

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands)	WT Docket No. 06-150
)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems)	CC Docket No. 94-102
)	
Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones)	WT Docket No. 01-309
)	
Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services)	WT Docket No. 03-264
)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules)	WT Docket No. 06-169
)	
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band)	PS Docket No. 06-229
)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State, and Local Public Safety Communications Requirements through the Year 2010)	WT Docket No. 96-86
)	
Declaratory Ruling on Reporting Requirements Under Commission's Part 1 Anti-collusion Rule)	

ERRATUM

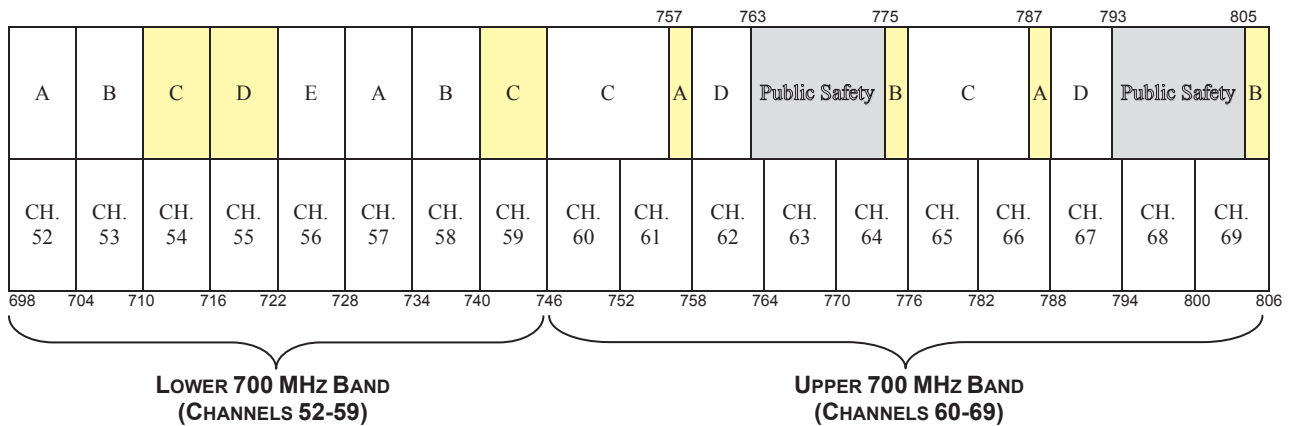
Released: October 25, 2007

By the Chief, Wireless Telecommunications Bureau and Chief, Public Safety and Homeland Security Bureau:

On August 10, 2007, the Commission released a *Second Report and Order*, FCC 07-132, in the above captioned proceeding. This Erratum corrects the *Second Report and Order* as follows:

- Paragraph 4, Figure 1 is revised to read as follows:

FIGURE 1: REVISED 700 MHz BAND PLAN FOR COMMERCIAL SERVICES



Block	Frequencies	Bandwidth	Pairing	Area Type	Licenses
A	698-704, 728-734	12 MHz	2 x 6 MHz	EA	176
B	704-710, 734-740	12 MHz	2 x 6 MHz	CMA	734
C	710-716, 740-746	12 MHz	2 x 6 MHz	CMA	734*
D	716-722	6 MHz	unpaired	EAG	6*
E	722-728	6 MHz	unpaired	EA	176
C	746-757, 776-787	22 MHz	2 x 11 MHz	REAG	12
D	758-763, 788-793	10 MHz	2 x 5 MHz	Nationwide	1**
A	757-758, 787-788	2 MHz	2 x 1 MHz	MEA	52***
B	775-776, 805-806	2 MHz	2 x 1 MHz	MEA	52***

*Blocks have been auctioned.

**Block is associated with the 700 MHz Public/Private Partnership.

***Guard Bands blocks have been auctioned, but are being relocated.

- Paragraph 110 is revised to read as follows:

July 6, 2007 Guard Bands Proposal. Access Spectrum/Pegasus, joined by other Guard Bands licensees, filed a new proposal dated July 6, 2007, which is based on Cyren Call’s plan (discussed above), whereby all Guard Band A Block licensees (except PTPMS II) voluntarily “repack” into a new Guard Band A Block that is located between two non-Guard Band commercial 700 MHz Band blocks (the C and D Blocks) rather than adjacent to the public safety spectrum.¹ As explained in more detail below, these licensees provided signed waivers of their rights to object to these license modifications and have agreed to transfer their Guard Band B Block licenses to the Commission.

