

engaged in public safety priority communications.

(e) *Non-priority communications.* DSRCS communications not listed in paragraph (d) of this section, are non-priority communications. If a dispute arises concerning non-priority communications, the licensee of the later-registered RSU must accommodate the operation of the early registered RSU, *i.e.*, interference protection rights are date-sensitive, based on the date that the RSU is first registered (*see* § 90.375) and the later-registered RSU must modify its operations to resolve the dispute in accordance with paragraph (f) of this section.

(f) Except as otherwise provided in the ASTM–DSRC Standard (*see* § 90.379) for the purposes of paragraph (e) of this section, objectionable interference will be considered to exist when the Commission receives a complaint and the difference in signal strength between the earlier-registered RSU and the later-registered RSU (anywhere within the earlier-registered RSU’s communication zone) is 18 dB or less (co-channel). Later-registered RSUs causing objectionable interference must correct the interference immediately unless written consent is obtained from the licensee of the earlier-registered RSU.

**PART 95—PERSONAL RADIO SERVICES**

■ 6. The authority citation for part 95 continues to read as follows:

**Authority:** Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

■ 7. Section 95.1511 is revised to read as follows:

**§ 95.1511 Frequencies available.**

(a) The following table indicates the channel designations of frequencies available for assignment to eligible applicants within the 5850–5925 MHz band for On-Board Units (OBUs):<sup>1</sup>

Channel No.	Channel use	Frequency range (MHz)
170	Reserved	5850–5855
172	Service Channel <sup>2</sup>	5855–5865
174	Service Channel	5865–5875
175	Service Channel <sup>3</sup>	5865–5885
176	Service Channel	5875–5885
178	Control Channel	5885–5895
180	Service Channel	5895–5905
181	Service Channel <sup>3</sup>	5895–5915
182	Service Channel	5905–5915
184	Service Channel <sup>4</sup>	5915–5925

<sup>1</sup> The maximum output power for portable DSRCS–OBUs is 1.0 mW. *See* § 95.639(i).

<sup>2</sup> Channel 172 is designated for public safety applications involving safety of life and property.

<sup>3</sup> Channel Nos. 174/176 may be combined to create a twenty megahertz channel, designated Channel No. 175. Channels 180/182 may be combined to create a twenty-megahertz channel, designated Channel No. 181.

<sup>4</sup> Channel 184 is designated for public safety applications involving safety of life and property.

(b) Except as provided in paragraph (c) of this section, non-reserve DSRCS channels are available on a shared basis only for use in accordance with the Commission’s rules. All licensees shall cooperate in the selection and use of channels in order to reduce interference. This includes monitoring for communications in progress and any other measures as may be necessary to minimize interference. Licensees suffering or causing harmful interference within a communications zone are expected to cooperate and resolve this problem by mutually satisfactory arrangements. If the licensees are unable to do so, the Commission may impose restrictions, including specifying the transmitter power, antenna height and direction, additional filtering, or area or hours of operation of the stations concerned. Further, the use of any channel at a given geographical location may be denied when, in the judgment of the Commission, its use at that location is not in the public interest; the use of any channel may be restricted as to specified geographical areas, maximum power, or such other operating conditions, contained in this part or in the station authorization.

(c) *Safety/public safety priority.* The following access priority governs all DSRCS operations:

(1) Communications involving the safety of life have access priority over all other DSRCS communications;

(2) Subject to a control channel priority system management strategy (*see* ASTM E2213–03 DSRC Standard at § 4.1.1.2(4)), DSRCS communications involving public safety have access priority over all other DSRC communications not listed in paragraph (c)(1) of this section. On-Board Units (OBUs) operated by state or local governmental entities are presumptively engaged in public safety priority communications.

(d) *Non-priority communications.* DSRCS communications not listed in paragraph (c) of this section, are non-priority communications. If a dispute arises concerning non-priority DSRCS–OBU communications with Roadside Units (RSUs), the provisions of § 90.377(e) and (f) of this chapter will apply. Disputes concerning non-priority DSRCS–OBU communications not associated with RSUs are governed by paragraph (b) of this section.

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 90**

[WT Docket No. 02–55; ET Docket No. 00–258; ET Docket No. 95–18, RM-9498; RM–10024; FCC 06–63]

**Private Land Mobile Services; 800 MHz Public Safety Interference Proceeding**

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** The Federal Communications Commission published a document in the **Federal Register** on December 28, 2005, revising Commission rules. That document contained discrepancies between the text of the order and the final rules set forth at § 90.677. This document corrects the final regulations by revising 47 CFR 90.677.

**DATES:** Effective September 7, 2006.

**FOR FURTHER INFORMATION CONTACT:** Roberto Mussenden, Public Safety and Critical Infrastructure Division at (202) 418–0838.

