Above 763 (2500) To 915 (3000)	140
Above 610 (2000) To 763 (2500)	200
Above 458 (1500) To 610 (2000)	350
Above 305 (1000) To 458 (1500)	600
Up to 305 (1000)	1000

Table 2 – *Permissible Power and Antenna Heights for Base and Fixed* Stations in the 698-757 MHz, 758-763 MHz, 776-787 MHz and 788-793 MHz Bands Transmitting a Signal with an Emission Bandwidth of 1 MHz or Less

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) (watts)
Above 1372 (4500)	130
Above 1220 (4000) To 1372 (4500)	140
Above 1067 (3500) To 1220 (4000)	150
Above 915 (3000) To 1067 (3500)	200
Above 763 (2500) To 915 (3000)	280
Above 610 (2000) To 763 (2500)	400
Above 458 (1500) To 610 (2000)	700
Above 305 (1000) To 458 (1500)	1200
Up to 305 (1000)	2000

Table 3 – Permissible Power and Antenna Heights for Base and Fixed Stations in the 698-757 MHz, 758-763 MHz, 776-787 MHz and 788-793 MHz Bands Transmitting a Signal with an Emission Bandwidth Greater than 1 MHz

Antenna height (AAT) in meters (feet)	Effective radiated power (ERP) per MHz (watts/MHz)
Above 1372 (4500)	65
Above 1220 (4000) To 1372 (4500)	70

Above 1067 (3500) To 1220 (4000)	75
Above 915 (3000) To 1067 (3500)	100
Above 763 (2500) To 915 (3000)	140
Above 610 (2000) To 763 (2500)	200
Above 458 (1500) To 610 (2000)	350
Above 305 (1000) To 458 (1500)	600
Up to 305 (1000)	1000

Table 4 – Permissible Power and Antenna Heights for Base and Fixed Stations in the 698-757 MHz, 758-763 MHz, 776-787 MHz and 788-793 MHz Bands Transmitting a Signal with an Emission Bandwidth Greater than 1 MHz

Antenna height (AAT) in meters (feet)	**Effective radiated power (ERP) per MHz (watts/MHz)**
Above 1372 (4500)	130
Above 1220 (4000) To 1372 (4500)	140
Above 1067 (3500) To 1220 (4000)	150
Above 915 (3000) To 1067 (3500)	200
Above 763 (2500) To 915 (3000)	280
Above 610 (2000) To 763 (2500)	400
Above 458 (1500) To 610 (2000)	700
Above 305 (1000) To 458 (1500)	1200
Up to 305 (1000)	2000

21. Section 27.53 is amended by adding a new paragraph (d), re-designating paragraphs (d)–(m) as paragraphs (e)-(n), revising paragraph (c), new paragraph (f), and new paragraph (e), and re-designating paragraphs (e)(1) to (e)(4) as paragraphs (e)(6) to (e)(9) to read as follows:

§ 27.53 Emission limits.

* * * * *

(c) For operations in the 746 to 758 MHz band and the 776 to 788 MHz band, the power of any emission outside the licensee's frequency band(s) of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, in accordance with the following:

(1) On any frequency outside the 746 to 758 MHz band, the power of any emission shall be attenuated outside the band below the transmitter power (P) by at least 43 + 10 log (P) dB;

(2) On any frequency outside the 776 to 788 MHz band, the power of any emission shall be attenuated outside the band below the transmitter power (P) by at least 43 + 10 log (P) dB;

(3) On all frequencies between 763 to 775 MHz and 793 to 805 MHz, by a factor not less than 76 + 10 log (P) dB in a 6.25 kHz band segment, for base and fixed stations;

(4) On all frequencies between 763 to 775 MHz and 793 to 805 MHz, by a factor not less than 65 + 10 log (P) dB in a 6.25 kHz band segment, for mobile and portable stations;

* * * * *

(d) For operations in the 758-763 MHz and 788-793 MHz bands, the power of any emission outside the licensee's frequency bands of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, in accordance with the following:

(1) On all frequencies between 769 to 775 MHz and 799 to 805 MHz, by a factor not less than 76 + 10 log (P) dB in a 6.25 kHz band segment, for base and fixed stations;

(2) On all frequencies between 769 to 775 MHz and 799 to 805 MHz, by a factor not less than 65 + 10 log (P) dB in a 6.25 kHz band segment, for mobile and portable stations;

(3) On any frequency between 775 to 788 MHz, above 805 MHz, and below 758 MHz, by at least 43 + 10 log (P) dB;

(4) Compliance with the provisions of paragraph (d)(1) and d(2) of this section is based on the use of measurement instrumentation such that the reading taken with any resolution bandwidth setting should be adjusted to indicate spectral energy in a 6.25 kHz segment;

(5) Compliance with the provisions of paragraph (d)(3) of this section is based on the use of measurement instrumentation employing a resolution bandwidth of 100 kHz or greater. However, in the 100 kHz bands immediately outside and adjacent to the frequency block, a resolution bandwidth of at least 30 kHz may be employed.

(e) For operations in the 775–776 MHz and 805–806 MHz bands, transmitters must comply with either paragraphs (e)(1) to (e)(5) of this section or the ACP emission limitations set forth in paragraphs (e)(6) to (e)(9) of this section.

(1) On all frequencies between 763 to 775 MHz and 793 to 805 MHz, the power of any emission outside the licensee's frequency bands of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by a factor not less than 76 + 10 log (P) dB in a 6.25 kHz band segment, for base and fixed stations;

(2) On all frequencies between 763 to 775 MHz and 793 to 805 MHz, the power of any emission

outside the licensee's frequency bands of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by a factor not less than 65 + 10 log (P) dB in a 6.25 kHz band segment, for mobile and portable stations;

(3) On any frequency outside the 775 to 776 MHz and 805 to 806 MHz bands, the power of any emission shall be attenuated outside the band below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by at least 43 + 10 log (P) dB;

(4) Compliance with the provisions of paragraph (e)(1) and (e)(2) of this section is based on the use of measurement instrumentation such that the reading taken with any resolution bandwidth setting should be adjusted to indicate spectral energy in a 6.25 kHz segment;

(5) Compliance with the provisions of paragraph (e)(3) of this section is based on the use of measurement instrumentation employing a resolution bandwidth of 100 kHz or greater. However, in the 100 kHz bands immediately outside and adjacent to the frequency block, a resolution bandwidth of at least 30 kHz may be employed.

* * * * *

(f) For operations in the 746–763 MHz, 775–793 MHz, and 805-806 MHz bands, emissions in the band 1559–1610 MHz shall be limited to –70 dBW/MHz equivalent isotropically radiated power (EIRP) for wideband signals, and –80 dBW EIRP for discrete emissions of less than 700 Hz bandwidth. For the purpose of equipment authorization, a transmitter shall be tested with an antenna that is representative of the type that will be used with the equipment in normal operation.

* * * * *

22. Section 27.55 is amended by revising paragraphs (a)(2) and (c) to read as follows:

§ 27.55 Power strength limits.

(a) * * *

(1) * * *

(2) 698–758 and 775–787 MHz bands: 40 dBμV/m.