- Paragraph 124 is revised to read as follows:

We find that modifying the 700 MHz Guard Bands licenses will serve the public interest, convenience, and necessity in four respects. First, it will enable the downward spectrum shift that protects public safety narrowband operations from interference in certain border areas. Second, “repacking” the existing Guard Band A Block licenses between the Upper 700 MHz Band C and D Blocks will avoid placing a potential obstacle between the two contiguous spectrum blocks comprising the 700 MHz Public/Private Partnership. Third, we will realize these benefits for

¹ See Access Spectrum/Pegasus July 6, 2007 *Ex Parte*.

public safety and the 700 MHz Public/Private Partnership with the least disruption possible to the use of the Upper 700 MHz spectrum. Finally, the spectrum repacking will provide an additional 2 megahertz of commercial spectrum for auction by reducing the current Guard Band B Block from 4 to 2 megahertz.

4. Footnote 458 is revised to read as follows:

Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, WT Docket No. 06-17, *Eleventh Report*, 21 FCC Rcd 10947, 10950 ¶¶ 2-3 (2006) (*Eleventh Annual CMRS Competition Report*).

5. Footnote 464 is revised to read as follows:

See, e.g., Unlicensed Operation in the TV Broadcast Bands, ET Docket No. 04-186, *First Report and Order and Further Notice of Proposed Rule Making*, 21 FCC Rcd 12266 (2006) (*Unlicensed Operation in the TV Broadcast Bands First Report and Order*); Wireless Operations in the 3650-3700 MHz Band, ET Docket No. 04-151, *Memorandum Opinion and Order*, 22 FCC Rcd 10421, 10425-30 (2007) (*3650 MHz Reconsideration Order*); Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems, ET Docket No. 98-153, *First Report and Order*, 17 FCC Rcd 7435, 7441-46 (2002).

6. Footnote 465 is revised to read as follows:

3650 MHz Reconsideration Order, 22 FCC Rcd 10421 (2007); *Unlicensed Operation in the TV Broadcast Bands First Report and Order*, 21 FCC Rcd 12266 (2006); *Spectrum Policy Task Force Report*, ET Docket No. 02-135 (2002). Also, see the special requirements adopted herein for the Upper 700 MHz D Block, related to its operation under a Public/Private Partnership.

7. Footnote 469 is revised to read as follows:

Google July 9 *Ex Parte* at 4 (supporting the need for open access to level the playing field because of large incumbents' "significant built-in advantages [of] economic and operational barriers to entry"); Verizon Wireless July 24 *Ex Parte* at 2 (opposing Google's "level playing field" argument). The Commission has historically required that, to the extent practical, technical and operational rules should be comparable for CMRS services. However, we have also recognized that with different policy goals – or under different circumstances – we may come to different conclusions regarding the extent of competition. *See* Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GEN Docket No. 93-252, *Third Report and Order*, 9 FCC Rcd 7988, 7996-97 ¶ 14 (1994).

8. Footnote 479 is revised to read as follows:

47 U.S.C. § 157 (directing the Commission to encourage the deployment of advanced telecommunications capability through regulatory measures that promote competition or remove barriers to infrastructure investment).

9. Footnote 482 is revised to read as follows:

For example, our 1992 order permitting the bundling of handsets with wireless service contracts was based on the status of the wireless marketplace at that time, not on any limit to our regulatory authority. Interestingly, that order noted that "current nondiscrimination requirements preclude a cellular carrier from refusing to provide service to a customer on the basis of what CPE the customer owns," which is one of the very objectives we seek to obtain here. *See* Bundling of Cellular Customer Premises Equipment and Cellular Service, CC Docket No. 91-34, *Report and*

Order, 7 FCC Rcd 4028, 4030 ¶ 18 (1992).

10. Footnote 485 is revised to read as follows:

See Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures, WT Docket No. 05-211, *Order on Reconsideration of the Second Report and Order*, 21 FCC Rcd 6703, 6708 ¶ 12.

