

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

In the Matter of:

Implementation of Sections 309(j) and 337 of	)	
The Communications Act of 1934 as Amended;	)	WT Docket No. 99-87
Promotion of Spectrum Efficient Technologies	)	
On Certain Part 90 Frequencies.	)	

**REQUEST FOR WAIVER OF COMMISSION RULES REGARDING  
THE SPECTRAL EFFICIENCY OF PRIVATE LAND MOBILE  
RADIO SERVICES IN THE 150-174 AND 450-470 MHZ BANDS,  
REQUIRING 12.5 KHZ CHANNEL BANDWIDTH OR  
EQUIVALENT TECHNOLOGY BY JANUARY 1, 2013**

**WAIVER—EXPEDITED ACTION REQUESTED**

**I. Introduction**

The New York State Office of Parks, Recreation & Historic Preservation (OPRHP) which includes the New York State Park Police (NYSPP), respectfully requests a waiver of the January 1, 2013 narrowband deadline pursuant to the *Public Notice* released by the Federal Communications Commission (FCC or Commission)<sup>1</sup> for a period of 12 months, until January 1, 2014.

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<sup>1</sup> Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminders of the January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Wavier and Other Matters,

OPRHP supports the Commission's efforts to establish greater spectral efficiency, and has been taking action to transition to narrowband operations. As detailed in this WAIVER PETITION, certain unique construction requirements and situations will impact OPRHP's ability to meet the compliance date of January 1, 2013, established by 47 CFR §90.209(b).

## **II. Background**

The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) operates and maintains 178 state parks and 35 historic sites, covering a total of 325,000 acres. The park system represents a valuable collection of natural and recreational assets, including 1,350 miles of hiking trails, over 8,000 campsites, numerous swimming pools, beaches, boat launches, nature centers and golf courses. OPRHP use a variety of skilled employees to maintain and operate the facilities and to provide patrons with a safe and enjoyable experience. OPRHP employs just over 1,700 year-round permanent employees and more than 4,000 seasonal staff at the peak of our operating season, including Park Police, Park Rangers, Public Safety Rangers, Lifeguards, Emergency Medical Technicians, and more. OPRHP employees are public safety or public service employees and have assisted with emergencies such as floods, tornados, and winter ice storms that have taken employees outside of the parks to help other New Yorkers. Many park locations have been used as medivac landing sites and evacuation facilities. Members do what is necessary on a daily basis to help and assist park patrons in need.

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*Public Notice*, DA 11-1189 (2011) and Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology Provide Reminders of the January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Wavier and Other Matters, *Public Notice*, DA 12-246, rel. Feb. 21, 2012.

The New York State Park Police (NYSPP), a part of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) provides police services consistent with the Office of Parks, Recreation and Historic Preservation's mission-to provide safe and enjoyable recreational opportunities for New York State residents and visitors. In addition, NYSPP assist park users, make arrests, conduct criminal and non-criminal investigations, and provide emergency services. NYSPP also provide special services including marine law enforcement and education duties on New York waterways, snowmobile enforcement and education, and rope rescue teams. NYSPP members are New York State Police Officers under paragraph e, subdivision 34, §1.20 of the State Criminal Procedure Law.

Park Police Officers are highly trained professionals that work for OPHRP to help ensure proper use of State parks, campgrounds, historic sites, and waterways. They enforce federal and state criminal laws; parks, recreation, waterway navigation, and environmental conservation regulations; and vehicle and traffic laws. They are skilled in investigation, rescue, and emergency services.

Pursuant to Section Title 47 CFR Section 1.925(b)(3) of the Commission's rules, the Commission may waive the application of a rule if the petitioning party establishes either that: "(i) the underlying purpose of the rules would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or(ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

In addition, in its *Public Notice*, the Commission provided various criteria that would be relevant to its analysis of whether to grant a waiver of the narrowbanding deadline under Section 1.925.

Consistent with the *Public Notice*, the instant Petition describes the efforts made by OPRHP to meet the narrowbanding mandate and provides timeframes for completing the process, shows that funding is provided, details system size and complexity, and explains why the narrowband process is behind schedule.

