



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON REQUEST FOR PARTIAL WAIVER FILED BY THE INTERNATIONAL ASSOCIATION OF AUTO THEFT INVESTIGATORS

PS Docket No. 13-281

**Comment Date: December 26, 2013**

**Reply Comment Date: January 9, 2014**

The Public Safety and Homeland Security Bureau (Bureau) seeks comment on a request for partial waiver filed on July 22, 2013, by the International Association of Auto Theft Investigators (IAATI).<sup>1</sup> IAATI seeks waiver relief, pursuant to Section 1.925 of the Commission's rules,<sup>2</sup> of the May 27, 2019 deadline for Stolen Vehicle Recovery Systems (SVRS), that operate on 173.075 MHz, to transition to 12.5 kHz narrowband operation.<sup>3</sup> IAATI requests an indefinite waiver only with respect to mobile units to allow the installed base of vehicles equipped with wideband vehicle location units (VLUs) to continue to emit wideband (20 kHz) tracking messages while being tracked and recovered by law enforcement entities.<sup>4</sup> The waiver would not apply to base stations.<sup>5</sup>

### Background

IAATI formed in 1952 "to improve communication and coordination among the growing family of auto theft investigators."<sup>6</sup> IAATI has 3,604 members in over 35 countries representing law enforcement agencies and others with a legitimate interest in auto theft investigation, prevention, and escalation.<sup>7</sup> IAATI "is dedicated to developing and encouraging the highest professional standards of

<sup>1</sup> See Request for Partial Waiver by the International Association of Auto Theft Investigators (dated July 22, 2013) (Waiver Request).

<sup>2</sup> See 47 C.F.R. § 1.925. "The Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative." 47 C.F.R. § 1.925(b)(3).

<sup>3</sup> 47 C.F.R. §§ 90.20(e)(6)(ii), 2.106 footnote US312.

<sup>4</sup> Waiver Request at 1, 4.

<sup>5</sup> *Id.* at 1.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 1-2.

conduct among auto theft investigators, and strives to eliminate all factors interfering with the administration of the auto theft suppression effort (including technological and regulatory limitations where possible).”<sup>8</sup>

SVRS services assist public safety entities to locate and recover stolen vehicles. When a vehicle owner subscribing to SVRS service notifies the police that his or her vehicle has been stolen, the police department can transmit a signal from a base station in the locality where the vehicle was stolen to activate a mobile transceiver in the vehicle known as a VLU. Once the VLU is activated, a police car equipped with SVRS location-finding apparatus can then “home in” on the stolen vehicle. The Commission permits state and local public safety entities to hold licenses for SVRS base stations, while VLUs are licensed “by rule.”<sup>9</sup>

In 1995, the National Telecommunications and Information Administration (NTIA) mandated that after January 1, 2005, all federal land mobile radio systems in the 162-174 MHz band migrate to narrowband 12.5 kHz technology.<sup>10</sup> In 2004, the Commission commenced a proceeding to transition certain frequency bands allocated primarily for Federal use, including the SVRS frequency 173.075 MHz, from wideband to narrowband channels.<sup>11</sup> In 2005, the Commission established the May 27, 2019 deadline for existing SVRS operators as of May 27, 2005 to transition from 20 kHz authorized bandwidth to 12.5 kHz authorized bandwidth. SVRS operators licensed after May 27, 2005 must conform to the 12.5 kHz bandwidth limit.<sup>12</sup> The Commission’s rules restrict wideband VLUs to 2.5 watts output power, which is half the limit of narrowband VLUs.<sup>13</sup> All VLUs have a maximum duty cycle of 400 milliseconds every 10 seconds, except when a vehicle is actively tracked, the maximum duty cycle is 400 milliseconds every second.<sup>14</sup>

### **Waiver Request**

IAATI seeks a waiver “to allow public safety pool entities to activate and track any vehicle equipped with a wideband device for an indefinite period of time.”<sup>15</sup> IAATI argues that vehicles that are 15-20 years old are more likely to be stolen due to demand for used auto parts, which manufacturers often cease to produce after ten years, and because older vehicles are easier to steal.<sup>16</sup> Recovery of these stolen vehicles often leads law enforcement to “chop shops” and other locations where additional criminal

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<sup>8</sup> *Id.* at 2.

<sup>9</sup> 47 C.F.R. § 90.20(e)(6)(vii).

<sup>10</sup> See *National Telecommunications and Information Administration Manual of Regulations & Procedures for Federal Radio Frequency Management, May 2003 Edition including the September 2004 Revision* at Section 4.3.7, which is titled “Channeling Plan for Assignments in the Band 162-174 MHz (12.5 kHz Plan).”

<sup>11</sup> Amendment to Parts 2 and 90 of the Commission’s Rules to Provide for Narrowband Private Land Mobile Radio Channels in the 150.05-150.8 MHz, 162-174 MHz, and 406.1-420 MHz Bands that are Allocated for Federal Government Use, ET Docket No. 04-243, *Notice of Proposed Rulemaking*, 19 FCC Rcd 12690 (2004).

<sup>12</sup> Amendment to Parts 2 and 90 of the Commission’s Rules to Provide for Narrowband Private Land Mobile Radio Channels in the 150.05-150.8 MHz, 162-174 MHz, and 406.1-420 MHz Bands that are Allocated for Federal Government Use, ET Docket No. 04-243, *Report and Order*, 20 FCC Rcd 5793 ¶ 50 (2005). See 47 C.F.R. §§ 2.106 footnote US312, 90.20(e)(6)(ii).

<sup>13</sup> 47 C.F.R. § 90.20(e)(6)(iii).

<sup>14</sup> 47 C.F.R. § 90.20(e)(6)(iv).

<sup>15</sup> Waiver Request at 4.