* * * * *

(c) *Power flux density limit for stations operating in the 746-757 MHz, 758-763 MHz, 776-787 MHz, and 788-793 MHz bands.* For base and fixed stations operating in the 746-757 MHz, 758-763 MHz, 776-787 MHz, and 788-793 MHz bands in accordance with the provisions of §27.50(b)(6) of this chapter, the power flux density that would be produced by such stations through a combination of antenna height and vertical gain pattern must not exceed 3000 microwatts per square meter on the ground over the area extending to 1 km from the base of the antenna mounting structure.

23. Section 27.57 is amended by revising paragraph (b) to read as follows:

§ 27.57 International coordination.

* * * * *

(b) Operation in the 698–763 MHz, 775–793 MHz, and 805-806 MHz bands is subject to international agreements between Mexico and Canada. Unless otherwise modified by international treaty, licenses must not cause interference to, and must accept harmful interference from, television broadcast operations in Mexico and Canada.

* * * * *

24. Section 27.60 is amended to read as follows:

§ 27.60 TV/DTV interference protection criteria.

Base, fixed, control, and mobile transmitters in the 698–763 MHz, 775–793 MHz, and 805-806 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 51 through 68.

(a) *D/U ratios.* Licensees must choose site locations that are a sufficient distance from co-channel and adjacent channel TV and DTV stations, and/or must use reduced transmitting power or transmitting antenna height such that the following minimum desired signal-to-undesired signal ratios (D/U ratios) are met.

(1) The minimum D/U ratio for co-channel stations is:

(i) 40 dB at the hypothetical Grade B contour (64 dBμV/m) (88.5 kilometers (55 miles)) of the TV station;

(ii) For transmitters operating in the 698–746 MHz frequency band, 23 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers (55 miles)) of the DTV station; or

(iii) For transmitters operating in the 746–763 MHz, 775–793 MHz, and 805-806 MHz frequency bands, 17 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers (55 miles)) of the DTV station.

(2) The minimum D/U ratio for adjacent channel stations is 0 dB at the hypothetical Grade B contour (64 dBμV/m) (88.5 kilometers (55 miles)) of the TV station or –23 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers (55 miles)) of the DTV station.

(b) *TV stations and calculation of contours.* The methods used to calculate TV contours and antenna heights above average terrain are given in §§73.683 and 73.684 of this chapter. Tables to determine the necessary minimum distance from the 698–763 MHz, 775–793 MHz, and 805-806 MHz station to the TV/DTV station, assuming that the TV/DTV station has a hypothetical or equivalent Grade B contour of 88.5 kilometers (55 miles), are located in §90.309 of this chapter and labeled as Tables B, D, and E. Values between those given in the tables may be determined by linear interpolation. Distances for station parameters greater than those indicated in the tables should be calculated in accordance with the required D/U ratios, as provided in paragraph (a) of this section. The locations of existing and proposed TV/DTV stations during the period of transition from analog to digital TV service are given in part 73 of this chapter and in the final proceedings of MM Docket No. 87–268.

(1) Licensees of stations operating within the ERP and HAAT limits of §27.50 must select one of

four methods to meet the TV/DTV protection requirements, subject to Commission approval:

(i) Utilize the geographic separation specified in Tables B, D, and E of §90.309 of this chapter, as appropriate;

(ii) When station parameters are greater than those indicated in the tables, calculate geographic separation in accordance with the required D/U ratios, as provided in paragraph (a) of this section;

(iii) Submit an engineering study justifying the proposed separations based on the parameters of the land mobile station and the parameters, including authorized and/or applied for facilities, of the TV/DTV station(s) it is trying to protect; or,

(iv) Obtain written concurrence from the applicable TV/DTV station(s). If this method is chosen, a copy of the agreement must be submitted with the application.

(2) The following is the method for geographic separations.

(i) Base and fixed stations that operate in the 746–763 MHz, 775–787 MHz, and 788-793 MHz bands having an antenna height (HAAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table B (co-channel frequencies based on 40 dB protection) and Table E (adjacent channel frequencies based on 0 dB protection) in §90.309 of this chapter. Base and fixed stations that operate in the 698–746 MHz band having an antenna height (HAAT) less than 152 m. (500 ft.) shall afford protection to adjacent channel DTV stations in accordance with the values specified in Table E in §90.309 of this chapter, shall afford protection to co-channel DTV stations by providing 23 dB protection to such stations' equivalent Grade B contour (41 dBμV/m), and shall afford protection to co-channel and adjacent channel TV stations in accordance with the values specified in Table B (co-channel frequencies based on 40 dB protection) and Table E (adjacent channel frequencies based on 0 dB protection) in §90.309 of this chapter. For base and fixed stations having an antenna height (HAAT) between 152–914 meters (500–3,000 ft.) the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure B in §90.309 of this chapter. For heights of more than 152 m. (500 ft.) above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the hypothetical or equivalent Grade B contour of a co-channel TV/DTV station (i.e. , it exceeds the distance from the appropriate Table in §90.309 of this chapter to the relevant TV/DTV station), an authorization will not be granted unless it can be shown in an engineering study (see paragraph (b)(1)(iii) of this section) that actual terrain considerations are such as to provide the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m for DTV stations) or unless the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the actual Grade B contour (64 dBμV/m for TV and 41 dBμV/m coverage contour for DTV stations) will be achieved. Directions for calculating powers, heights, and reduction curves are listed in §90.309 of this chapter for land mobile stations. Directions for calculating coverage contours are listed in §§73.683 through 73.685 of this chapter for TV stations and in §73.625 of this chapter for DTV stations.

(ii) Control, fixed, and mobile stations (including portables) that operate in the 787-788 MHz and 805-806 MHz bands and control and mobile stations (including portables) that operate in the 698–757 MHz, 758-763 MHz, 776–787 MHz, and 788-793 MHz bands are limited in height and power and therefore shall afford protection to co-channel and adjacent channel TV/DTV stations in the following manner:

(A) For control, fixed, and mobile stations (including portables) that operate in the 787-788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 746-757 MHz, 758-763 MHz, 776-787 MHz, and 788-793 MHz bands, co-channel protection shall be afforded in accordance with the values specified in Table D (co-channel frequencies based on 40 dB protection for TV stations and 17 dB for DTV stations) in §90.309 of this chapter.

(B) For control and mobile stations (including portables) that operate in the 698–746 MHz band, co-channel protection shall be afforded to TV stations in accordance with the values specified in Table D (co-channel frequencies based on 40 dB protection) and to DTV stations by providing 23 dB protection to such stations' equivalent Grade B contour (41 dBμV/m).

(C) For control, fixed, and mobile stations (including portables) that operate in the 787-788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 698-757 MHz, 758-763 MHz, 776-787 MHz, and 788-793 MHz bands, adjacent channel protection shall be afforded by providing a minimum distance of 8 kilometers (5 miles) from all adjacent channel TV/DTV station hypothetical or equivalent Grade B contours (adjacent channel frequencies based on 0 dB protection for TV stations and –23 dB for DTV stations).

