

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
1998 Biennial Regulatory Review X)
47 C.F.R. Part 90 - Private Land Mobile) WT Docket No. 98-182
Radio Services)
)
Replacement of Part 90 by Part 88 to Revise)
the Private Land Mobile Radio Services and)
Modify the Policies Governing Them)
and)
Examination of Exclusivity and Frequency)
Assignment Policies of the Private Land)
Mobile Services)

**COMMENTS
OF
THE LAND MOBILE COMMUNICATIONS COUNCIL**

The Land Mobile Communications Council (ALMCC), pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, hereby respectfully submits its Comments in response to the Notice of Proposed Rulemaking (ANPRM) in the above-captioned proceeding.¹

The LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. The LMCC acts with the consensus, and on behalf, of the vast majority of public safety, business, industrial, private, commercial and land transportation radio users on several frequency bands regulated by the FCC. Key to these operations are those bands included in the refarming proceeding. LMCC has been an active participant in all phases of this complex and extended proceeding; the efficient use of the refarmed bands is of paramount importance to the LMCC and its members. Membership includes the following organizations:

- X Affiliated American Railroads (AAR)
- X ARINC, Inc.

¹FCC 98-233, released September 25, 1998.

- X American Association of State Highway and Transportation Officials (AASHTO)
- X American Automobile Association (AAA)
- X American Mobile Telecommunications Association, Inc. (AMTA)
- X American Petroleum Institute (API)
- X American Trucking Associations, Inc. (ATA)
- X Association of Public Safety Communications Officials-International, Inc. (APCO)
- X Central Station Alarm Association (CSAA)
- X Forest Industries Telecommunications (FIT)
- X Forestry-Conservation Communications Association (FCCA)
- X Industrial Telecommunications Association, Inc. (ITA)
- X Intelligent Transportation Society of America, Inc. (ITSA)
- X International Association of Fire Chiefs (IAFC)
- X International Association of Fish and Wildlife Agencies (IAFWA)
- X International Municipal Signal Association (IMSA)
- X International Taxicab and Livery Association (ITLA)
- X Manufacturers Radio Frequency Advisory Committee (MRFAC)
- X National Association of State Foresters (NASF)
- X Personal Communications Industry Association (PCIA)
- X Telecommunications Industry Association (TIA)
- X UTC, the Telecommunications Association (UTC)

I. BACKGROUND

In this proceeding, the Commission seeks comment on a variety of proposed rule changes to Part 90 of its Rules. Some of the proposals are an outgrowth of the Commission's Refarming proceeding,² some of the clarifications are the result of inquiries by the industry,³ and some of the

²See, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket No. 92-235, Report and Order, 10 FCC Rcd 10,076 (1995); Memorandum Opinion and Order, 11 FCC Rcd 17,676 (1996), and Second Report and Order, FCC 987-61 (released March 12, 1997).

³See, NPRM at para. 5; Petition for Rule Making filed by the Personal Communications Industry Association, Inc. (APCIA), Aeronautical Radio, Inc. (AARINC) and the Industrial Telecommunications Association (AITA) on June 5, 1998.

proposals are an extension of the Commission's similar action with regard to CMRS licensees.⁴ The Commission has also asked what other Part 90 Rules should be revised or eliminated.

II. COMMENTS

The LMCC supports the Commission's issuance of the NPRM. For the most part, the rule changes and clarifications recommended will help streamline Part 90 regulations and somewhat ease the burdens on Part 90 licensees. In addition, the LMCC offers other Part 90 rule sections which the LMCC believes should be included in this review.

1. Section 90.35(c)(60) - Industrial/Business Pool Cargo Channels

After the refarming rules became effective, various frequency advisory committees received requests for the use of 450 MHz frequencies designated for use at dockside and cargo handling areas.⁵ These applications requested the use of the frequencies at areas other than dockside. PCIA consulted with the Commission, and received differing interpretations as to the grantability of such applications. As noted by the Commission, PCIA thereafter sought formal clarification from the Commission with regard to this rule section.

The Commission has proposed to clarify the rule section to provide that voice operation will be permitted on the cargo frequencies when the frequencies are used specifically for cargo handling

⁴See, NPRM at para. 9.

⁵See, 47 C.F.R. §90.35(c)(60).

purposes. Further, the Commission has requested comments on permitting these frequencies to be used anywhere for any Part 90 use on a low power basis.⁶

The LMCC supports the clarification. In addition, the LMCC would not be opposed to permitting low power licensing for non-cargo operations on a secondary basis to cargo operations. However, the Commission should not permit licensing without specification of location. Since there remain data users and cargo operations on these channels for which the frequencies have an important use, including safety at the dockside, it is vital that there is a means to determine the source of interference. This can only be accomplished by requiring location licensing and coordination on these frequencies. The Commission should not re-create the problems experienced with state-wide and nationwide licensing and unlicensed medical devices on the 450 MHz Aoffset≅ frequencies.