11. Footnote 486 is revised to read as follows:

See, e.g., U.S. Airwaves, Inc. v. FCC, 232 F.3d 227, 234 (D.C. Cir. 2000) (recognizing that statutory goals of Section 309(j)(3), as well as goals of maintaining the integrity of the auctions process and ensuring fairness to all market participants, may be competing and potentially in opposition, and that a “regulatory decision in which the Commission must balance competing goals is . . . [nevertheless] valid if the agency can show that its resolution ‘reasonably advances at least one of those objectives and [that] its decisionmaking process was regular.’ *Fresno Mobile Radio, Inc. v. FCC*, 165 F.3d 965, 971 (D.C. Cir. 1999)”; *Melcher v. FCC*, 134 F.3d 1143, 1154 (D.C. Cir. 1998) (recognizing that even within one of the Section 309(j)(3) objectives – subsection (B) – Congress set forth “a number of potentially conflicting objectives,” and that the Commission has the discretion to decide how much precedence particular policies will be granted when several will be implicated in a single decision).

12. Footnote 487 is revised to read as follows:

For similar reasons, we believe that our decision to impose requirements for open platforms for devices and attachments is consistent with other statutory provisions that direct the Commission to promote new and advanced technologies, *see, e.g., 47 U.S.C. § 157*, Pub. L. No. 104-104, § 706, 110 Stat. 56, 153 (1996), notwithstanding Verizon Wireless’s claim to the contrary, *see Verizon Wireless July 24 Ex Parte* at 15-16.

13. Footnote 488 is revised to read as follows:

See Verizon Wireless July 24 Ex Parte at 19-20.

14. Footnote 492 is revised to read as follows:

Spence v. Washington, 418 U.S. 405, 409 (1974).

15. Footnote 493 is revised to read as follows:

Cf. Hill v. Colorado, 530 U.S. 703, 716-717 (2000) (“The unwilling listener’s interest in avoiding unwanted communication has been repeatedly identified in our cases.”) and *Rowan v. United States Post Office Dept.*, 397 U.S. 728, 737 (1970) (“Nothing in the Constitution compels us to listen to or view any unwanted communication. . . .”).

16. Footnote 494 is revised to read as follows:

See Clark v. Community for Creative Non-Violence, 468 U.S. 288, 293 n.5 (1984) (“Although it is common to place the burden upon the Government to justify impingements on First Amendment interests, it is the obligation of the person desiring to engage in assertedly expressive conduct to demonstrate that the First Amendment even applies.”).

17. Footnote 497 is revised to read as follows:

See Mainstream Marketing Services, Inc. v. FTC, 358 F.3d 1228, 1242 (10th Cir. 2004), *citing Rowan v. United States Post Office Dep't*, 397 U.S. 728 (1970) and *Martin v. City of Struthers*, 319 U.S. 141 (1943) (“The Supreme Court has repeatedly held that speech restrictions based on private choice (*i.e.*—an opt-in feature) are less restrictive than laws that prohibit speech directly.”).

18. Footnote 498 is revised to read as follows:

See Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio, 471 U.S. 626, 637 (1985) (“[C]ommercial speech” is entitled to the protection of the First Amendment, albeit to protection somewhat less extensive than that afforded “noncommercial speech.”); *see also Central Hudson Gas & Electric Corp. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557, 564 (1980), which provides a three-part test applicable to regulations restricting non-misleading commercial speech that relates to lawful activity: (1) the government must assert a substantial interest to be achieved by the regulation; (2) the regulation must directly advance that governmental interest, meaning that it must do more than provide “only ineffectual or remote support for the government’s purpose;” and (3) the regulation must be narrowly tailored not to restrict more speech than necessary. We believe our analysis above clearly demonstrates that (1) a substantial interest is achieved by our rules for open platforms for devices and attachments; (2) the rules directly advance the government interest; and (3) the rules are narrowly tailored.

19. Footnote 500 is revised to read as follows:

We note that the Copyright Office has granted a three-year exemption to the anti-circumvention provisions of Section 1201 of the Digital Millennium Copyright Act, for “computer programs in the form of firmware that enable wireless telephone handsets to connect to wireless telephone communication network, when circumvention is accomplished for the sole purpose of lawfully connecting to a wireless telephone communication network.” It found that software locks on mobile handsets adversely affect the ability of consumers to make non-infringing use of the software in those handsets. 71 Fed. Reg. 68472 (Nov. 27, 2006). We also note that a court appeal of the exemption ruling is ongoing.