OPRHP will show that strict enforcement of the January 1, 2013 deadline with respect to the spectrum described in this petition would be contrary to the public interest of ensuring the safety and well-being of New York State residents, businesses, and visitors to the State parks; and in addition compromise the safety and efficiency of the public safety emergency responders. Thus, OPRHP seeks this waiver for extension of the narrowbanding deadline in the manner described

OPRHP seeks a waiver for specific call signs (see Appendix A) for operations that will continue on lower spectrum bands and will be taken to compliance by the end of the WAIVER period.

### **III. Steps Taken by OPRHP to Comply with the Narrowbanding Mandate**

OPRHP has developed a series of radio base stations and repeaters, mostly in VHF, to provide communications in the Parks and surrounding areas under their jurisdiction. This has created a Park-centric system with multiple licenses and frequencies spread across the RF spectrum.



capability for statewide command or control. In some regions the police and operations systems are completely separate, while in others they share a system.

All of the OPRHP VHF and UHF licenses have been revised to meet narrow-banding standards. Virtually all agency VHF high-band mobile, portable, and base station equipment required replacement. OPRHP has completed narrowbanding in the Saratoga, Taconic, Palisades and NYC Regions, and has partially completed narrowbanding throughout the rest of New York State.

OPRHP operations will continue on frequencies in the 150-174 and 450-470 MHz range. These lower frequency systems will be taken into compliance with narrowband in accordance with the Schedule B attachment.

*In summary*, OPRHP has already made extensive efforts to bring its communications systems into compliance with the January 1, 2013 narrowbanding mandate. The current radio system utilized by the OPRHP is wideband analog (20 kHz maximum authorized bandwidth). OPRHP has authorized funds and made plans to re-program or replace fixed base and subscriber units to implement a narrowband (11.25 kHz) analog operation. OPRHP has obtained modified FCC authorizations to permit the conversion to narrowband.

Sufficient funding was set aside to transition compatible hardware from wideband to narrowband through reprogramming of the transmitters and receivers. Funding was also anticipated and secured to replace subscriber units where the age of the unit did not allow for narrowband analog operation.

The first step in the process was to add narrowband analog emission to the OPRHP licenses. These license modifications have been processed and approved by the Commission.

#### **IV. Specificity of Transition Delay**

OPRHP started in September 2005 to consolidate, maintain and update licenses placing them under one FRN. Between March 2008 through October 2009, all licenses were narrow-banded. Prior to the development of the New York State Statewide Wireless initiative, OPRHP completed plans for the transition to narrowband. Plans included the structural inspection of all OPRHP towers, completing narrowbanding of all licenses, completing pending regional system work including main base station repairs, equipment replacement, service for all base station transmitters, and evaluation and /or replacement of all antennas. With the inception of SWN, OPRHP was directed by the State of New York to not pursue the upgrade of existing communications systems. As such, the plans for narrowbanding were placed on hold. The SWN network was destined to replaced OPRHP systems and render narrowbanding moot.

When it was realized that the SWN project might fail and not meet agency needs, contingency planning began, which included planning for repairs of existing equipment and infrastructure as well as planning for narrowband equipment implementation.

The delay resulting from the system enhancement freeze by the State of New York caused OPRHP to miss critical milestones in the narrowband plan and will result in OPRHP missing the narrowband deadline of January 1, 2013. OPRHP continues to work diligently to bring the systems into full compliance with the Commissions' mandate. Wideband equipment is being

replaced with narrowband equipment throughout the State of New York for employees of OPRHP including officers of the Park Police. OPRHP has purchased and is in the process of installing, programming, and narrowbanding the following equipment being used in the State Parks of New York State:

- 129 Base Stations and accessories
- 966 mobile radios
- 219 mobile repeaters
- 1046 VHF portable radios
- 280 multi-band portable radios

Narrowbanding has been completed within the Taconic, Palisades, Saratoga and NYC Regions, however due to the delay caused by the State of New York's system enhancement freeze, it is not possible to complete all portable, mobile and base station equipment narrowband transition by January 1, 2013.

