

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Iowa Department of Public Safety)	WT Docket 99-87
Iowa Department of Natural Resources)	
)	
Requests for Waiver of Section 90.209(b) of the Commission's Rules)	

ORDER

Adopted: December 10, 2012

Released: December 10, 2012

By the: Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau
Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. The Iowa Department of Public Safety (DPS) and the Iowa Department of Natural Resources,¹ submitted a request for waiver, until November 14, 2014, of the Commission's VHF/UHF narrowbanding deadline, which requires private land mobile radio licensees in the 150-174 MHz and 421-512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz, or equivalent efficiency, by January 1, 2013.² By this *Order*, we grant the Waiver Request.

II. BACKGROUND

2. The Iowa DPS is Iowa's largest and most comprehensive state law enforcement agency and provides backup and assistance to the municipal and county law enforcement agencies in Iowa, as well as several other state law enforcement agencies with more limited scope of authority.³

¹ See Iowa DPS Waiver Request, filed January 4, 2012, by the Iowa Department of Public Safety (Waiver Request). On August 23, 2012, the Iowa Department of Natural Resources petitioned the Public Safety and Homeland Security Bureau to add ten of its authorizations to the Waiver Request. See email, dated August 23, 2012 from Robert O. Garrison, Chief, Law Enforcement Bureau, Iowa Department of Natural Resources to Roberto Mussenden, Federal Communications Commission (FCC). See also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004).

² See 47 C.F.R. § 90.209(b)(5); see also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004). On April 26, 2012, the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology waived the January 1, 2013 narrowbanding deadline for 470-512 MHz band frequencies. See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Order*, WT Docket No. 99-87, RM-9332, 27 FCC Rcd 4213 (WTB/PSHSB/OET 2012).

³ Waiver Request at 1.

3. In accordance with a plan that has been in place since 2008, the Iowa DPS has narrowbanded its in-car radios⁴ and thirty-one repeater sites, which serve local law enforcement agencies, Iowa Department of Transportation, Iowa Department of Corrections, Iowa Department of Natural Resources law enforcement bureaus, and several federal agencies.⁵

4. Iowa DPS also uses a vehicular repeater system (VRS) that extends its portable radio coverage when an officer is outside the vehicle in which the VRS is installed.⁶ The VRS converts the portable UHF signal to mobile VHF. The current VRS is crystal controlled, is not narrowband compliant, and cannot be made narrowband compliant.⁷ Iowa DPS has purchased new mobile multiband radios with an integral VRS feature.⁸ When a full complement of these new radios is purchased and installed, the entire Iowa DPS system will be fully narrowband-compliant. The VRS system is critical to Iowa DPS's radio communications because of its system's limited mobile [sic] coverage. Iowa DPS's new multiband radios provide full interoperability with all Iowa law enforcement agencies.⁹

5. The Iowa Legislature appropriated funding for the upgrade of the Iowa DPS system in three fiscal-year commitments.¹⁰ Iowa DPS used the first year's appropriation to upgrade its towers and upgrade its infrastructure to narrowband standards.¹¹ However, the first year's appropriated funds were not adequate to purchase a full complement of mobile radios. Consequently, Iowa DPS was able to acquire only 100 of the new multiband radios with the integral VRS during the first year.¹² It has funding commitments for obtaining the remaining new radios,¹³ but the funding is spread over the next two years. In September, 2012 the Iowa DPS issued a request for proposals to obtain the remaining radios.¹⁴

6. On January 27, 2012, the Public Safety and Homeland Security Bureau (Bureau) issued a Public Notice seeking comment on the Waiver Request.¹⁵ No party filed comments in support or opposition.

III. DISCUSSION

7. The Iowa DPS seeks relief pursuant to Section 1.925 of the Commission's rules, which provides that to obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the

⁴ *Id.* at 1-2.

⁵ *Id.* at 1-2. See also email, dated September 11, 2012 from Sergeant Thomas Lampe, Interoperability Office, Iowa State Patrol to Roberto Mussenden, FCC.

⁶ Waiver Request at 1.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ See email, dated September 19, 2012 from Sergeant Thomas Lampe, Interoperability Office, Iowa State Patrol to Roberto Mussenden, FCC.