20. Footnote 509 is revised to read as follows:

See Wireless Communications and Public Safety Act of 1999, § 4, 47 U.S.C. § 615a (1999) (911 Act).

21. Footnote 516 is revised to read as follows:

On November 8, 2006, the Wireless Bureau released a public notice seeking comment on topics to be addressed in the hearing aid compatibility report to be prepared by Commission staff. *See Wireless Telecommunications Bureau Seeks Comment on Topics to Be Addressed in Hearing Aid Compatibility Report*, WT Docket No. 06-203, *Public Notice*, 21 FCC Rcd 13136 (2006).

22. Paragraph 361 is revised to read as follows:

Discussion. The public safety broadband segments (at 763-768 and 793-798 MHz) are bounded on the top by the one-megahertz internal guard bands, followed by the public safety narrowband segments (at 769-775 and 799-805 MHz), and on the bottom by the Upper 700 MHz Band D Block. We adopt the following out-of-band emission (OOBE) limits for public safety broadband transmissions: for base stations, which will transmit in the 763-768 MHz band, an OOBE limit of $76+10\log P$ (dB) in a 6.25 kHz band segment in the 769-775 and 799-805 MHz bands; and for

mobile/portable stations, which will transmit in the 793-798 MHz band, an OOB limit of $65 + 10\log P$ in a 6.25 kHz band segment in the 769-775 and 799-805 MHz bands. We believe these limits will adequately protect public safety narrowband operations while enabling viable broadband operations. Further, these limits provide the same amount of protection previously provided to public safety narrowband operations from commercial 700 MHz transmissions,² and received support in the record.³ We also note that these are the same limits we adopt elsewhere for the Upper 700 MHz Band D Block and C Block licensees with respect to the 700 MHz public safety narrowband segments.

23. Appendix A is revised to insert the following entities into the list of Comments:

Michael T. Hodgson, North Carolina State Highway Patrol – Region 31 Chair (North Carolina) (“Michael Hodgson”)

Region 39 (Tennessee) 700 MHz Regional Planning Committee (“Region 39 (Tennessee)”)

Region 42 (Virginia) 700 MHz Regional Planning Committee (“Region 42 (Virginia)”)

24. Appendix A is revised to insert the following entities into the list of Reply Comments:

Region 28 (New Jersey, Delaware Rhode Island) 700 MHz Regional Planning Committee (“Region 28 (New Jersey, Delaware Rhode Island)”)

Region 39 (Tennessee) 700 MHz Regional Planning Committee (“Region 39 (Tennessee)”)

Region 43 (Washington) 700 MHz Regional Planning Committee (“Region 43 (Washington)”)

25. Section 2.106 of the Commission’s Rules is amended by revising paragraph NG158 to read as follows:

§2.106 Table of Frequency Allocations.

NG158. The frequency bands 763-775 MHz and 793-805 MHz are available for assignment to the public safety services, as described in Part 90 of this chapter.

26. Section 27.6(b)(3) of the Commission’s Rules is revised to read as follows: “(3) Service area for Block D in the 758-763 MHz and 788-793 MHz bands is a nationwide area as defined in paragraph (a) of this section.”

27. Sections 27.14(a) and (e) of the Commission’s Rules are revised to read as follows:

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, Block B in the 704-710 MHz and 734-740 MHz bands, Block E in the 722-728 MHz band, Block C, C1, or C2 in the 746-757 MHz and 776-787 MHz bands, or Block D in the 758-763 MHz and 788-793 MHz bands, must, as a performance requirement, make a showing of "substantial service" in their license

² See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99-168, *First Report and Order*, 15 FCC Rcd 476, 518-20 ¶¶ 103-06 (2000).

³ See Alcatel-Lucent 700 MHz Further Notice Comments at 20; Ericsson 700 MHz Further Notice Comments at 29-30.

area within the prescribed license term set forth in § 27.13. “Substantial service” is defined as service which is sound, favorable and substantially above a level of mediocre service which just might minimally warrant renewal. Failure by any licensee to meet this requirement will result in forfeiture of the license and the licensee will be ineligible to regain it.