(D) Since control, fixed, and mobile stations may affect different TV/DTV stations than the associated base or fixed station, particular care must be taken by applicants/licensees to ensure that all appropriate TV/DTV stations are considered (e.g., a base station may be operating within TV Channel 62 and the mobiles within TV Channel 67, in which case TV Channels 61, 62, 63, 66, 67 and 68 must be protected). Control, fixed, and mobile stations shall keep a minimum distance of 96.5 kilometers (60 miles) from all adjacent channel TV/DTV stations. Since mobiles and portables are able to move and communicate with each other, licensees must determine the areas where the mobiles can and cannot roam in order to protect the TV/DTV stations.

* * * * *

25. Section 27.70 is amended by revising paragraphs (a) and (b) to read as follows:

§ 27.70 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,

* * * * *

26. Section 27.303 (a) is amended to read as follows:

§ 27.303 Upper 700 MHz commercial and public safety coordination zone.

(a) General. CMRS operators are required, prior to commencing operations on fixed or base station transmitters on the 776–787 MHz and 788 – 793 MHz bands that are located within 500 meters of existing or planned public safety base station receivers, to submit a description of their proposed facility to a Commission-approved public safety coordinator.

* * * * *

27. Section 27.501 is amended by revising the title and amending the section to read as follows:

§ 27.501 746 – 763 MHz, 775 – 793 MHz, and 805 – 806 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 746 – 763 MHz, 775 – 793 MHz, and 805 – 806 MHz bands are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

28. Section 27.601 is amended by revising paragraph (c) as follows:

§ 27.601 Authority and coordination requirements.

* * * * *

(c) *Frequency Coordination.*

(1) A Guard Band licensee, or a spectrum lessee operating at 775-776 MHz and 805-806 MHz pursuant to a spectrum lease arrangement under §§ 1.9030 and 1.9035 of this chapter, must notify Commission-recognized public safety frequency coordinators for the 700 MHz Public Safety band and adjacent-area Guard Band licensees within one business day after the licensee or the spectrum lessee has:

* * * * *

29. Add the following new subpart N to Part 27 to read as follows:

SUBPART N — 700 MHz PUBLIC/PRIVATE PARTNERSHIP

§ 27.1301 Purpose and scope

The purpose of this subpart, in conjunction with subpart AA of Part 90, is to establish rules and procedures relating to the 700 MHz Public/Private Partnership entered between the winning bidder for the Upper 700 MHz D Block license, the Upper 700 MHz D Block licensee, the Network Assets Holder, the Operating Company, the Public Safety Broadband Licensee, and other related entities as

the Commission may require or allow. Pursuant to this partnership, the Upper 700 MHz D Block licensee and the Operating Company will be responsible for constructing and operating a nationwide, shared interoperable wireless broadband network used to provide a commercial service and a broadband network service for public safety entities. The shared network assets will be held by the Network Assets Holder and the Shared Wireless Broadband Network will operate on both the commercial spectrum licensed to the Upper 700 MHz D Block licensee and the public safety broadband spectrum licensed to the Public Safety Broadband Licensee. This subpart of the Part 27 rules sets forth specific provisions relating to the Upper 700 MHz D Block license, the Upper 700 MHz D Block licensee, and other related entities as the Commission may require or allow with respect to the 700 MHz Public/Private Partnership. Subpart AA of the Part 90 rules sets forth related provisions applicable to the Public Safety Broadband License and the Public Safety Broadband Licensee with respect to the 700 MHz Public/Private Partnership.

§ 27.1303 Upper 700 MHz D Block license conditions

(a) The winning bidder at auction of the license for Block D in the 758-763 MHz and 788-793 MHz bands will be granted the Upper 700 MHz D Block license only after this winning bidder has entered, with the Public Safety Broadband Licensee and other related entities as the Commission may require or allow, into the Network Sharing Agreement (NSA) that has been approved by the Commission, has executed such other agreements as the Commission may require or allow, and has met all other necessary conditions pertaining to the award of this license.

(b) The Upper 700 MHz D Block licensee shall comply with all of the applicable requirements set forth in this part and subpart, including the construction requirements set forth in § 27.14, and shall comply with the terms of the NSA and such other agreements as the Commission may require or allow.

(c) The Upper 700 MHz D Block licensee shall have the exclusive right to build and operate the shared wireless broadband network, except as set forth in §§ 20.1330 and 90.1430.

(d) The Upper 700 MHz D Block licensee must not discontinue, reduce, or impair service to public safety users unless and until, pursuant to Commission procedures, it has obtained prior authorization from the Commission.

(e) The Upper 700 MHz D Block licensee must provide the Public Safety Broadband Licensee with priority access during emergencies, as specified in the NSA.

(f) These conditions and requirements will apply to any related entities that the Commission may require or allow, as provided for in the NSA or otherwise as authorized by the Commission.

§ 27.1305 Shared Wireless Broadband Network.

The Shared Wireless Broadband Network developed by the 700 MHz Public/Private Partnership must be designed to meet requirements associated with a nationwide, public safety broadband network. At a minimum, the network must incorporate the following features:

(a) Design for operation over a broadband technology platform that provides mobile voice, video, and data capability that is seamlessly interoperable across public safety local and state agencies, jurisdictions, and geographic areas, and that includes current and evolving state-of-the-art technologies reasonably made available in the commercial marketplace with features beneficial to the public safety community.

(b) Sufficient signal coverage to ensure reliable operation throughout the service area consistent with typical public safety communications systems.

(c) Sufficient robustness to meet the reliability and performance requirements of public safety.

(d) Sufficient capacity to meet the needs of public safety.

(e) Security and encryption consistent with state-of-the-art technologies.

(f) A mechanism to automatically prioritize public safety communications over commercial uses on a real-time basis consistent with the requirements of § 27.1307.

(g) Operational capabilities consistent with features and requirements that are typical of current and evolving state-of-the-art public safety systems.

(h) Operational control of the network by the Public Safety Broadband Licensee to the extent necessary to ensure that public safety requirements are met.

§ 27.1307 Spectrum use in the network.

(a) *Spectrum use.* The shared wireless broadband network developed by the 700 MHz Public/ Private Partnership will operate using spectrum associated with the Upper 700 MHz D Block license in the 758-763 MHz and 788-793 MHz bands and the Public Safety Broadband License in the adjacent 763-768 MHz and 793-798 MHz bands.

(b) *Access to spectrum in the 758-763 MHz and 788-793 MHz bands.* The Upper 700 MHz D Block licensee shall lease the spectrum rights associated with the Upper 700 MHz D Block license to the Operating Company, pursuant to the Commission's spectrum leasing rules. The spectrum leasing arrangement shall be a long-term *de facto* transfer leasing arrangement for the entire remaining term of the Upper 700 MHz D Block license. If the Upper 700 MHz D Block license is renewed, the parties will be required to renew this spectrum leasing arrangement as well.