## **V. Projected Impact to Other Licensees by Grant of the Waiver**

### **A. Impact to existing licensees.**

OPRHP anticipates that there will be no negative impact to any other licensees that are licensed and operating today. OPRHP is currently operating in wideband (20 kHz maximum occupied bandwidth) and will continue to operate in wideband until the end date of the waiver. There will be no change to any existing licensee's operation or interference level. Quite to the contrary, as *other existing* licensees on adjacent channels comply with the FCC's narrowband mandate; the possibility of receiving interference from OPRHP will be significantly reduced.

**B. Impact to a future licensee at UHF (450-470 MHz).**

OPRHP is currently operating on UHF channels with wideband (20 kHz maximum occupied bandwidth) emission. The FCC has authorized interstitial channels at UHF that are spaced at 12.5 kHz on center. Many licensees have applied for authority to operate narrowband systems on the offset channels and are using geographic spacing to attain about 30 dB of Adjacent Channel Protection, which is the Adjacent Channel Coupled Power (ACCP) value assumed for UHF<sup>3</sup>. There will be no impact to these narrowband stations due to the continued operation of OPRHP at wideband. There will be an undetermined impact on the ability for new licensees to license channels at 12.5 kHz offset to the OPRHP, without the need to consider geographic spacing to attain adjacent channel protection. Without knowing which potential licenses may apply for the UHF spectrum, it is not possible to quantify the degree of impact. Since many of the 12.5 kHz UHF channels are already licensed, or could be licensed, with geographic spacing from OPRHP transmitter sites, the only remaining area viable to new licensees would be within or immediately adjacent to each of the facilities licensed by the OPRHP. OPRHP knows of no licensees waiting to obtain licenses within the current coverage area that would be impacted by a delay in narrowbanding.

**C. Impact to a future licensee at VHF (150-174 MHz).**

OPRHP is currently licensed on VHF channels with wideband (20 kHz maximum occupied bandwidth) emission. The FCC had previously authorized channels at VHF

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<sup>3</sup> See FCC DA97-2006 and Letter from Larry A. Miller, President, LMCC, to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 10, 1997).

that are spaced at 15 kHz on center; and in consideration of narrowbanding has authorized interstitial channels at 7.5 kHz on center. Both of these channel centers are impacted by a wideband emission of 20 kHz bandwidth overlap. Many licensees currently exist operating both wide and narrowband systems on the 15 and 7.5 kHz spaced channels, respectively, and are using geographic spacing to attain about 30 dB and 60 dB of Adjacent Channel Protection respectively, which is the Adjacent Channel Coupled Power (ACCP). There will be no impact to these *currently licensed* stations due to the continued operation of OPRHP at wideband. There will be an undetermined impact on the ability for *new licensees* to license channels at both 15 and 7.5 kHz offset to the OPRHP's channels, without considering geographic spacing to attain adjacent channel protection. Without knowing which potential licenses may apply for the VHF spectrum, it is not possible to quantify the degree of impact. Since many of the 15 and 7.5 kHz VHF channels are already licensed, with geographic spacing from OPRHP transmitter sites, the only remaining area viable to new licensees would be within or immediately adjacent to each of the facilities licensed by OPRHP. It is noted that channels spaced at 7.5 kHz from the current OPRHP frequencies will still require geographic spacing due to bandwidth overlap, which is notably higher than the bandwidth overlap between 15 kHz spaced channels and wideband emission. OPRHP knows of no licensees waiting to obtain licenses within the current coverage area that would be impacted by a delay in narrowbanding.

## **VI. CONCLUSION**

As shown above, OPRHP has worked diligently and in good faith to meet the Commission's narrowbanding mandate, without risking the safety of the public or the safety and efficiency of the emergency responders. Were it not for the delay caused by the failure of the SWN project, OPRHP would have been able to meet the Commissions' mandate.