- (e) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, Block B in the 704-710 MHz and 734-740 MHz bands, Block C in the 710-716 MHz and 740-746 MHz bands, Block D in the 716-722 MHz band, Block E in the 722-728 MHz band, Block C, C1, or C2 in the 746-757 MHz and 776-787 MHz bands, or Block D in the 758-763 MHz and 788-793 MHz bands. Each of these licensees must file a renewal application in accordance with the provisions set forth in § 1.949, and must make a showing of substantial service, independent of its performance requirements, as a condition for renewal at the end of each license term.

28. Sections 27.14(g)(1)-(3) of the Commission’s Rules are revised to read as follows:

- (g) WCS licensees holding EA authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, cellular market authorizations for Block B in the 704-710 MHz and 734-740 MHz bands, or EA authorizations for Block E in the 722-728 MHz band, if the results of the first auction in which licenses for such authorizations are offered satisfy the reserve price for the applicable block, shall provide signal coverage and offer service over at least 35 percent of the geographic area of each of their license authorizations no later than February 17, 2013 (or within four years of initial license grant if the initial authorization in a market is granted after February 17, 2009), and shall provide such service over at least 70 percent of the geographic area of each of these authorizations by the end of the license term. In applying these geographic benchmarks, licensees are not required to include land owned or administered by government as a part of the relevant service area. Licensees may count covered government land for purposes of meeting their geographic construction benchmark, but are required to add the covered government land to the total geographic area used for measurement purposes. Licensees are required to include those populated lands held by tribal governments and those held by the Federal Government in trust or for the benefit of a recognized tribe.
 - (1) If an EA or CMA licensee holding an authorization in these particular blocks fails to provide signal coverage and offer service over at least 35 percent of the geographic area of its license authorization by no later than February 17, 2013 (or within four years of initial license grant, if the initial authorization in a market is granted after February 17, 2009), the term of that license authorization will be reduced by two years and such licensee may be subject to enforcement action, including forfeitures. In addition, an EA or CMA licensee that provides signal coverage and offers service at a level that is below this interim benchmark may lose authority to operate in part of the remaining unserved areas of the license.
 - (2) If any such EA or CMA licensee fails to provide signal coverage and offer service to at least 70 percent of the geographic area of its license authorization by the end of the license term, that licensee’s authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service, and those unserved areas will become available for reassignment by the Commission. Such licensee may also be subject to enforcement action, including forfeitures. In addition, an EA or CMA licensee that provides signal coverage and offers service at a level that is below this end-of-term benchmark may be subject to license termination. In the event that a licensee’s authority to operate in a license area terminates automatically without Commission action,

such areas will become available for reassignment pursuant to the procedures in paragraph (j) of this subsection.

- (3) For licenses under paragraph (g), the geographic service area to be made available for reassignment must include a contiguous area of at least 130 square kilometers (50 square miles), and areas smaller than a contiguous area of at least 130 square kilometers (50 square miles) will not be deemed unserved.

29. Section 27.14(h)(1)-(3) of the Commission's Rules are revised as follows:

- (h) WCS licensees holding REAG authorizations for Block C in the 746-757 MHz and 776-787 MHz bands or REAG authorizations for Block C2 in the 752-757 MHz and 782-787 MHz bands shall provide signal coverage and offer service over at least 40 percent of the population in each EA comprising the REAG license area no later than February 17, 2013 (or within four years of initial license grant, if the initial authorization in a market is granted after February 17, 2009), and shall provide such service over at least 75 percent of the population of each of these EAs by the end of the license term. For purposes of compliance with this requirement, licensees should determine population based on the most recently available U.S. Census Data.
 - (1) If a licensee holding a Block C authorization fails to provide signal coverage and offer service over at least 40 percent of the population in each EA comprising the REAG license area by no later than February 17, 2013 (or within four years of initial license grant if the initial authorization in a market is granted after February 17, 2009), the term of the license authorization will be reduced by two years and such licensee may be subject to enforcement action, including forfeitures. In addition, a licensee that provides signal coverage and offers service at a level that is below this interim benchmark may lose authority to operate in part of the remaining unserved areas of the license.
 - (2) If a licensee holding a Block C authorization fails to provide signal coverage and offer service over at least 75 percent of the population in any EA comprising the REAG license area by the end of the license term, for each such EA that licensee's authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service. Such licensee may also be subject to enforcement action, including forfeitures. In the event that a licensee's authority to operate in a license area terminates automatically without Commission action, such areas will become available for reassignment pursuant to the procedures in paragraph (j) of this subsection. In addition, a REAG licensee that provides signal coverage and offers service at a level that is below this end-of-term benchmark within any EA may be subject to license termination within that EA.
 - (3) For licenses under paragraph (h), the geographic service area to be made available for reassignment must include a contiguous area of at least 130 square kilometers (50 square miles), and areas smaller than a contiguous area of at least 130 square kilometers (50 square miles) will not be deemed unserved.