(c) *Access to spectrum in the 763-768 MHz and 793-798 MHz bands.* The Public Safety Broadband Licensee, which holds the Public Safety Broadband License pursuant to Part 90 rules, must lease the spectrum usage rights associated with this license, pursuant to a spectrum manager leasing arrangement set forth in Part 1 subpart X, to the Upper 700 MHz D Block licensee and the Operating Company for the entire remaining term of the Public Safety Broadband License to effectuate the 700 MHz Public/Private Partnership. The Upper 700 MHz D Block licensee and the Operating Company are the only entities that are eligible to lease the spectrum usage rights associated with the Public Safety Broadband License to operate on the 763-768 and 793-798 MHz bands. If the Upper 700 MHz D Block license is cancelled, this spectrum leasing arrangement will automatically terminate.

(d) *Commercial operations in the 763-768 MHz and 793-798 MHz bands.* Commercial operations in the 763-768 MHz and 793-798 MHz bands through the spectrum manager leasing arrangement shall not cause harmful interference to primary users (*i.e.*, public safety users) and cannot claim protection from harmful interference from the primary public safety operations in the 763-768 MHz and 793-798 MHz bands. The network providing commercial operations in the 763-768 MHz and 793-798 MHz bands through the spectrum manager leasing arrangement must be designed to automatically assign priority to public safety users, to the exclusion and/or immediate

preemption of any commercial use on a dynamic, real-time priority basis, and to guarantee that public safety users suffer no harmful interference or interruption or degradation of service due to commercial operations in the 763-768 MHz and 793-798 MHz bands.

§ 27.1308 Organization and structure of the 700 MHz Public/Private Partnership.

(a) The Upper 700 MHz D Block licensee, the Network Assets Holder and such other related entities as the Commission may require or allow shall be formed by the winning bidder of the Upper 700 MHz D Block license. The Upper 700 MHz D Block licensee, the Network Assets Holder, and related entities as the Commission may require or allow must be Special Purpose Bankruptcy Remote Entities formed to hold the license, to hold the shared network assets, or for such other purpose as the Commission may require or allow. The winning bidder of the Upper 700 MHz D Block license shall also form the Operating Company, which must also be a Special Purpose Bankruptcy Remote Entity. Upon issuance of the Upper 700 MHz D Block license, the winning bidder will assign all of its rights and obligations under the NSA to the Upper 700 MHz D Block licensee, Network Assets Holder, the Operating Company, and any other related entities that the Commission may require or allow.

(b) The Upper 700 MHz D Block licensee and other related entities as the Commission may require or allow shall have the obligation to build out the Shared Wireless Broadband Network, as provided for in the NSA or otherwise as authorized by the Commission.

§ 27.1310 Network Sharing Agreement.

The relationship between the Upper 700 MHz D Block licensee, the Public Safety Broadband Licensee, and related entities as the Commission may require or allow will be governed by the Network Sharing Agreement (NSA) and such other separate agreements as the Commission may require or allow that are negotiated and entered into between the parties. The NSA must, at a minimum, include the following terms:

(a) All of the substantive rights and obligations of the parties relating to the NSA, as established by the Commission concerning the 700 MHz Public/Private Partnership.

(b) Network specifications that comply with § 27.1305.

(c) The definition of "emergency" for purposes of emergency priority access.

(d) All service fees to be imposed for services to public safety, including fees for normal network service and fees for priority access to the D Block spectrum in an emergency.

(e) A detailed build-out schedule consistent with § 27.1327, including coverage of major highways and interstates, as well as incorporated communities with a population in excess of 3,000.

(f) The right of the Public Safety Broadband Licensee to determine and approve the specifications of public safety equipment used on the network and the right to purchase its own subscriber equipment from any vendor it chooses, to the extent such specifications and equipment are consistent with reasonable network control requirements established in the NSA.

(g) The Upper 700 MHz D Block licensee must offer at least one handset suitable for public safety use that includes a seamlessly integrated satellite solution pursuant to the terms, conditions, and timeframes set forth in the NSA.

(h) Any major modification of the terms of the NSA, related agreements or documents, or such other agreements as the Commission may require or allow must be submitted to the Commission for prior approval. All other modifications must be submitted to the Chiefs of the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau for prior approval.

(i) The NSA shall require, in a separate agreement, the granting of an irrevocable and assignable right of first refusal to purchase the network assets if and whenever such assets are otherwise to be sold and an irrevocable and assignable option in favor of the Public Safety Broadband Licensee to purchase the network and all network assets if and whenever the Upper 700 MHz D Block license is cancelled or terminated, by reason of default or for any other reason, for a consideration equivalent to the fair market value of the tangible and intangible assets sold. This right and option shall be senior to, and have priority over, any other right, claim, or interest in or to the network or the network assets. The NSA shall also include a fair market valuation methodology to determine the fair market value of the shared wireless broadband network assets.

(j) The NSA must have a term, not to exceed 10 years from February 17, 2009, that coincides with the terms of the Upper 700 MHz D Block license and the Public Safety Broadband License.

§ 27.1315 Establishment, execution, and application of the Network Sharing Agreement.

The following requirements and processes relate to the establishment, execution, and application of the NSA:

(a) *Approval of NSA as pre-condition for granting the D Block License.* The Commission shall not grant the Upper 700 MHz D Block license until the winning bidder for the Upper 700 MHz D Block license has negotiated the NSA and such other agreements as the Commission may require or allow with the Public Safety Broadband Licensee, and the NSA and related agreements or documents have been approved by the Commission and executed by the required parties. Parties to the NSA must also include the Upper 700 MHz D Block licensee, the Network Assets Holder, and the Operating Company, as these entities are defined in § 27.4.

(b) *Requirement of negotiation.* Negotiation of an NSA between the winning bidder for the Upper 700 MHz D Block license and the Public Safety Broadband Licensee must commence by the date the winning bidder files its long form application or the date on which the Commission designates the Public Safety Broadband Licensee, whichever is later, and must conclude within six months of that date. Parties to this negotiation are required to negotiate in good faith. Two members of the Commission staff, one from the Wireless Telecommunications Bureau and one from the Public Safety and Homeland Security Bureau, shall be present at all stages of the negotiation as neutral observers.

(c) *Reporting requirements.* The winning bidder for the Upper 700 MHz D Block license must file a report with the Commission within 10 business days of the commencement of the negotiation period certifying that active and good faith negotiations have begun, providing the date on which they commenced, and providing a schedule of the initial dates on which the parties intend to meet for active negotiations, covering at a minimum the first 30 day period. Beginning three months from the triggering of the six-month negotiation period, the winning bidder for the Upper 700 MHz D Block license and the Public Safety Broadband Licensee must jointly provide detailed reports, on a monthly basis and subject to a request for confidential treatment, on the progress of the negotiations throughout the remainder of the negotiations. These reports must include descriptions of all material issues that the parties have yet to resolve.

(d) *Submission of final agreement.* As soon as the parties have reached an agreement on all the terms of the NSA, related agreements or documents, and such other agreements as the Commission may require or allow, but not later than five business days after the six-month period for negotiation has expired, they must submit the NSA together with all agreements and related documents referenced in the NSA, for review and approval by the full Commission. The Commission will act on the NSA within 60 days of receipt. The Commission may approve the NSA in its entirety, approve with modifications, or require the parties to address additional terms or re-draft existing terms within a specified timeframe. After the NSA is approved, the parties must execute the NSA and such other agreements as the Commission may require or allow, and submit executed copies to the Commission within 10 business days of approval.

