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June 27, 2008

The Honorable Daniel K. Inouye
Chairman
The Honorable Ted Stevens
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable John D. Dingell
Chairman
The Honorable Joe Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Public Safety and Homeland Security Bureau Establishes Post-Reconfiguration 800 MHz Band Plan for the U.S.-Canada Border Regions*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (Commission), entitled “Public Safety and Homeland Security Bureau Establishes Post-Reconfiguration 800 MHz Band Plan for the U.S.-Canada Border Regions” (WT Docket No. 02-55). We received the rule on June 5, 2008. It was published in the *Federal Register* as a final rule on June 13, 2008. 73 Fed. Reg. 33,728. The final rule has an effective date of August 12, 2008.

In a July 2004 Report and Order, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band. 69 Fed. Reg. 67,823. However, the Commission deferred consideration of band reconfiguration plans for the border areas, noting that “implementing the band plan in areas of the United States bordering Mexico and Canada will require modifications to international agreements for use of the 800 MHz band in the border areas.” In July 2007, the United States and Canada reached an agreement on a process that enabled the United States to proceed with band reconfiguration in that border region. The final rule establishes reconfigured 800 MHz band plans in the United States-Canada border regions in order to accomplish the Commission’s goals for band reconfiguration.

Enclosed is our assessment of the Commission's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: David Furth
Associate Bureau Chief, PSHSB
Federal Communications Commission

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ESTABLISHES
POST-RECONFIGURATION 800 MHZ BAND PLAN FOR THE
U.S.-CANADA BORDER REGIONS"
(WT DOCKET NO. 02-55)

(i) Cost-benefit analysis

The Commission is not required to prepare, and did not prepare, a cost-benefit analysis for the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. Both analyses comply with the requirements of the Act. As examples of changes made to reduce the burdens imposed on small entities, the Commission made the sequencing of band reconfiguration a two-stage process that will take into account regional variations, and created a uniform 12.5 kHz-spaced channel plan for the 806-809/851-854 MHz block in the border regions.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Unfunded Mandates Reform Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures found at 5 U.S.C. § 553. On November 13, 2007, the Commission published a Notice of Proposed Rulemaking and Request for Comment in the Federal Register regarding the proposed rule. 72 Fed. Reg. 63,869. (The summary of the Commission's Notice of Proposed Rulemaking, DA 07-4489, was released on November 1, 2007.) In the final rule, the Commission responded to the comments received in response to the proposed rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains no new or modified information collections subject to the requirements of the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was promulgated under the authority in 47 U.S.C. §§ 154(i), 161, 303(g), 303(r), and 332(c)(7).

Executive Order No. 12,866

As an independent regulatory agency, the Commission is not subject to the review requirements of the order.