30. Section 27.14(i)(1)-(3) of the Commission's Rules are revised as follows:

- (i) WCS licensees holding EA authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, cellular market authorizations for Block B in the 704-710 MHz and 734-740 MHz bands, or EA authorizations for Block E in the 722-728 MHz band, if the results of the first auction in which licenses for such authorizations in Blocks A, B, and E are offered do not

satisfy the reserve price for the applicable block, as well as EA authorizations for Block C1 in the 746-752 MHz and 776-782 MHz bands, are subject to the following:

- (1) If a licensee holding a cellular market area or EA authorization subject to this paragraph (i) fails to provide signal coverage and offer service over at least 40 percent of the population in its license area by no later than February 17, 2013 (or within four years of initial license grant, if the initial authorization in a market is granted after February 17, 2009), the term of that license authorization will be reduced by two years and such licensee may be subject to enforcement action, including forfeitures. In addition, such licensee that provides signal coverage and offers service at a level that is below this interim benchmark may lose authority to operate in part of the remaining unserved areas of the license. For purposes of compliance with this requirement, licensees should determine population based on the most recently available U.S. Census Data.
 - (2) If a licensee holding a cellular market area or EA authorization subject to this paragraph (i) fails to provide signal coverage and offer service over at least 75 percent of the population in its license area by the end of the license term, that licensee's authorization will terminate automatically without Commission action for those geographic portions of its license in which the licensee is not providing service, and those unserved areas will become available for reassignment by the Commission. Such licensee may also be subject to enforcement action, including forfeitures. In the event that a licensee's authority to operate in a license area terminates automatically without Commission action, such areas will become available for reassignment pursuant to the procedures in paragraph (j) of this subsection. In addition, such a licensee that provides signal coverage and offers service at a level that is below this end-of-term benchmark may be subject to license termination. For purposes of compliance with this requirement, licensees should determine population based on the most recently available U.S. Census Data.
 - (3) For licenses under paragraph (i), the geographic service area to be made available for reassignment must include a contiguous area of at least 130 square kilometers (50 square miles), and areas smaller than a contiguous area of at least 130 square kilometers (50 square miles) will not be deemed unserved.
31. Sections 27.14(k), (l), (m) and (m)(3)-(4) of the Commission's Rules are revised as follows:
- (k) WCS licensees holding authorizations in the spectrum blocks enumerated in paragraphs (g), (h), or (i), including any licensee that obtained its license pursuant to the procedures set forth in subsection (j), shall demonstrate compliance with performance requirements by filing a construction notification with the Commission, within 15 days of the expiration of the applicable benchmark, in accordance with the provisions set forth in § 1.946(d). The licensee must certify whether it has met the applicable performance requirements. The licensee must file a description and certification of the areas for which it is providing service. The construction notifications must include electronic coverage maps, supporting technical documentation and any other information as the Wireless Telecommunications Bureau may prescribe by public notice.
 - (l) WCS licensees holding authorizations in the spectrum blocks enumerated in paragraphs (g), (h), or (i), excluding any licensee that obtained its license pursuant to the procedures set forth in subsection (j), shall file reports with the Commission that provide the Commission, at a minimum, with information concerning the status of their efforts to meet the performance requirements applicable to their authorizations in such spectrum blocks and the manner in which that spectrum is being utilized. The information to be reported will include the date the license term commenced, a description of the steps the licensee has taken toward meeting