(e) *Submission of disputed issues.* If the parties have not reached agreement on all terms of the NSA and related agreements by the end of the six-month period, they must notify the Commission not later than five business days after the expiration of the six-month period of the terms on which they have agreed, the nature of the remaining issues, each party's position on each issue, whether additional negotiation is likely to produce an agreement, and, if so, a proposed deadline for reaching agreement on the NSA. Authority is delegated jointly to the Chiefs of the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau to resolve any remaining disputes.

(f) *Resolution of disputes.* Actions to resolve disputes may include, but are not limited to: (1) granting additional time for negotiation; (2) issuing a decision on the disputed issues and requiring the submission of a draft agreement consistent with the decision; (3) directing the parties to further brief the remaining issues in full for immediate Commission decision; and/or (4) immediate denial of the long-form application filed by the winning bidder for the Upper 700 MHz D Block license.

(g) *Default by winning bidder for Upper 700 MHz D Block license.* If the winning bidder for the Upper 700 MHz D Block fails to comply with negotiation or dispute resolution requirements or fails to execute a Commission-approved NSA, its long form application will be denied. If the long form application of the winning bidder of the Upper 700 MHz D Block license is denied for any reason, including as a consequence of an action taken pursuant to subsections (e) and (f), it will be deemed to have defaulted under §1.2109(c) and will be liable for the default payment specified in § 1.2104(g).

§ 27.1320 Failure to comply with the NSA or the Commission's Rules.

(a) Failure to comply with the Commission's rules or the terms of the NSA may warrant cancelling the Upper 700 MHz D Block license and awarding it to a new licensee. In the event the Upper 700 MHz D Block license is cancelled, the Commission shall issue an order cancelling the license and announcing the process for awarding rights to the spectrum to a new licensee. Pending the award to a new licensee, the Commission shall issue the Operating Company a special temporary authority to prevent interruption of services provided over the Shared Wireless Broadband Network. The Operating Company must continue to provide both commercial service and services to public safety during the transition. Upon grant of a new license, the Commission shall establish the terms and timing under which the special temporary authorization shall be cancelled and the new Upper 700 MHz D Block licensee assumes the construction and operation of the network.

(b) If the Commission cancels or terminates the Upper 700 MHz D Block license, a fair market valuation of the shared wireless broadband network assets shall be performed immediately, pursuant to the fair market valuation methodology set forth in the NSA. In the event that the Upper 700 MHz D Block license is awarded to a new entity, the Public Safety Broadband Licensee's option to purchase the network and all network assets if and whenever the Upper 700 MHz D Block license is

cancelled or terminated and its right of first refusal to purchase the network assets if and whenever such assets are otherwise to be sold shall be assigned to the new Upper 700 MHz D Block licensee and the new Network Assets Holder.

§ 27.1325 Resolution of disputes after grant of the Upper 700 MHz D Block License.

(a) The Upper 700 MHz D Block licensee, the Operating Company, the Network Assets Holder and the Public Safety Broadband Licensee may at any time bring a complaint to the Commission based on a claim that another party to the NSA has deviated from the terms of the NSA, or a petition for a declaratory ruling to resolve the proper interpretation of an NSA term or provision. The Commission also may at any time, on its own motion, determine to address any material breach or interpret any NSA term or provision.

(b) The Commission shall have primary responsibility and jurisdiction for adjudicating disputes that arise following execution of the NSA. The Commission may, however, require the parties to first seek a settlement to the dispute or authorize the parties to resolve the dispute through litigation or other means. Breach of license terms, the NSA, or the Commission's rules may result in cancellation of the Upper 700 MHz D Block license, the Public Safety Broadband License, or both.

(c) The Chiefs of the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau are delegated joint responsibility for adjudicating disputes.

§ 27.1327 Construction requirements; criteria for renewal.

(a) The Upper 700 MHz D Block licensee shall comply with the applicable construction requirements of §27.14.

(b) The Upper 700 MHz D Block licensee shall comply with the applicable procedures and criteria for license renewal of §27.14.

§ 27.1330 Local public safety build-out and operation.

(a) The Upper 700 MHz D Block licensee and the Operating Company through its lease arrangements shall, except in the two limited circumstances set forth herein, have the exclusive right to build and operate the Shared Wireless Broadband Network.

(b) *Rights to early build-out in areas with a build-out commitment.* In an area where the Upper 700 MHz D Block licensee has committed, in the NSA, to build out by a certain date, a public safety entity may, with the pre-approval of the Public Safety Broadband Licensee and subject to the requirements set forth herein, construct a broadband network in that area at its own expense so long as the network is capable of operating on the Shared Wireless Broadband Network and meets all the requirements and specifications of the network required under the NSA.

(1) *Options for early build-out in areas with a build-out commitment.* In order to obtain authorization to construct a broadband network as set forth above, the requesting public safety entity must agree to one of the following:

(i) to, on its own, or through the Public Safety Broadband Licensee acting on its behalf, construct the network at its own expense, and upon completion of construction transfer the network to the Upper 700 MHz D Block licensee, which shall then integrate that network into the Shared Wireless

Broadband Network constructed pursuant to the NSA; or

(ii) to, in agreement with the Upper 700 MHz D Block licensee, provide all funds necessary for the Upper 700 MHz D Block licensee to complete the early construction of the network, including any and all additional resource and personnel costs, allowing the Upper 700 MHz D Block licensee at all times to own, operate, and manage the network as an integrated part of the Shared Wireless Broadband Network.

(2) *Negotiation of amendment to NSA.* Under either early build out option set forth above, the Public Safety Broadband Licensee, the Upper 700 MHz D Block licensee, and the public safety entity must, prior to any construction, negotiate an amendment to the NSA regarding this part of the network, specifying ownership rights, fees, and other terms, which may be distinct from the analogous terms governing the Shared Wireless Broadband Network, and such amendment must be approved by the Commission.

(i) Such amendment must provide the terms under which the Upper 700 MHz D Block licensee shall receive full ownership rights and shall compensate the public safety entity (or the Public Safety Broadband Licensee, where appropriate) for the construction of the network; and shall, absent agreement to the contrary, provide for such transfer and compensation to occur prior to the scheduled build out date for such network in the NSA.

(ii) Any right to compensation from the Upper 700 MHz D Block licensee related to such early build-out shall be limited to the cost that would have been incurred had the Upper 700 MHz D Block licensee constructed the network itself in accordance with the original terms and specifications of the NSA, as reasonably determined by the parties and negotiated as part of the required NSA amendment required above. Such costs shall not include costs attributable solely to advancing the date of construction or otherwise expediting the construction process.

(3) *Operations.* The public safety entity may not commence operations on the network until ownership of the network has been transferred to the Upper 700 MHz D Block licensee. Further, no operations shall be allowed except those authorized and conducted pursuant to the authority of the Public Safety Broadband License.