¹⁵ See Public Safety and Homeland Security Bureau Seeks Comment on Requests for Waiver of the January 1, 2013 VHF-UHF Narrowbanding Deadline, *Public Notice*, DA 12-90 (PSHSB 2012).

present case, and that a grant of the waiver would be in the public interest;¹⁶ 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.¹⁷

8. Applying this standard to narrowbanding, we stated in the *Narrowbanding Waiver Guidance Notice*, jointly issued by the Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology, that narrowbanding waiver requests “will be subject to a high level of scrutiny” under the waiver standard.¹⁸ We have also provided recommended guidance on the factors that licensees should address in their requests and have recommended that in addressing these factors, licensees should seek to demonstrate that “(i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process.”¹⁹

9. Based on the record before us, we conclude that the Iowa DPS has presented sufficient facts to meet the standard for grant of the requested waiver. The record shows that the DPS has been diligently working to complete narrowbanding of its system since 2008.²⁰ While it has completed the majority of the work, we recognize Iowa DPS’s need for additional time to purchase and install narrowband VRS equipment. We believe a denial of this temporary waiver of the narrowband deadline would not be in the public interest as it would prevent DPS officers from using their VRS equipment, which would drastically curtail their ability to operate away from their vehicles, endangering both their safety and that of the general public. In addition, we find that strict enforcement of the narrowbanding deadline, given that the Iowa DPS has narrowbanded the majority of its equipment, including its infrastructure, would only server to delay the full implementation of a state-wide interoperable system, which would not be in the public interest.

IV. CONCLUSION

10. Based on the foregoing, we conclude that grant of the waiver is in the public interest. Accordingly, we grant a waiver of the Commission’s January 1, 2013 VHF/UHF narrowbanding deadline for the agencies and call signs listed in Appendix A, until November 14, 2014.

¹⁶ 47 C.F.R. § 1.925(b)(3)(i).

¹⁷ 47 C.F.R. § 1.925(b)(3)(ii).

¹⁸ Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office Of Engineering and Technology Provide Reminder of 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 Waiver and Other Matters, *Public Notice*, 26 FCC Rcd 9647 (2011) (*Narrowbanding Waiver Guidance Notice*).

¹⁹ *Id.* at 9649.

²⁰ *See* Waiver Request at 1-2.

V. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3)(i) of the Commission's rules, 47 C.F.R. § 1.925(b)(3)(i), that the Request for Waiver filed by the Iowa Department of Public Safety IS GRANTED.

12. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Zenji Nakazawa
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

Appendix A: List of Affected Call Signs**Iowa DPS**

KTD386	WPJW450	KUV804	WPCB710	WQPK449
KB79675	WXF810	KUV805	WPGB661	
KKW287	WZN406	KUV806	WPHB834	
KNAB310	KA48199	KUV807	WPJQ575	
KNDX339	KAR788	KUV808	WSL657	
KNFF623	KBC886	KUV809	WSL658	
KNFH917	KBR494	KUV810	WXB982	
KNHM284	KBR495	KUV811	WZT865	
KQT919	KBR496	KUV812	WNLW767	
KTM994	KBR497	KUV813	KLX898	
KU2221	KBR498	KUV814	KIT886	
KVN739	KCL345	KUV815	KNEC924	
KVN740	KFQ895	KUX297	KQ7633	
KVS221	KNCJ905	KVJ952	WNND396	
KW6940	KNED336	KYN902	WNXS958	
KWE492	KRJ719	KYU883	WPNV369	
KYG600	KUV795	WBE366	WPNW779	
KYO306	KUV796	WGP694	WPQB829	
WNED230	KUV797	WNCJ786	WRL641	
WNKU889	KUV798	WNKE604	WPVS847	
WNQH554	KUV799	WNKN422	WPXI490	
WNQN259	KUV800	WNXR506	WPXI491	
WPAV481	KUV801	WNXS930	WPXI696	
WPGW547	KUV802	WNXS931	WQEW364*	
WPGX506	KUV803	WNXS932	WQMC788*	

*IG License

Iowa DNR

KNAQ899
 KNJL374
 KNJR712
 KQ7730
 KX6370
 KZB323
 WPEH830
 WPPF986
 WPIY575
 WXR326