



PUBLIC NOTICE

Federal Communications Commission
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FCC 05-80

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FEDERAL COMMUNICATIONS COMMISSION REQUESTS COMMENT ON SPECTRUM NEEDS OF EMERGENCY RESPONSE PROVIDERS

Input Required for FCC Report Mandated by the Intelligence Reform and Terrorism Prevention Act of 2004

WT Docket No. 05-157

Comments Due: April 28, 2005

On December 17, 2004, the President signed the Intelligence Reform and Terrorism Prevention Act of 2004 (“Intelligence Reform Act” or “Act”) into law to reform the United States intelligence community and intelligence-related activities.¹ Title VII of the Act implements certain recommendations of the National Commission on Terrorist Attacks Upon the United States,² including a number of communications-related provisions, particularly with respect to use of the electromagnetic spectrum by Federal, State, and local emergency response providers. Among other requirements, the Intelligence Reform Act requires the Federal Communications Commission (Commission or FCC) to conduct a study to assess the short-term and long-term spectrum needs of emergency response providers, and report its findings to Congress not later than December 17, 2005.³ Accordingly, as explained below, the Commission seeks comment from interested parties in order to assist it in conducting the study.

We initiate the present proceeding pursuant to the requirements of Section 7502 of the Act. Section 7502(a) provides,

¹ Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, 118 Stat. 3638 (2004) (Intelligence Reform Act).

² *See id.*, § 7001, 118 Stat. at 3775 (“This title may be cited as the ‘9/11 Commission Implementation Act of 2004’”); *see also* National Commission on Terrorist Attacks Upon the United States, The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States: Executive Summary 20 (2004) (recommending the “[a]llocat[ion of] more radio spectrum and improve[d] connectivity for public safety communications...”).

³ Intelligence Reform Act, § 7502, 118 Stat. at 3855-56.

The Federal Communications Commission shall, in consultation with the Secretary of Homeland Security and the National Telecommunications and Information Administration, conduct a study to assess short-term and long-term needs for allocations of additional portions of the electromagnetic spectrum for Federal, State, and local emergency response providers, including whether or not an additional allocation of spectrum in the 700 megahertz band should be granted by Congress to such emergency response providers.⁴

In addition, Section 7502(c) provides that, in conducting this study, the Commission shall

(1) seek input from Federal, State, local, and regional emergency response providers regarding the operation and administration of a potential nationwide interoperable broadband mobile communications network; and

(2) consider the use of commercial wireless technologies to the greatest extent practicable.⁵

Finally, Section 7502(d) requires the Commission to submit a report on the study, including the study's findings, to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Energy and Commerce, and the House Select Committee on Homeland Security no later than one year after the date of enactment of the Intelligence Reform Act, *i.e.*, by December 17, 2005.⁶

Accordingly, we hereby seek input regarding the need for, operation, and administration of a potential nationwide interoperable broadband mobile communications network.⁷ In addition, we more broadly request comment from emergency response providers and other interested parties on any related issues that would provide additional pertinent information for the Commission's study, pursuant to Section 7502. We ask commenters to address the future spectrum needs of the emergency responder community, for interoperability purposes and otherwise, both on a short-term basis and on a long-term basis. Commenters are encouraged to address whether or not Congress should provide an additional allocation of spectrum in the 700 MHz band for emergency response provider communications. We also ask that commenters consider the extent to which commercial wireless technologies may be used to satisfy the communications needs of emergency response providers.

⁴ *Id.*, § 7502(a), 118 Stat. at 3855-56.

⁵ *Id.*, § 7502(c), 118 Stat. at 3856.

⁶ *See id.*, § 7502(d)(1), (2), 118 Stat. at 3856.

⁷ The Intelligence Reform Act defines "interoperable communications" as "the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary." *See id.*, § 7303(g)(1), 118 Stat. at 3845. In addition, the term "interoperability" is defined in Section 90.7 of the Commission's Rules, 47 C.F.R. § 90.7, as "[a]n essential communication link within public safety and public service wireless communications systems which permits units from two or more different entities to interact with one another and to exchange information according to a prescribed method in order to achieve predictable results."

Proponents of additional spectrum allocations to accommodate public safety interoperability, and to otherwise satisfy the spectrum needs of emergency response providers, are asked to identify specific frequency bands which can be designated for that purpose, and to offer support for the amount of spectrum identified. We also ask that these commenters discuss the potential benefits and difficulties associated with use of spectrum in the identified bands for emergency response/interoperability communications.