2. Section 90.155 - Construction Deadlines

The Commission has proposed to standardize the construction period for all Part 90 site-by-site licensees at one year. Currently non-geographic SMR systems and trunked 800 and 900 MHz private systems have a one year construction period. In addition, the Commission proposes to amend its rules to permit Aslow growth≅ construction by public safety licensees below 800 MHz.

The LMCC supports conforming the construction dates for all Part 90 site-by-site licenses. The rule modification will eliminate confusion which has occasionally occurred (particularly in the 800 MHz and 900 MHz bands) when applicants were unsure as to their required construction dates.

3. Section 90.187 - Trunking

⁶NPRM at par. 7.

In the NPRM, the Commission proposes to clarify the terms Acentralized≡ and Adecentralized≡ trunking. In addition, the Commission requests comment on a proposal by the LMCC with regard to the means by which licensees of decentralized trunked systems should license one or more channels that they wish to operate in a centralized mode as part of the system.

In the NPRM, the Commission stated in paragraph 23 that:

In a centralized trunked system, the base station provides dynamic channel assignments by automatically searching for and assigning to a user an open channel within that system. Initially, centralized trunking utilized only exclusively assigned 800 MHz channels, but the *Second Report and Order* in the *Refarming Proceeding* now permits centralized trunking in the 150-512 MHz bands if consent from co-channel incumbents and frequency coordination is obtained.... In a decentralized trunked system, which is also a system of dynamic channel assignment, the mobile units continually monitor the system's assigned channels until an unused channel is found. This channel is then utilized for communications. This type of dynamic channel assignment is not trunking in the traditional sense because the system does not require repeaters specifically designed for trunked operations. Decentralized trunking has always been permitted because the monitoring feature enables a decentralized trunked system to be used on shared frequencies. We conclude, therefore, that Section 90.187 applies only to centralized trunked systems.

While this clarification is helpful, it does not appear to address one type of system which is currently being deployed nationwide on 450 MHz spectrum. Specifically, licensees have begun to employ trunking systems where the monitoring for co-channel emissions is not performed by the mobile unit, but rather by a monitor employed at the repeater transmitter. In such an arrangement, the monitor Alocks out≡ the repeater transmitter when unrelated co-channel emissions are detected. Regardless of what the system is called, the LMCC believes that such systems should be licensed with an AIG≡ service code, and should not require co-channel consent.

Most importantly, however, it is vital that frequency coordinators and other users be able to determine the operational mode of the system. This information is crucial to the frequency coordination process, as there are numerous technical issues raised by the type of monitoring which

needs to be employed by various types of systems in various types of situations.⁷ This information is important not only for frequency coordinators, but also for co-channel users and applicants who might have need to determine sources of interference or potential candidate frequencies for sharing.

As discussed in the LMCC March 17, 1998 letter to the Commission, the A repeater monitored trunking system functions most efficiently when at least one channel can be dedicated for system control, whether the system is utilizing a data channel which sends continuous signals to the other repeater transmitters in the system, or a A home channel which directs associated mobiles to a presently unoccupied channel.

Under the Commission's existing rules, an applicant can A centralize trunking, i.e. not monitor, a channel provided that co-channel consent (or sufficient contour separation) can be achieved. Subsequent licensees on the channel must then acquire consent from the trunking licensee in order to be licensed on the frequency where contours overlap. The LMCC letter did not mean to disrupt this rule in any way, but rather to provide a means by which a licensee could A tie together a non-monitored channel (which could be used for system control data or as a home channel) with monitored channels. In order to provide complete information as to the entire operational system, LMCC had suggested a dual licensing scheme, whereby the applicant would obtain an A IG license for frequencies which will be monitored, and a A YG license for the non-monitored frequency, with a reference to each license in the special conditions portion of the license.

⁷See, for example, the LMCC letter filed on October 14, 1998 which proposes different levels of co-channel monitoring.

Unfortunately, the Commission believes that this concept would be overly burdensome.⁸ However, information as to the actual operational design of the system is critical for frequency advisory committees in evaluating candidate frequencies and for users to identify sources or interference and possible areas for expansion.

Therefore, as an alternative to its original suggestion, the LMCC suggests that the Commission utilize a station class code addition to designate on a single license those frequencies that are monitored, and those frequencies that are not monitored. The LMCC recommends that the Commission adopt station class codes such as FB2M (AM≡ for repeater-monitored) that indicates that the channel is being monitored not by the mobile user, but rather by automated means in the form of a monitor attached to the repeater transmitter. It is important to utilize the station class code, and not information in the Aspecial conditions≡ portion of the license, because the station class code would be evident in a routine frequency search, while the special condition would require a complete review of the entire license.

