

Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States

or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S.

Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 1, 2016.

**Daniel J. Rosenblatt**,  
*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

- 1. The authority citation for part 180 continues to read as follows:  
**Authority:** 21 U.S.C. 321(q), 346a and 371.
- 2. In § 180.910, add alphabetically the following inert ingredient to the table to read as follows:

**§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.**

Inert ingredients	Limits	Uses
Ammonium persulfate (CAS Reg.No. 7727–54–0) .....	0.05%	Preservative

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket Nos. 12–94, 06–229, 06–150; FCC 16–117]

Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) addresses the 758–769/788–799 MHz band, which the Commission licensed to the First Responder Network Authority (FirstNet) on a nationwide basis pursuant to the

provisions of the Middle Class Tax Relief and Job Creation Act of 2012. We provide a mechanism to facilitate the relocation of the public safety narrowband incumbents currently operating on FirstNet’s spectrum. We also affirmatively decline at this time to impose specific build-out requirements on FirstNet as a condition of renewal of its license.

**DATES:** Effective October 17, 2016.

FOR FURTHER INFORMATION CONTACT:

Roberto Mussenden, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–1428.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Report and Order in PS Docket No. 12–94, FCC 16–117, adopted on August 24, 2016 and released on August 25, 2016. The document is available for download at [http://fjallfoss.fcc.gov/edocs\\_public/](http://fjallfoss.fcc.gov/edocs_public/). The complete text of this document is also available for inspection and copying during normal business hours

in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

1. In 2013, the Commission’s Notice of Proposed Rulemaking (NPRM) sought comment on implementation of certain provisions of the Public Safety Spectrum Act, including how to relocate narrowband incumbents operating on the spectrum licensed to FirstNet, and how to address FirstNet’s renewal expectations, including whether FirstNet should be subject to Commission-initiated build-out requirements.

2. In the Report and Order, the Commission permits narrowband incumbents to remain on FirstNet’s licensed spectrum until August 31,

2017, after which they will be required to vacate absent FirstNet's express consent to remain longer. In addition, the Commission prohibits continued operation by incumbents that have either previously discontinued operations or that are no longer in operation after the effective date of the Report and Order, and prohibits all narrowband incumbents from deploying additional facilities on FirstNet's licensed spectrum beyond those currently deployed as of the adoption date of the Report and Order. Accordingly, as of the adoption date of the Report and Order, the Commission terminates all authority to initiate new deployments pursuant to waivers previously granted by the Commission or Bureau, which had authorized deployment beyond the 2007 deadline.

3. The Commission states specifies that under existing rules, any TV studio-transmitter links, TV relay stations, and TV translator relay stations operating on the FirstNet spectrum under Part 74, subpart G of the Commission's rules must cease operations within 120 days of receiving notice from FirstNet.

4. The Commission concludes that there is no need or legal basis at this time for it to play a role in resolving disputes between FirstNet and incumbent licensees over relocation costs. The Commission also finds there is no need at this time to establish additional Commission rules to ensure rural coverage or any of the other requirements for renewal of FirstNet's license.

## Procedural Matters

### A. Final Regulatory Flexibility Analysis

5. The Final Regulatory Flexibility Analysis required by section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, is included in Appendix D of the Report and Order.

### B. Paperwork Reduction Act of 1995 Analysis

6. The Report and Order document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.

### Final Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the NPRM of this proceeding. The Commission sought written public comment on the IRFA. The RFA requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies

that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

### A. Need for, and Objectives of, the Proposed Rules

8. In the Report and Order, we regulate the transition of different classes of incumbents now occupying portions of the spectrum to be licensed to FirstNet. These actions are based on our established authority under the Communications Act to regulate use of the spectrum consistent with the public interest, convenience and necessity and our authority under the Public Safety Spectrum Act "to take all actions necessary to facilitate the transition" of the existing public safety broadband spectrum to FirstNet.

### B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

9. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

### C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

11. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily

categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA. In addition, a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,506 entities may qualify as "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

12. *Public Safety Radio Licensees.* As a general matter, Public Safety Radio Licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. For the purpose of determining whether a Public Safety Radio Licensee is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. With respect to local governments, in particular, since many governmental entities comprise the licensees for these services, we include under public safety services the number of government entities affected. According to Commission records, there are a total of approximately 133,870 licenses within these services. There are 2,442 licenses in the 4.9 GHz band, based on an FCC Universal Licensing System search of May 23, 2012. We estimate that fewer than 2,442 public safety radio licensees hold these licenses because certain entities may have multiple licenses.

13. *Regional Planning Committees.* Neither the Commission nor the SBA has developed a small business size standard specifically applicable to Regional Planning Committees (RPCs) and the National Regional Planning Council (NRPC). As described by the NRPC, "[t]he National Regional Planning Council (NRPC) is an advocacy body formed in 2007 that supports public safety communications spectrum management by Regional Planning Committees (RPC) in the 700 MHz and

800 MHz NPSPAC public safety spectrum as required by the Federal Communications Commission.” The NRPC states that “Regional Planning Committees consist of public safety volunteer spectrum planners and members that dedicate their time, in addition to the time spent in their regular positions, to coordinate spectrum efficiently and effectively for the purpose of making it available to public safety agency applicants in their respective region.” There are 54 formed RPCs and one unformed RPC. The Commission has not developed a small business size standard specifically applicable to RPCs and the NRPC. The SBA rules, however, contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. Under this category and size standard, we estimate that all of the RPCs and the NRPC can be considered small.

14. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: “This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.” The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. According to Census bureau data for 2007, there were a total of 919 firms in this category that operated for the entire year. Of this total, 771 had fewer than 100 employees and 148 had more than 100 employees. Thus, under that size standard, the majority of firms can be considered small.

*D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements*

15. Our actions will not require any reporting, recordkeeping or other compliance requirements.

*E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered*

16. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

17. Nonetheless, we recognized there may arguably be a significant number of small entities currently operating in FirstNet’s spectrum that would need relocation. Thus, one mechanism the Commission considered to minimize the economic burden on incumbent operators was to consider whether FirstNet or some third party source could fund relocation, thereby relieving any incumbent small entities of this potentially substantial economic burden. It also evaluated whether FirstNet could accommodate incumbent narrowband operations within a portion of its licensed spectrum, either indefinitely or on a transitional basis.

*F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

18. None.

*G. Report to Congress*

19. The Commission will not send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Commission did not adopt any rules of particular applicability.

**Ordering Clauses**

20. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 4(j), 301, 303, and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 303, 316, as well as Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156, the *Report and Order is hereby adopted*.

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison Officer, Office of the Secretary.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 150916863–6211–02]

**RIN 0648–XE878**

**Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish in the Bering Sea and Aleutian Islands Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is exchanging allocations of Amendment 80 cooperative quota (CQ) for Amendment 80 acceptable biological catch (ABC) reserves. This action is necessary to allow the 2016 total allowable catch of flathead sole, rock sole, and yellowfin sole in the Bering Sea and Aleutian Islands management area to be harvested.

**DATES:** Effective September 16, 2016, through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2016 flathead sole, rock sole, and yellowfin sole Amendment 80 allocations of the total allowable catch (TAC) specified in the BSAI are 13,753 metric tons (mt), 44,990 mt, and 110,113 mt as established by the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016). The 2016 flathead sole, rock sole, and yellowfin sole