- its construction obligations in a timely manner, including the technology or technologies and service(s) being provided, and the areas within the license area in which those services are available. Each of these licensees shall file its first report with the Commission no later than February 17, 2011 and no sooner than 30 days prior to this date. Each licensee that meets its interim benchmark shall file a second report with the Commission no later than February 17, 2016 and no sooner than 30 days prior to this date. Each licensee that does not meet its interim benchmark shall file this second report no later than on February 17, 2015 and no sooner than 30 days prior to this date.
- (m) The WCS licensee holding the authorization for the D Block in the 758-763 MHz and 788-793 MHz bands (the Upper 700 MHz D Block licensee) shall comply with the following construction requirements.
- (3) The Upper 700 MHz D Block licensee shall meet the population benchmarks based on a performance schedule specified in the Network Sharing Agreement, taking into account performance pursuant to §27.1327 as appropriate under that rule, and using the most recently available U.S. Census Data. The network and signal levels employed to meet these benchmarks must be adequate for public safety use, as defined in the Network Sharing Agreement, and the services made available must include those appropriate for public safety entities that operate in those areas. The schedule shall include coverage for major highways and interstates, as well as such additional areas that are necessary to provide coverage for all incorporated communities with a population in excess of 3,000, unless the Public Safety Broadband Licensee and the Upper 700 MHz D Block licensee jointly determine, in consultation with a relevant community, that such additional coverage will not provide significant public benefit.
- (4) The Upper 700 MHz D Block licensee shall demonstrate compliance with performance requirements by filing a construction notification with the Commission within 15 days of the expiration of the applicable benchmark, in accordance with the provisions set forth in § 1.946(d). The licensee must certify whether it has met the applicable performance requirement and must file a description and certification of the areas for which it is providing service. The construction notifications must include the following:
32. Section 27.15(d)(1)(i)-(ii) of the Commission's Rules is revised as follows:
- (i) Except for WCS licensees holding authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, Block B in the 704-710 MHz and 734-740 MHz bands, Block E in the 722-728 MHz band, Block C, C1, or C2 in the 746-757 MHz and 776-787 MHz bands, or Block D in the 758-763 MHz and 788-793 MHz bands, the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in §27.14. * * *
- (ii) For WCS licensees holding authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, Block B in the 704-710 MHz and 734-740 MHz bands, Block E in the 722-728 MHz band, or Block C, C1, or C2 in the 746-757 MHz and 776-787 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that they will collectively share responsibility for meeting the construction requirement for the entire pre-partition geographic license area. If the partitioner and partitionee collectively fail to meet the construction requirement, then both the partitioner and partitionee will be subject to the consequences enumerated in § 27.14(g)-(h) for this failure. Under the second option, the partitioner and partitionee each certifies that it will

independently meet the construction requirement for its respective partitioned license area. If the partitioner or partitionee fails to meet the construction requirement for its respective partitioned license area, then the consequences for this failure shall be those enumerated in § 27.14(g)-(h).

33. Sections 27.15(d)(2)(i)-(ii) of the Commission's Rules are revised as follows:

- (i) Except for WCS licensees holding authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, Block B in the 704-710 MHz and 734-740 MHz bands, Block E in the 722-728 MHz band, Block C, C1, or C2 in the 746-757 MHz and 776-787 MHz bands, or Block D in the 758-763 MHz and 788-793 MHz bands, the following rules apply to WCS and AWS licensees holding authorizations for purposes for purposes of implementing the construction requirements set forth in §27.14. * * *
- (ii) For WCS licensees holding authorizations for Block A in the 698-704 MHz and 728-734 MHz bands, Block B in the 704-710 MHz and 734-740 MHz bands, Block E in the 722-728 MHz band, or Block C, C1, or C2 in the 746-757 MHz and 776-787 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. If either the disaggregator or the disaggregatee meets the construction requirements set forth in § 27.14, then these requirements will be considered to be satisfied for both parties. If neither the disaggregator nor the disaggregatee meets the construction requirements, then both parties will be subject to the consequences enumerated in § 27.14(g)-(h) for this failure.

34. Section 27.50(b) of the Commission's Rules is revised to read as follows:

- (b) The following power and antenna height limits apply to transmitters operating in the 746-763 MHz, 775-793 MHz and 805-806 MHz bands:

35. The title of subpart G to Part 27 is revised to read as follows: Subpart G -- Guard Band A and B Blocks (757-758/787-788 MHz and 775-776/805-806 MHz Bands).