We note that, as technological innovations have created new and innovative uses for wireless technology, and as wireless communications have taken on increasing importance in emergency response incidents, the Commission has endeavored to keep pace with public safety spectrum needs. Currently, more than 97 megahertz of spectrum is allocated in support of public safety communications, including 24 megahertz in the 700 MHz band,⁸ and the designation of 50 megahertz at 4940-4990 MHz for broadband and advanced technology applications in support of public safety.⁹ Recently, the Commission reallocated television spectrum in the New York City area for public safety use to promote interoperability among area users.¹⁰ In addition, the Commission's recent decision in the 800 MHz band reconfiguration proceeding created access to an average of 4.5 megahertz of additional spectrum for public safety licensees.¹¹ The Commission continues to evaluate its rules in light of public safety communications needs and to facilitate the deployment of interoperable networks to serve local, state, and federal entities throughout the country.¹²

⁸ For the twenty-four megahertz of spectrum in the Upper 700 MHz designated for public safety services, the Commission adopted the following band plan: 12.5 megahertz for General Use; 2.6 megahertz for Interoperability; 2.4 megahertz for State Licenses; 0.3 megahertz for Low Power Operations; 0.2 megahertz for Secondary Trunking; and 6.0 for Reserve. *See* In the Matter of the Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, *First Report and Order and Third Notice of Proposed Rulemaking*, WT Docket No. 96-86, 14 FCC Rcd 152, 214 ¶ 138 (1998).

⁹ *See* In the Matter of the 4.9 GHz Band Transferred From Federal Government Use, *Second Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 00-32, 17 FCC Rcd 3955 (2002).

¹⁰ *See* In the Matter of Amendment of Parts 2, 73, 74 and 90 of the Commission's Rules to Permit New York City Metropolitan Area Public Safety Agencies to Use Frequencies at 482-488 MHz, *Report and Order*, ET Docket Nos. 03-158 and 03-159, 19 FCC Rcd 6719 (2004).

¹¹ *See* In the Matter of Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, 19 FCC Rcd 19651 (2004).

¹² *See, e.g.,* In the Matter of the Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, *Fifth Memorandum Opinion and Order, Sixth Report and Order, and Seventh Notice of Proposed Rulemaking*, WT Docket No. 96-86, 20 FCC Rcd 831 (2005).

GENERAL INFORMATION

Comments must be filed no later than April 28, 2005.¹³ All filings concerning matters referenced in this Public Notice should refer to FCC 05-80 and WT Docket No. 05-157.

Commenters may file comments using the Commission's Electronic Comment Filing System (ECFS)¹⁴ or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to < <http://www.fcc.gov/e-file/ecfs.html>>. Generally, commenters must submit only one copy of an electronic submission. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Commenters may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." Commenters will receive a sample form and directions in reply.

Parties that choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Commenters may send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. Commenters must bind all hand deliveries together with rubber bands or fasteners and must dispose of any envelopes before entering the building. This facility is the only location where the Commission's Secretary will accept hand-delivered or messenger-delivered paper filings. Commenters must send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, MD 20743. Commenters should address U.S. Postal Service first-class mail, Express Mail, and Priority Mail to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554.

One copy of each filing must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at FCC@BCPIWEB.COM or (202) 488-5563 (facsimile); and (2) David Siehl, Public Safety and

¹³ Because the study must be completed and the report submitted by the statutory deadline noted above, we anticipate that requests to extend the comment period would not be granted, absent a compelling showing of good cause. In light of this statutory deadline, we do not request reply comments.

¹⁴ See Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

Critical Infrastructure Division, Wireless Telecommunications Bureau, at david.siehl@fcc.gov, or (202) 418-2643 (facsimile).

Copies of the comments and other filings in this docket may be obtained from Best Copy and Printing, Inc. in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. The comments and other filings are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The comments are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. Alternate formats of this Public Notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or by sending an e-mail to access@fcc.gov.

For further information, contact David Siehl, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, at (202) 418-1313.

Action by the Commission on March 24, 2005: Chairman Kevin J. Martin, Commissioners Kathleen Q. Abernathy, Michael J. Copps, Jonathan S. Adelstein; Commissioner Copps issuing a separate statement.

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STATEMENT OF COMMISSIONER MICHAEL J. COPPS

RE: Federal Communications Commission Requests Comment on Spectrum Needs of Emergency Response Providers (Public Notice FCC 05-80).

In the Intelligence Reform Act Congress rightly required the FCC to conduct a study of short and long-term spectrum needs for emergency response providers, and to seek input from emergency response providers regarding the creation of a nationwide interoperable communications network.

I have long believed that such a study was long overdue, so I am glad that we are beginning the process today. A useful report to Congress will: (1) include a survey of what spectrum is currently being used by which entities across the country; (2) understand that not all frequencies are the same and therefore assess whether we are matching spectrum with appropriate physical characteristics to current and future public safety needs; (3) indicate whether some bands are being underutilized because public safety needs have changed since initial allocation; (4) assess the current interference situation in public safety bands; (5) identify various approaches to interoperability and their success or failure; (6) identify the current availability of interoperable channels and whether or not they are widely used and why; and (7) determine how a nationwide interoperable network can connect not only local police and fire entities, but also the FBI, DHS, FEMA, and other critical Federal agencies. I also believe that we must begin to understand that emergency rooms and the medical community are integral parts of emergency response and homeland security. If we build a system that excludes the medical community it will be dangerously incomplete.

I commend Chairman Martin for beginning this process and I beseech every emergency responder that currently uses spectrum resources and every entity that believes that they should be part of an interoperable system, including the medical community, to respond to this extremely important public notice.