<sup>16</sup> *Id.*

activity takes place.<sup>17</sup> Thus, IAATI contends that there is strong law enforcement interest in being able to track and recover these older stolen vehicles through their useful life.<sup>18</sup> Absent a waiver, after May 27, 2019, SVRS licensees would no longer be allowed to activate a wideband VLU in a stolen vehicle.

IAATI notes that the nation's sole SVRS provider The LoJack Corporation (LoJack) will be able to activate wideband VLUs using narrowband signals from base stations.<sup>19</sup> With grant of the waiver, the only wideband signals sent on SVRS after May 27, 2019 would be from VLUs responding to the base station and then sending brief tracking messages during the course of police tracking, which the majority of time will be completed in a matter of hours.<sup>20</sup> Thus, the requested waiver would not apply to fixed stations.<sup>21</sup> IAATI notes that only a small number of wideband units per day would be activated nationwide in 2019, and by 2025 that activation rate would fall even further.<sup>22</sup> IAATI states that over time, the legacy base of VLUs will erode naturally through attrition.<sup>23</sup> IAATI notes that LoJack has ceased marketing wideband equipment.<sup>24</sup> LoJack filed a support letter confirming IAATI's statements and noting that LoJack fully migrated from wideband-only VLUs in early 2013.<sup>25</sup> Thus, no party is manufacturing, marketing, or selling VLUs with a wideband mode.<sup>26</sup>

Under the first prong of the waiver standard, IAATI states that the purpose of Section 90.20(e)(6) is to provide law enforcement with a means of finding stolen vehicles.<sup>27</sup> IAATI argues that application of the rule would frustrate its purpose, because it is in the public interest for law enforcement to continue to search for stolen vehicles equipped with wideband VLUs for as long as wideband VLUs are in use.<sup>28</sup> IAATI avers that grant of the waiver would serve the purpose of the rule, *i.e.* to fulfill its members' duty to find missing vehicles at high risk for theft, which additionally reduces other crime by leading law enforcement to other criminal activities.<sup>29</sup>

Moreover, LoJack states in its support letter that it is not feasible to recall and replace wideband VLUs that will be in the field after the 2019 deadline.<sup>30</sup> Most of those vehicles will no longer be with the original owners, and LoJack does not have any way to identify and contact the new owners.<sup>31</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *See id.* at 1.

<sup>22</sup> *Id.* at 4.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Letter from Jose Oxholm, Sr. Vice President and General Counsel, LoJack Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission (dated July 22, 2013) at 2 (LoJack Support Letter).

<sup>26</sup> The narrowbanding deadline of May 27, 2019 only applies to existing SVRS providers as of May 27, 2005. *See* 47 C.F.R. § 90.20(e)(6)(ii). LoJack is the sole provider of SVRS in the United States and has been since before May 27, 2005. *See* Waiver Request at 3. If any other entity were to initiate SVRS services today or in the future, the rules would prohibit their manufacturing, marketing, or sale of any SVRS equipment with a wideband mode. *See* 47 C.F.R. § 90.20(e)(6)(ii).

<sup>27</sup> Waiver Request at 5.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> LoJack Support Letter at 2.

Given the VLU operating parameters we described above and eventual attrition of the wideband VLU installed base, we seek comment on the extent of anticipated adjacent channel interference to federal users operating adjacent to 173.075 MHz from wideband VLUs after May 27, 2019.<sup>32</sup> We also seek comment on the indefinite aspect of the waiver request. If an extension of the deadline is warranted, should the Bureau instead limit a waiver by setting a new narrowband deadline for SVRS mobile units at a certain number of years beyond 2019? If so, what deadline would be appropriate to balance the attrition of the installed base of wideband VLUs? Would setting a deadline merely defer the problem only to necessitate a subsequent request for waiver? What is the impact of transitioning to narrowband operation if a new narrowband deadline for SVRS mobile units is not established? How would granting an indefinite waiver affect the transition of SVRS mobile units to narrowband technology?

### **Procedural Matters**

Pursuant to sections 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. **All filings related to this Notice of Proposed Rulemaking should refer to PS Docket No. 13-281.**

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.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 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 12<sup>th</sup> 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 12<sup>th</sup> Street, SW, Washington DC 20554.

Parties may access documents submitted in **PS Docket No. 13-281**, including the request for partial waiver, by visiting the Commission's ECFS and inputting **13-281** in the "Proceeding" search field. These documents are also available for public inspection and copying during business hours at the FCC

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<sup>31</sup> *Id.* LoJack charges a one-time purchase price for the SVRS system, and there are no monthly fees. See <http://www.lojack.com/Cars-Trucks-And-Classics/LoJack-Stolen-Vehicle-Recovery-System/One-time-cost---no-monthly-fees!> (last visited September 27, 2013). It follows that LoJack has no dealings with and thus no contact information for subsequent owners of vehicles equipped with LoJack VLUs.

<sup>32</sup> Federally managed channels 173.0625 MHz and 173.0875 MHz could potentially be interfered with from VLUs transmitting in a wideband mode.

Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI. Email [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau, (voice) (202) 418-0530, (TTY) (202)-418-0432 to request materials in formats accessible to people with disabilities, e.g. Braille, large print, electronic files, audio format.

Because of the policy implications and potential impact of this proceeding on persons not party to the Application, it is in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a) and 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a) and 1.1206. Therefore, subsequent to the release of this *Public Notice, ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed, but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

For further information, contact Mr. Thomas Eng, Policy and Licensing Division, Public Safety and Homeland Security Bureau at (202) 418-0019 (voice), (202) 418-7233 (tty), or via email to [Thomas.Eng@fcc.gov](mailto:Thomas.Eng@fcc.gov).

By the Deputy Chief, Public Safety and Homeland Security Bureau.

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