OPRHP has described its efforts to date, and proposes a schedule for meeting the narrowbanding mandate in Appendix B.

For the reasons stated and in consideration of the public safety issues involved the Commission is PETITIONED to grant the waiver of NARROWBAND compliance to January 1, 2014.

Respectfully submitted,

Richard D Smith, Major  
Communications/Fleet Management  
New York State Park Police  
New York State Office of Parks, Recreation & Historic Preservation

September 27, 2012

**APPENDIX A**

**LIST OF FCC RADIO AUTHORIZATIONS GRANTED TO THE OPRHP FOR WHICH  
 WAIVER OF THE JANUARY 1, 2013 NARROWBAND OPERATION DEADLINE IS  
 REQUESTED**

<b>Frequency</b>	<b>Call Signs</b>			
151.1450	KNED422 KOL805	KOE361	KOE367	KOL797
151.3250	KJZ835	WYR596		
151.3400	KNED422 KOL805	KOE361	KOE367	KOL797
151.3550	WNQI581			
151.4000	KKV300 WQCR307 WQCU678 WQCU675	WQCR304 WQCU670 WQCU685	WQCR305 WQCU674 WQCU689	WQCR306 WQCU676 WQKK628
153.9050	WNCT886			
153.9650	KX9553			
153.9950	KX9553			
155.3700	WQCQ426 WPFG916	WNCY217 KNAI216	KOE361	KNJF897
155.4300	WPFG916	KQM643		
155.6850	KNAI215	KNAI216	KNAI217	
155.7000	WNCY217			
155.8200	KB31795			
156.1200	KK7216 KNAI216	KKG947	KKG948	KNAH344
158.9100	WNCY217			

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Frequency	Call Signs			
158.9700	WNCY217			
159.0000	WPMK587			
159.1950	KK7216 WCT319	KNAH344 WQCQ512	KNAI216	WCT318
159.2550	KL2980 WCP93 WCP97 WYR597	KRP804 WCP94 WCP98 WYR598	WCP91 WCP95 WCP99	WCP92 WCP96 WYV254
159.3150	WNQI581	KQM643		
159.3900	KL2980 KRP804 WNPH915 WYV252	KRP801 KRP805 WPUD575 WYV253	KRP802 KRP806 WYR595 WYV254	KRP803 KRP807 WYR598 KNAI216
159.4200	WRU926	WSX414		
451.4375	WQDM686			
451.7625	WQDM686			
451.8875	WQDM686			
452.0625	WQDM686			
452.1125	WQDM686			
452.1875	WQDM686			
453.1125	KB74114			
453.2625	KB74114	WPML933		
453.4000	WNBX324			
453.4625	KB74114			
456.8875	WQDM686			

<b>Frequency</b>	<b>Call Signs</b>
458.0875	WNCY217
458.1125	WNCY217
458.1375	WNCY217
458.2625	WNCY217 WPML933
458.4625	WNCY217
458.5625	WNCY217
458.6375	WNCY217
458.7625	KB45220
458.8875	WNCY217

**APPENDIX B                      Narrowbanding Time Schedule**

Now until January 1, 2013

Narrowbanding has been completed within the Taconic, Palisades, Saratoga and NYC Regions of all portable, mobile and base station equipment. Work accomplished to date includes OPRHP/NYSPP equipment located throughout the state and further includes the purchasing, installation and re-programming of base stations, mobile radio installations and the purchasing and issuance of portable radios. All base station antennas were replaced within these regions, along with their feed line and were lightning protected. The Long Island Region will have had all mobile radio installations completed and thirty-one antennas replaced at licensed locations.

January 1, 2013 to March 1, 2013

OPRHP will have 75% of the Long Island Region completed.

March 1, 2003 to July 1, 2013

OPRHP will complete the rest of the Long Island Region and will have completed the Thousand Islands and Central Regions.

July 1, 2013 to December 31, 2013

OPRHP will complete the Niagara, Allegany and Finger Lakes Regions and will complete system testing and accept the system