**SUPPLEMENTARY INFORMATION:** This is a summary of a Federal Communications Commission (FCC) Order which, *inter*

*alia*, corrects a **Federal Register** document (70 FR 76704, December 28, 2005). Previously, the FCC released a Memorandum Opinion and Order, which among other things amended the rules governing dispute resolution between licensees who must reconfigure their systems to alleviate interference to public safety communications in the 800 MHz band.

The Memorandum Opinion and Order contained discrepancies between the text of the order and the final rules in § 90.677 of the rules. In this document we correct those discrepancies.

#### List of Subjects in 47 CFR Part 90

Communications.

Federal Communications Commission.

**Marlene H. Dortch**,  
Secretary.

■ Accordingly, 47 CFR part 90 is corrected by making the following correcting amendments:

#### PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. 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), 332(c)(7).

■ 2. Amend § 90.677, by revising paragraph (d) to read as follows:

**§ 90.677 Reconfiguration of the 806–824/851–869 MHz band in order to separate cellular systems from non-cellular systems.**

\* \* \* \* \*

(d) *Transition Administrator.* (1) The Transition Administrator, or other mediator, shall attempt to resolve disputes referred to it before the conclusion of the mandatory negotiation period as described in § 90.677(c) within thirty working days after the Transition Administrator has received a submission by one party and a response from the other party. Any party thereafter may seek expedited non-binding arbitration which must be completed within thirty days of the Transition Administrator's, or other mediator's recommended decision or advice. Should issues still remain unresolved after mediation or arbitration they shall be referred to the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau within ten days of the Transition Administrator's or other mediator's advice, or if arbitration has occurred, within ten days of the completion of arbitration. When referring an unresolved matter to the Chief of the Public Safety and

Critical Infrastructure Division, the Transition Administrator shall forward the entire record on any disputed issues, including such dispositions thereof that the Transition Administrator has considered. Upon receipt of such record and advice, the Commission will decide the disputed issues based on the record submitted. The authority to make such decisions is delegated to the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau who may decide the disputed issue or designate it for an evidentiary hearing before an Administrative Law Judge. If the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau decides an issue, any party to the dispute wishing to appeal the decision may do so by filing with the Commission, within ten days of the effective date of the initial decision, a Petition for de novo review; whereupon the matter will be set for an evidentiary hearing before an Administrative Law Judge. Any disputes submitted to the Transition Administrator after the conclusion of the mandatory negotiation period as described in § 90.677(c) shall be resolved as described in § 90.677(d)(2).

(2) If no agreement is reached during either the voluntary or mandatory negotiating periods, all disputed issues shall be referred to the Transition Administrator, or other mediator, who shall attempt to resolve them. If disputed issues remain thirty working days after the end of the mandatory negotiation period, the Transition Administrator shall forward the record to the Chief of the Public Safety and Critical Infrastructure Division, together with advice on how the matter(s) may be resolved. The Chief of the Public Safety and Critical Infrastructure Division is hereby delegated the authority to rule on disputed issues, de novo. If the Chief of the Public Safety and Critical Infrastructure Division of the Wireless Telecommunications Bureau decides an issue, any party to the dispute wishing to appeal the decision may do so by filing with the Commission, within ten days of the effective date of the initial decision, a Petition for de novo review; whereupon the matter will be set for an evidentiary hearing before an Administrative Law Judge.

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary of Transportation

#### 49 CFR Part 1

[Docket No. OST-1999-6189]

RIN 9991-AA50

#### Organization and Delegation of Powers and Duties

**AGENCY:** Office of the Secretary of Transportation (OST), DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises delegations of authority to carry out the Federal hazardous material transportation law, as amended by the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005 (Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or "SAFETEA-LU"), and in accordance with the Norman Y. Mineta Research and Special Programs Improvement Act, Public Law 108-426, 118 Stat. 2423 (November 30, 2004) (Mineta Act) that were previously published in 71 FR 30828 (May 31, 2006). This final rule also adds delegations of authority to the Federal Motor Carrier Safety Administration (FMCSA) and the Research and Innovative Technology Administration (RITA) to carry out certain provisions of SAFETEA-LU.

**DATES:** *Effective Date:* September 7, 2006.

**FOR FURTHER INFORMATION CONTACT:** Rebecca S. Behravesh, Attorney Advisor, Office of General Counsel, Department of Transportation, 400 7th St., SW., Room 10424, Washington, DC 20590-0001; Telephone (202) 366-9314.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the regulations issued thereunder apply to the transportation of hazardous materials by air, railroad, highway, and water. In 2004, the Mineta Act established the Pipeline and Hazardous Materials Safety Administration (PHMSA) and RITA and transferred Secretarial authorities previously exercised by the Research and Special Programs Administration (RSPA) to PHMSA and RITA. While the Secretary delegated authorities to PHMSA and RITA under the Mineta Act, the Mineta Act did not remove, restrict, divest or restructure any existing authority, including the