(4) *Attribution of early build-out to national benchmarks.* Upon completion of construction, transfer of ownership to the Upper 700 MHz D Block licensee, and compensation as required herein, if applicable, the Upper 700 MHz D Block licensee may include the network constructed pursuant to the early build-out provisions herein for purposes of determining whether it has met its national build-out benchmarks and the build-out requirements of the NSA.

(5) *Rights to build out and operate in areas without a build-out commitment.* In areas for which the NSA does not require the Upper 700 MHz D Block licensee to build out the Shared Wireless Broadband Network, a public safety entity may build out and operate a separate, exclusive network in the 700 MHz public safety broadband spectrum at any time, provided the public safety entity has received the written approval of the Public Safety Broadband Licensee and operates its independent network pursuant to a spectrum leasing arrangement into which the public safety entity has entered with the Public Safety Broadband Licensee.

(i) Such leasing arrangement shall not require the approval or consent of the Upper 700 MHz D Block licensee; however, the Public Safety Broadband Licensee must provide the Upper 700 MHz D Block licensee with notice of the public safety entity's intent to construct in that area within 30 days of receipt of a request from a public safety entity seeking to exercise this option, and shall inform the

Upper 700 MHz D Block licensee of the public safety entity's anticipated build-out date(s).

(ii) Should the Upper 700 MHz D Block licensee, within 30 calendar days from receipt of notice of the public safety entity's intent to construct in that area, certify in writing to the Public Safety Broadband Licensee that it will build out the shared network in the area within a reasonable time of the anticipated build-out date(s), as determined by the Public Safety Broadband Licensee, the Public Safety Broadband Licensee shall not allow the public safety entity to build and operate its own separate exclusive network in that area, provided that the Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee execute an amendment to the NSA indicating the Upper 700 MHz D Block licensee's commitment to build the network in that area. Such commitment shall become enforceable against the Upper 700 MHz D Block licensee as part of its overall build-out requirements.

(iii) If the Upper 700 MHz D Block licensee does not exercise its option to commit to build out the network in the requested area within 30 calendar days of receipt of notice of the public safety entity's intent to construct in such area, the Public Safety Broadband Licensee and the public safety entity may proceed with a spectrum leasing arrangement, which must be filed with the Commission prior to the public safety entity commencing any operations. The spectrum leasing arrangement must take the form of a spectrum manager leasing arrangement under the rules specified in § 1.9020 of this chapter, and incorporate the following conditions:

(a) The network must provide broadband operations;

(b) The network must be fully interoperable with the Shared Wireless Broadband Network;

(c) The network must be available for use by any public safety entity in the area;

(d) The network must satisfy any other terms or conditions required by the Public Safety Broadband Licensee; and

(e) The public safety entity must construct and place into operation its network within one year of the effective date of the spectrum manager leasing arrangement. If the public safety entity fails to place the network into operation within one year, the Public Safety Broadband Licensee shall terminate the spectrum leasing arrangement pursuant to § 1.9020(h)(3). The public safety entity may also seek extended implementation authority from the Commission pursuant to the requirements of § 90.629 of this Part.

(6) Except as set forth herein, the separate network is not required to meet the other specifications of the Shared Wireless Broadband Network. Absent agreement of the public safety entity, the Public Safety Broadband Licensee, and the Upper 700 MHz D Block licensee, the separate network may not operate using any spectrum associated with the Upper 700 MHz D Block license.

(7) The Public Safety Broadband Licensee must file with the Commission any spectrum manager leasing arrangement as specified in § 1.9020(e) of this chapter; such filing shall identify the public safety entity leasing the spectrum, the particular areas of spectrum leased as part of this build-out option, and the specific network infrastructure and equipment deployed on such leased spectrum.

§ 27.1333 Geographic partitioning, spectrum disaggregation, license assignment and transfer.

(a) The 700 MHz Upper D Block license may not be partitioned or disaggregated.

(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 overnight processing.

§ 27.1335 Prohibition on discontinuance of public safety operations.

The Upper 700 MHz D Block licensee, the Operating Company and the Network Assets Holder are prohibited from discontinuing or degrading the broadband network service provided to the Public Safety Broadband Licensee or to public safety entities unless either at the request of the public safety entity or entities in question or with the pre-approval of the Commission. The Upper 700 MHz D Block licensee shall notify the affected public safety entity or entities and the Public Safety Broadband Licensee at least 30 days prior to any unrequested discontinuance or degradation of network service.

§ 27.1340 Reporting obligations.

(a) The Upper 700 MHz D Block licensee and the Public Safety Broadband Licensee shall jointly file quarterly reports with the Commission. These reports shall include audited financial statements, how the specific requirements of public safety are being met, detailed information on the areas where broadband service has been deployed, which public safety entities are using the broadband network in each area of operation, what types of applications are in use in each area of operation, and the number of declared emergencies in each area of operation.

(b) The Upper 700 MHz D Block licensee and Public Safety Broadband Licensee have joint responsibility to register the base station locations with the Commission, providing basic technical information, including geographic location.

30. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

§ 90.5 Other applicable rule parts.

* * * * *

(k) Part 27 contains rules relating to miscellaneous wireless communications services.

(l) Part 51 contains rules relating to interconnection.

(m) Part 68 contains technical standards for connection of private land mobile radio equipment to the public switched telephone network.

(n) Part 101 governs the operation of fixed microwave services.

31. Section 90.7 is amended by adding the following definitions in alphabetical order to read as follows:

§ 90.7 Definitions.

* * * * *

700 MHz Public/Private Partnership. The public/private partnership established for the development and operation of a nationwide, shared interoperable wireless broadband network operating on the 758-763 MHz and 788-793 MHz bands and the 763-768 MHz and 793-798 MHz bands in accordance with the Commission's rules.

* * * * *

Network Assets Holder. The Network Assets Holder is a Special Purpose Bankruptcy Remote Entity that is formed to hold the assets of the shared wireless broadband network associated with the 700 MHz Public/Private Partnership, in accordance with the terms of the Network Sharing Agreement, such other agreements as the Commission may require or allow, and the Commission's rules.

* * * * *

Network Sharing Agreement (NSA). An agreement entered into between the winning bidder, the Upper 700 MHz D Block licensee, the Network Assets Holder, the Operating Company, the Public Safety Broadband Licensee, and any other related entities that the Commission may require or allow regarding the shared wireless broadband network associated with the 700 MHz Public/Private Partnership that will operate on the 758-763 MHz and 788-793 MHz bands and the 763-768 MHz and 793-798 MHz bands.

* * * * *

Operating Company. The Operating Company is a Special Purpose Bankruptcy Remote Entity that is formed to build and operate the shared wireless broadband network associated with the 700 MHz Public/Private Partnership, in accordance with the terms of the Network Sharing Agreement, such other agreements as the Commission may require or allow, and the Commission's rules.

* * * * *

Public Safety Broadband License. The Public Safety Broadband License authorizes public safety broadband services in the 763-768 MHz and 793-798 MHz bands on a primary basis.

* * * * *

Public Safety Broadband Licensee. The licensee of the Public Safety Broadband License in the 763-768 MHz and 793-798 MHz bands.