36. Section 27.1333(b) of the Commission's Rules is revised to read as follows:

- (b) The 700 MHz Upper D Block licensee will be permitted to assign or transfer its licensee subject to Commission review and prior approval. The Upper 700 MHz D Block license assignment or transfer applications are precluded from the immediate approval procedures as specified in § 1.948(j)(2).

37. The title of Section 90.176 of the Commission's Rules is revised to read as follows:

§ 90.176 Coordinator notification requirements on frequencies below 512 MHz, at 769-775/799-805 MHz, or at 1427-1432 MHz.

38. Section 90.531 of the Commission's Rules is amended by revising the introductory paragraph, paragraphs (a) and (b) and removing and reserving paragraphs (c) and (d)(2) and adding new paragraphs (f) and (g) to read as follows:

§ 90.531 Band plan.

This section sets forth the band plan for the 763-775 MHz and 793-805 MHz public safety bands.

(a) *Base and mobile use.* The 763-775 MHz band may be used for base, mobile or fixed (repeater) transmissions. The 793-805 MHz band may be used only for mobile or fixed (control) transmissions.

(b) *Narrowband segments.* There are two band segments that are designated for use with narrowband emissions. Each of these narrowband segments is divided into 960 channels having a channel size of 6.25 kHz as follows:

Frequency range	Channel Nos.
769-775 MHz.....	1-960
799-805 MHz.....	961-1920

* * * * *

(c) [Reserved]

(d) * * *

(d)(1) * * *

(d)(2) [Reserved]

(e) * * *

(f) *Internal guard band.* The internal guard band (768-769/798-799 MHz) is reserved.

(g) *Broadband.* The 763-768 MHz and 793-798 MHz bands are allocated for broadband communications pursuant to the Public Safety Broadband License.

39. The first paragraph of Section 90.545 of the Commission’s Rules is amended to read as follows:

Public safety base, control, and mobile transmitters in the 769-775 MHz and 799-805 MHz frequency bands must be operated only in accordance with the rules in this section, to reduce the potential for interference to public reception of the signals of existing TV and DTV broadcast stations transmitting on TV Channels 62, 63, 64, 65, 67, 68 or 69.

40. Section 90.549 of the Commission’s Rules is amended to read as follows:

Transmitters operated in the 763-775 MHz and 793-805 MHz frequency bands must be of a type that have been authorized by the Commission under its certification procedure as required by § 90.203.

41. Section 90.555 of the Commission's Rules is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 90.555 Information exchange.

(a) *Prior notification.* Public safety licensees authorized to operate in the 763-775 MHz and 793-805 MHz bands may notify any licensee authorized to operate in the 746-757, 758-763, 776-787, or 788-793 MHz bands that they wish to receive prior notification of the activation or modification of the licensee's base or fixed stations in their area. Thereafter, the 746-757, 758-763, 776-787, or 788-793 MHz band licensee must provide the following information to the public safety licensee at least 10 business days before a new base or fixed station is activated or an existing base or fixed station is modified:

* * * * *

(b) * * *

(1) Allow a public safety licensee to advise the 746-757, 758-763, 776-787, or 788-793 MHz band licensee whether it believes a proposed base or fixed station will generate unacceptable interference;

(2) Permit 746-757, 758-763, 776-787, and 788-793 MHz band licensees to make voluntary changes in base or fixed station parameters when a public safety licensee alerts them to possible interference; and,

* * * * *

(c) *Public Safety Information Exchange.*

(1) Upon request by a 746-757, 758-763, 776-787, or 788-793 MHz band licensee, public safety licensees authorized to operate radio systems in the 763-775 and 793-805 MHz bands shall provide the operating parameters of their radio system to the 746-757, 758-763, 776-787, or 788-793 MHz band licensee.

(2) Public safety licensees who perform the information exchange described in this section must notify the appropriate 746-757, 758-763, 776-787, or 788-793 MHz band licensees prior to any technical changes to their radio system.

42. The title of Section 90.1425 of the Commission's Rules is revised to read as follows:

§ 90.1425 Resolution of disputes after grant of the Upper 700 MHz D Block License.

FEDERAL COMMUNICATIONS COMMISSION

Fred B. Campbell, Jr.
Chief
Wireless Telecommunications Bureau

Derek K. Poarch
Chief
Public Safety and Homeland Security Bureau