The LMCC believes that any license which includes at least one non-monitored/centralized trunked channel should carry the YB radio service code. In other words, an applicant seeking a five channel license, where the applicant has obtained co-channel consent (or contour clearance) on one channel and intends to repeater transmitter-monitor the other four frequencies, would be issued a five channel YG license, designating four of the channels with an FB2M (for a repeater transmitter-monitored channel) station class code, and one channel with an FB2P (for a protected, non-monitored channel) station class code. If the applicant intends to repeater-transmitter monitor all channels on

⁸NPRM at para. 26.

the authorization, the radio service for the license would be IG, and each frequency's station class would be FB2M. As a result, it would be readily apparent to any person reviewing the Commission database as to the manner in which the system operates.

In sum, the LMCC is seeking to identify on a license three different frequency usage situations which would also be readily apparent in a frequency specific database search: (1) a frequency where the licensee employs a manual means of monitoring the channel prior to transmission or the mobile radio itself performs the channel selection (FB2);⁹ (2) a frequency where the licensee employs a monitor at the transmitter repeater which automatically locks out a channel when there are co-channel emissions (FB2M); and (3) a frequency where the licensee does not employ any form of monitoring, as the licensee has obtained co-channel consent to non-monitoring or there is sufficient contour clearance to co-channel licensees (FB2P).

4. Section 90.113 - Station Authorization Required

The Commission has proposed to eliminate the licensing requirement for 151.820 MHz, 151.880 MHz, 151.940 MHz, 154.570 MHz and 154.600 MHz. This is in accordance with the Commission's previous proposal to eliminate frequency coordination requirements on these same low power frequencies, typically called the Acolor dot≅ frequencies.

Because of the manner in which manufacturers have chosen to market radios which operate on these frequencies, and the subsequent lack of licensing, the LMCC does not object to the proposed rule change. However, it should be emphasized by the Commission that this situation is an anomaly,

⁹The station example being utilized here assumes a private, internal use system. If the station is a community repeater, the station class would be FB4M or FB4P, as the case may be, a private carrier would be FB6M or FB6P, and a non-profit cooperative would be FB7M or FB7P.

it should not serve as a template for making other Business and Industrial radio spectrum into unlicensed spectrum.

5. Section 90.187 - Trunking - Maximum Number Of Channels

In Appendix B to the NPRM, the Commission sets forth a proposed modification to Section 90.187 to provide that the maximum number of frequency pairs that may be assigned at any one time for the operation of a trunked radio station (class of station YG or YW) is ten. This change is not discussed in the text of the NPRM, but is apparently based on a proposal from the Land Mobile Communications Council (ALMCC¹⁰). However, the LMCC proposal made clear that this limit should not apply in the Public Safety Pool as some large cities, counties and states may well have a need for more than ten channels for their trunked public safety radio systems.¹⁰ While the LMCC supports the Commission's proposed change to Section 90.187, the LMCC requests that the Commission exclude Public Safety licensees as the LMCC originally requested.

F. Sections 90.439, 90.443, 90.447 - Station Records

The LMCC recommends that the Commission take this opportunity to clarify Sections 90.439, 90.443 and 90.447 of its Rules. The LMCC is aware that, in at least one case, Commission compliance personnel have interpreted these rule sections to require community repeater licensees to have transmitter measurements (required by Section 90.215) to be kept at the place of business of the end user licensee. The Commission has issued at least one dozen Notices of Violations to community repeater licensees where the mobile transmitter measurements records were kept at the licensee's radio service company's office.

¹⁰Supplemental Comments of the Land Mobile Communications Council, filed July 22, 1998 at 8.

If this interpretation of the Commission's Rules is correct, it can be very confusing for licensees attempting to comply. For example, some large users of radios have a central repair facility to service radios which are used at various transmitter sites nationwide. Does the Commission require the mobile transmitter measurements to be kept at the licensee's central office, where the repairs were made, or at the local office where the radio is used? In today's radio environment, most users without sufficient internal units to justify a company-owned repair shop rely on their outside radio service company to perform the necessary functions to maintain the user's system. It is unnecessary and unrealistic to require that these records be kept at the licensee's office. Further, it has never been the standard practice in the industry to function in this manner.

On this basis, the LMCC recommends that the Commission clarify Sections 90.439, 90.443, 90.447 to specify that mobile transmitter measurements may be kept at: (1) the licensee's home office; (2) the licensee's local office; or (3) the licensee's radio maintenance provider.

III. CONCLUSION

WHEREFORE, the premises considered, it is respectfully requested that the Commission act in accordance with the views expressed herein.

Respectfully Submitted,

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