* * * * *

Shared Wireless Broadband Network. Wireless broadband network associated with the 700 MHz Band Public/Private Partnership that operates on the 758-763 MHz and 788-793 MHz bands and the 763-768 MHz and 793-798 MHz bands pursuant to the terms of the Network Sharing Agreement, such other agreements as the Commission may require or allow, and the Commission's rules.

* * * * *

Special Purpose Bankruptcy Remote Entity. A "special purpose entity" is a legal entity created for a special limited purpose, in this context primarily to hold the Upper 700 MHz D Block license or the network assets, or to conduct the construction or operation of the Shared Wireless Broadband

Network associated with the 700 MHz Public/Private Partnership. A special purpose entity is "bankruptcy remote" if that entity is unlikely to become insolvent as a result of its own activities, is adequately insulated from the consequences of a related party's insolvency, and contains certain characteristics which enhance the likelihood that it will not become the subject of an insolvency proceeding.

* * * * *

Upper 700 MHz D Block license. The Upper 700 MHz D Block license is the nationwide license associated with the 758-763 MHz and 788-793 MHz bands.

* * * * *

Upper 700 MHz D Block licensee. The Special Purpose Bankruptcy Remote Entity to which the Upper 700 MHz D Block license must be transferred upon execution of the Network Sharing Agreement. References herein to the rights and obligations of the Upper 700 MHz D Block licensee include the exercise or discharge of such rights or obligations, respectively, by related entities as are provided for in the NSA or otherwise as authorized by the Commission.

* * * * *

32. Section 90.18 is added to read as follows:

§ 90.18 Public Safety 700 MHz Nationwide Broadband Network.

The 763-768/793-798 MHz band is dedicated to a broadband public safety communications system with a nationwide level of interoperability. A nationwide license for this spectrum is held by a single entity, the Public Safety Broadband Licensee, which must enter into the 700 MHz Public/Private Partnership with the licensee of the adjacent Upper 700 MHz D Block license, pursuant to a Network Sharing Agreement and such other agreements as the Commission may require. The specific provisions relating to the 700 MHz Public/Private Partnership are set forth in subpart AA of this part and subpart N of Part 27. The Public Safety 700 MHz Nationwide Broadband Network is established in the Second Report and Order in PS Docket No. 06-229.

33. Section 90.20 is amended by revising the table in paragraph (c)(3) and paragraph (d)(77) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) Frequencies.

Public Safety Pool Frequency Table

Frequency or band	Class of station(s)	Limitations	Coordinator
*	*	*	*
470-512	Base or mobile	68	

763-775	Base, mobile	77	PX
793-805	Mobile	77	PX
806-817	do	69	
*	*	*	*

(d) * * *

(77) Subpart R of this part contains rules for assignment of channels in the 763-775 MHz and 793-805 MHz bands.

34. Section 90.155 is amended by revising paragraph (a) to read as follows:

§ 90.155 Time in which station must be placed in operation.

(a) All stations authorized under this part, except as provided in sections 90.528, 90.529, 90.629, 90.631(f), 90.665, 90.685, and 90.1209, must be placed in operation within twelve (12) months from the date of grant or the authorization cancels automatically and must be returned to the Commission.

* * * * *

35. Section 90.175 is amended by revising the title of paragraph (e), revising paragraphs (j) (10), (11) and (12) and adding a new paragraph (j)(18) to read as follows:

§ 90.175 Frequency coordination requirements.

* * * * *

(e) For frequencies between 470-512 MHz, 769-775/799-805 MHz, 806-824/851-869 MHz and 896-901/935-940 MHz:

* * * * *

(j) * * *

(10) Applications for mobile stations operating in the 470-512 MHz band, 799-805 MHz band, or above 800 MHz if the frequency pair is assigned to a single system on an exclusive basis in the proposed area of operation.

(11) Applications for add-on base stations in multiple licensed systems operating in the 470-512 MHz, 769-775 MHz band, or above 800 MHz if the frequency pair is assigned to a single system on an exclusive basis.

(12) Applications for control stations operating below 470 MHz, 769-775/799-805 MHz, or above 800 MHz and meeting the requirements of § 90.119(b).

* * * * *

(18) Applications for base, mobile, or control stations in the 763-768 MHz and 793-798 MHz bands.

36. Section 90.176 is amended by revising the section title and revising the title in paragraph (c) to read as follows:

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

* * * * *

(c) Frequencies in the 769-775/799-805 MHz band. * * *

* * * * *

37. Section 90.179 is amended by revising paragraph (g) to read as follows:

§ 90.179 Shared use of radio stations.

* * * * *

(g) Notwithstanding paragraph (a) of this section, licensees authorized to operate radio systems on Public Safety Pool frequencies designated in § 90.20 may share their facilities with Federal Government entities on a non-profit, cost-shared basis. Such a sharing arrangement is subject to the provisions of paragraphs (b), (d), and (e) of this section, and § 2.103(c) concerning approval of the Public Safety Broadband Licensee for Federal operations in the 763-768 MHz and 793-798 MHz bands. State governments authorized to operate radio systems under § 90.529 may share the use of their systems (for public safety services not made commercially available to the public) with any entity that would be eligible for licensing under § 90.523 and Federal government entities.

38. Section 90.205 is amended by inserting a new paragraph (j), redesignating paragraphs (j) through (r) as paragraphs (k) through (s) and revising new paragraph (k) to read as follows:

§ 90.205 Power and antenna height limits.

* * * * *

(j) 763-775 MHz and 793-805 MHz. Power and height limitations are specified in §§ 90.541 and 90.542.

(k) 806-824 MHz, 851-869 MHz, 896-901 MHz and 935-940 MHz. Power and height limitations are specified in § 90.635

* * * * *

39. Subpart R is amended by revising the subpart title to read as follows:

Subpart R – Regulations Governing the Licensing and Use of Frequencies in the 763-775 and 793-805 MHz Bands

40. The first sentence of Section 90.521 is amended to read as follows:

§ 90.521 Scope.

This subpart sets forth the regulations governing the licensing and operations of all systems operating in the 763-775 MHz and 793-805 MHz frequency bands. * * *

41. Section 90.523 is amended by revising the introductory paragraph and adding a new paragraph (e) to read as follows:

§ 90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. § 337(f)(1). The following are eligible to hold Commission authorizations for systems operating in the 763-775 MHz and 793-805 MHz frequency bands:

* * * * *

(e) The minimum eligibility requirements for the Public Safety Broadband Licensee in the 763-768 MHz and 793-798 MHz bands are as follows:

(1) No commercial interest may be held in the Public Safety Broadband Licensee, and no commercial interest may participate in the management of the Public Safety Broadband Licensee;

(2) The Public Safety Broadband Licensee must be a non-profit organization;

(3) The Public Safety Broadband Licensee must be as broadly representative of the public safety radio user community as possible; and

(4) The Public Safety Broadband Licensee must be in receipt of written certifications from no less than ten geographically diverse state and local governmental entities (the authorizing entities), with at least one certification from a state government entity and one from a local government entity, verifying that

(i) they have authorized the Public Safety Broadband Licensee to use spectrum at 763-768 MHz and 793-798 MHz to provide the authorizing entities with public safety services; and

(ii) the authorizing entities' primary mission is the provision of public safety services.

