 MHz broadband license, conditioned upon Commission grant of its application.

(2) If the applicant relinquishes less than six megahertz of spectrum for a 3/3 900 MHz broadband license or less than ten megahertz of spectrum for a 5/5 900 MHz broadband license in accordance with paragraph (c)(1) of this section, then the applicant must remit an anti-windfall payment prior to the grant of the 900 MHz broadband license. Payment must be made through a monetary payment to the U.S. Treasury. ■ 11. Section 27.1504 is amended by revising paragraphs (a), (d), and (g) to read as follows:

§ 27.1504 Mandatory Relocation.

(a) Subject to paragraph (b) of this section, broadband licensees may require mandatory relocation from the broadband segment covered incumbents' remaining site-channels in a given county and within 70 miles of the county boundary, and geographically licensed channels where the license area completely or partially overlaps the county, that were not

covered by § 27.1503(a)(1)(ii) or 27.1503(a)(2)(ii) of this part.

* * * * *

(d) Having met the 90% success threshold, a 900 MHz broadband licensee seeking to trigger the mandatory relocation process shall serve notice on applicable covered incumbent(s) and file such notice in ULS as a pleading to the relevant call sign(s).

* * * * *

(g) A party seeking Commission resolution of a dispute must submit in writing to the Chief, Wireless Telecommunications Bureau and file such notice in ULS as a pleading to the relevant call sign(s):

* * * * *

- 12. Section 27.1505 is amended by:
 - a. Adding paragraph (a)(3); and
 - b. Revising paragraph (c)(2).
 The revision and addition read as follows:

§ 27.1505 Performance requirements.

(a) * * *

* * * * *

(3) With respect to a 3/3 900 MHz broadband license that is expanded to a 5/5 900 MHz broadband license, the broadband licensee will remain subject to the performance requirement deadlines as they applied to the original license. All other new authorizations as reflected in the 5/5 900 MHz broadband license will be subject to the performance requirement deadlines as reflected on the date of issuance.

* * * * *

(c) * * *

(1) * * *

(2) If a 900 MHz broadband licensee fails to meet the final performance benchmark, its authorization for that license area will terminate automatically without Commission action and the licensee will be ineligible to regain it.

* * * * *

- 13. Section 27.1506 is revised to read as follows:

§ 27.1506 Frequencies.

The 897.5–900.5 MHz and 936.5–939.5 MHz band segments are available for licensing with an authorized bandwidth up to 3 megahertz paired channels. The band segments 896–901 MHz and 935–940 MHz are available for licensing with an authorized bandwidth up to 5 megahertz paired channels. The 897.5–900.5 MHz segment or 896–901 MHz segment, as applicable, must only be used for uplink transmissions. The 936.5–939.5 MHz segment or 935–940 MHz segment, as applicable, must only be used for downlink transmissions.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

Authority: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 1401–1473.

- 15. Section 90.7 is amended by:
 - a. Adding the definitions of “3/3 900 MHz broadband” and “3/3 900 MHz broadband licensee”; and
 - b. Revising the definition of “900 MHz broadband segment”.

The revision and additions read as follows:

§ 90.7 Definitions.

* * * * *

3/3 900 MHz broadband. See 47 CFR 27.1501.

* * * * *

3/3 900 MHz broadband licensee. See 47 CFR 27.1501.

* * * * *

900 MHz broadband segment. The 897.5–900.5/936.5–939.5 MHz band licensed by the Commission pursuant to the provisions of part 27.

* * * * *

- 16. Section 90.613 is amended by revising the introductory text to read as follows:

§ 90.613 Frequencies available.

The following table indicates the channel designations of frequencies available for assignment to eligible applicants under this subpart. Frequencies shall be assigned in pairs, with mobile and control station transmitting frequencies taken from the 806–824 MHz band with corresponding base station frequencies being 45 MHz higher and taken from the 851–869 MHz band, or with mobile and control station frequencies taken from the 896–901 MHz band with corresponding base station frequencies being 39 MHz higher and taken from the 935–940 MHz band. For operations in the 897.5–900.5 MHz and 936.5–939.5 MHz bands (Channels 120–360), no new applications will be accepted in a 3/3 900 MHz broadband transitioned market for a narrowband system under part 90, subpart S of this chapter. For operations in 896–901 MHz and 935–940 MHz bands (Channels 1–399), no new applications will be accepted in markets transitioned to 5/5 900 MHz broadband for narrowband systems under part 90, subpart S of this chapter. Only the base station transmitting frequency of each pair is listed in the following table.

* * * * *

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2024–0186; FXES1111090FEDR–256–FF09E21000]

RIN 1018–BI14

Endangered and Threatened Wildlife and Plants; Grizzly Bear Listing on the List of Endangered and Threatened Wildlife With a Revised Section 4(d) Rule; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or FWS), announce that we are extending the comment period on our January 15, 2025, proposed rule to revise the listing of the grizzly bear (*Ursus arctos horribilis*) in the lower-48 States under the Endangered Species Act of 1973, as amended (Act or ESA). We are extending the comment period for the proposed rule to give all interested parties adequate opportunity to comment. Comments previously submitted on the proposed rule need not be resubmitted as they are already incorporated into the public record for this rulemaking actions and will be fully considered in our development of the final rule.

DATES: *Comment period:* The comment period on the proposed rule that published January 15, 2025, at 90 FR 4234, is extended until May 16, 2025. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

ADDRESSES:
Availability of documents: You may obtain copies of the proposed rule and associated documents on the internet at <https://www.regulations.gov> at Docket No. FWS–R6–ES–2024–0186.

Comment submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS–R6–ES–2024–0186, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”