42. Section 90.525 is amended by revising paragraphs (a) and (b) to read as follows:

§ 90.525 Administration of interoperability channels.

(a) States are responsible for administration of the Interoperability channels in the 769-775 MHz and 799-805 MHz frequency bands. Base and control stations must be licensed individually. A public safety entity meeting the requirements of § 90.523 may operate mobile or portable units on the Interoperability channels in the 769-775 MHz and 799-805 MHz frequency bands without a specific authorization from the Commission provided it holds a Part 90 license. All persons operating mobile or portable units under this authority are responsible for compliance with Part 90 of these rules and other applicable federal laws.

(b) License applications for Interoperability channels in the 769-775 MHz and 799-805 MHz frequency bands must be approved by a state-level agency or organization responsible for administering state emergency communications. States may hold the licenses for Interoperability

channels or approve other qualified entities to hold such licenses. States may delegate the approval process for interoperability channels to another entity, such as regional planning committees.

43. Section 90.528 is added to read as follows:

§ 90.528 Public Safety Broadband License.

(a) The 763-768/793-798 MHz bands are allocated on a nationwide basis for public safety broadband operations and licensed to a single Public Safety Broadband Licensee. The 768-769/798-799 MHz bands also are licensed to the Public Safety Broadband Licensees as guard bands. The license area of the Public Safety Broadband License consists of the contiguous 48 states, Alaska, Hawaii, Gulf of Mexico, and the U.S. territories.

(b) The Public Safety Broadband License authorizes construction and operation of base stations anywhere within the area authorized by the license, except as follows:

(1) A station is required to be individually licensed if:

(i) International agreements require coordination;

(ii) Submission of an environmental assessment is required under § 1.1307 of this chapter; or

(iii) The station would affect areas identified in § 1.924 of this chapter.

(2) Any antenna structure that requires notification to the Federal Aviation Administration (FAA) must be registered with the Commission prior to construction under § 17.4 of this chapter.

(c) Mobile and portable devices may operate without individual license under the authority of the Public Safety Broadband License.

(d) The term of the Public Safety Broadband License shall not exceed ten years from February 17, 2009. The Public Safety Broadband Licensee is entitled to a renewal expectancy barring violations of law, rules or policy warranting denial of renewal.

(e) The Public Safety Broadband License may not be partitioned or disaggregated.

(f) The Public Safety Broadband Licensee may not voluntarily assign or transfer control of the Public Safety Broadband License.

(g) *Quarterly reporting of financial and operational information.* The Public Safety Broadband Licensee shall submit, on a quarterly basis, a full financial accounting to the Commission, in a format to be set forth in the Network Sharing Agreement, and as approved by the Commission. Such quarterly financial reports shall be filed with the Commission, with a copy to the Chiefs of the Wireless Telecommunications and the Public Safety and Homeland Security Bureaus.

44. Section 90.531 is amended by revising the introductory paragraphs and paragraphs (a), (b) and (e), 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]

* * * * *

(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.

45. Section 90.533 is amended by revising the section to read as follows:

§ 90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.

This section applies to each license to operate one or more public safety transmitters in the 763-775 MHz and 793-805 MHz bands, at a location or locations North of Line A (see § 90.7) or within 120 kilometers (75 miles) of the U.S.-Mexico border, until such time as agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, become effective governing border area non-broadcast use of these bands. Public safety licenses are granted subject to the following conditions:

(a) Public safety transmitters operating in the 763-775 MHz and 793-805 MHz bands must conform to the limitations on interference to Canadian television stations contained in agreement(s) between the United States and Canada for use of television channels in the border area.

(b) Public safety facilities must accept any interference that may be caused by operations of UHF television broadcast transmitters in Canada and Mexico.

(c) Conditions may be added during the term of the license, if required by the terms of international agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, regarding non-broadcast use of the 763-775 MHz and 793-805 MHz bands.

46. Section 90.535 is amended by revising the introductory paragraph and paragraph (a) to read as follows:

§ 90.535 Modulation and spectrum usage efficiency requirements.

Transmitters designed to operate in 769-775 MHz and 799-805 MHz frequency bands must meet the following modulation standards:

(a) All transmitters in the 769-775 MHz and 799-805 MHz frequency bands must use digital modulation. Mobile and portable transmitters may have analog modulation capability only as a secondary mode in addition to its primary digital mode. Mobile and portable transmitters that only operate on the low power channels designated in §§ 90.531(b)(3), 90.531(b)(4), are exempt from this digital modulation requirement.

* * * * *

47. Section 90.537 is amended by revising paragraph (a) to read as follows:

§ 90.537 Trunking requirement.

(a) General use channels. All systems using six or more narrowband channels in the 769-775 MHz and 799-805 MHz frequency bands must be trunked systems, except for those described in paragraph (b) of this section.

* * * * *

48. Section 90.539 is amended by revising the introductory paragraph to read as follows:

§ 90.539 Frequency stability.

Transmitters designed to operate in 769-775 MHz and 799-805 MHz frequency bands must meet the frequency stability requirements in this section.

* * * * *

49. Section 90.541 is amended by revising the introductory paragraph to read as follows:

§ 90.541 Transmitting power limits.

The transmitting power of base, mobile, portable and control stations operating in the 769-775 MHz and 799-805 MHz frequency bands must not exceed the maximum limits in this section, and must also comply with any applicable effective radiated power limits in § 90.545.

* * * * *

50. Section 90.542 is added to read as follows:

§ 90.542 Broadband transmitting power limits.

(a) The following power limits apply to the 763-768/793-798 MHz band:

(1) Fixed and base stations transmitting a signal in the 763-768 MHz band with an emission bandwidth of 1 MHz or less must not exceed an ERP of 1000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts ERP in accordance with Table 1 of this section.

(2) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 763-768 MHz band with an emission bandwidth of 1 MHz or less must not exceed an ERP of 2000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts ERP in accordance with Table 2 of this section.

(3) Fixed and base stations transmitting a signal in the 763-768 MHz band with an emission bandwidth greater than 1 MHz must not exceed an ERP of 1000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts/MHz ERP accordance with Table 3 of this section.

(4) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 763-768 MHz band with an emission bandwidth greater than 1 MHz must not exceed an ERP of 2000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts/MHz ERP in accordance with Table 4 of this section.

(5) Licensees of fixed or base stations transmitting a signal in the 763-768 MHz band at an ERP greater than 1000 watts must comply with the provisions set forth in paragraph (b).

(6) Control stations and mobile stations transmitting in the 763-768 MHz band and the 793-798 MHz band are limited to 30 watts ERP.

(7) Portable stations (hand-held devices) transmitting in the 763-768 MHz band and the 793-798 MHz band are limited to 3 watts ERP.

(8) For transmissions in the 763-768 MHz and 793-798 MHz bands, licensees may employ equipment operating in compliance with either of the following measurement techniques:

(i) The maximum composite transmit power shall be measured over any interval of continuous transmission using instrumentation calibrated in terms of RMS-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times,