



Federal Communications Commission
Washington, D.C. 20554

May 27, 2009

DA 09-1108

Small Entity Compliance Guide

Amendment of Part 90 of the Commission's Rules To Provide for Flexible Use of the 896-901 MHz and 935-940 MHz Band Allotted to the Business and Industrial Land Transportation Pool; Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 MHz and 900 MHz Industrial/Land Transportation and Business Pool Channels

FCC No. 08-244
WT Docket Nos. 05-62 and 02-55
Released October 22, 2008

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the above-referenced FCC rules. This Guide is not intended to replace the rules and final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may revise this Guide without public notice to clarify or update contents. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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TABLE OF CONTENTS

I. OBJECTIVES OF THE PROCEEDING..... 3

**II. REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR
MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS..... 3**

A. Retention of Site-Based Licensing for 900 MHz B/ILT Channels..... 3

B. Interference Protection in the 900 MHz B/ILT Band..... 4

C. Lifting the Freeze Placed on Applications for New 900 MHz B/ILT Licenses..... 5

III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS..... 6

IV. WEBLINK..... 6

I. OBJECTIVES OF THE PROCEEDING

As a general rule, The Commission is committed to the goal of promoting flexible use of the electromagnetic radio spectrum and believes that flexible use remains the best policy for spectrum allocation. At the same time, the Commission recognizes the important needs of 900 MHz Business and Industrial Land Transportation (B/ILT) licensees for spectrum to expand or establish radio systems used by private wireless licensees, including many critical infrastructure industries, to provide services essential to the economic well-being and safety of our citizens and industries. The Commission further acknowledges the scarcity of frequencies dedicated solely to B/ILT licensees, and believes that the actions taken in the 900 MHz B/ILT *Report and Order* will both help ensure the communications viability of incumbent and prospective 900 MHz B/ILT licensees, and provide for the orderly modification and growth of their communications systems.

II. REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS

In the *Report and Order* the Commission took the following actions:

- retained site-based licensing for the 900 MHz B/ILT band, believing this action helps ensure the continued viability of 900 MHz B/ILT communications operations, which play an essential role in emergencies, critical infrastructure operations, homeland security, and the U.S. economy. The Commission's action does not adversely impact Sprint Nextel's ability to access mechanisms to acquire 900 MHz B/ILT spectrum to be used as "green space" during the course of the 800 MHz rebanding process.
- adopted interference standards that will help to facilitate interference-free operation in this band and accommodate the range of licensees operating in this band.
- lifted the freeze on the filing of applications for new 900 MHz B/ILT licenses in each 800 MHz NPSPAC region six months after 800 MHz rebanding is completed in that region.

A. Retention of Site-Based Licensing for 900 MHz B/ILT Channels

In the *Report and Order*, the Commission retained the current site-based licensing paradigm for new applications for 900 MHz B/ILT licenses. The Commission acknowledged the vital communications role that 900 MHz B/ILT spectrum plays in enabling traditional B/ILT licensees to safeguard our nation's critical infrastructure industries. Such licensees must ensure that they have access to communications pathways to meet the essential communications needs of such varied and critical industries as utilities, land transportation, manufacturers/industry, and petro-chemical. The Commission noted, for example, that 900 MHz B/ILT spectrum is used by CII licensees to protect industrial facilities from tampering or attack, and to respond to emergency situations and outages. The 900 MHz B/ILT spectrum is also used by a range of licensees in a variety of ways to facilitate their efficient operations, to enable the cost-effective production of goods and services offered to the public, and to promote the safety of employees. Because of the nature of their operations, 900 MHz B/ILT incumbents demand substantial control over their own communications systems, and require greater certainty for their vital communications needs than some commercial carriers are currently willing to provide. The Commission concluded that the public interest is furthered by continuing to make the 900 MHz B/ILT spectrum available to these entities, to be licensed on a site-by-site basis so as to meet the actual service area needs of each licensee and

eligible applicant. The Commission's decision does not adversely affect the right of PLMR licensees in the 900 MHz B/ILT band either to assign or convert their licenses to CMRS use. The Commission has directed the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau to consider the issue of permitting the use of 900 MHz B/ILT pool of spectrum for two-way paging systems either owned by public safety users or dedicated to the provision of emergency communications, and to determine what action, if any, should be implemented.

Sprint Nextel, an 800 MHz commercial licensee, has indicated that it has acquired hundreds of 900 MHz B/ILT site-based licenses, and will continue to acquire such licenses, in order to support 800 MHz rebanding. In addition, Sprint Nextel has obtained special temporary authority (STA) from the Commission to operate on a temporary basis on 900 MHz B/ILT spectrum in order to support its 800 MHz rebanding efforts. Finally, Sprint Nextel is using spectrum leasing arrangements as a means for obtaining 900 MHz B/ILT spectrum to be used on a time-limited basis to facilitate 800 MHz rebanding. All these options remain open to Sprint Nextel after the Commission took the actions in the *Report and Order*.

B. Interference Protection in the 900 MHz B/ILT Band

The Commission adopted:

- standards based on the standards which were implemented for the rebanding transition period in the 800 MHz band. Specifically, all licensees operating in the 900 MHz B/ILT frequencies are entitled to interference protection for portable/hand-held units with a minimum median desired signal strength of -85 dBm and for mobile/vehicular units with a minimum median desired signal strength of -88 dBm. Similar to the Commission's observation in the context of 800 MHz rebanding, it concluded that these values likewise are "within the range of reason" for providing meaningful interference protection for all licensees operating on 900 MHz B/ILT frequencies.
- A revision to section 90.672 of the Commission's rules that provides that unacceptable interference will be deemed to occur to operations in the 900 MHz B/ILT band where, assuming all other conditions as provided in the amended rule section are met, a voice transceiver is receiving an undesired signal or signals that cause the measured Carrier to Noise plus Interference (C/(I+N)) ratio of the transceiver's received to be less than 17 dB. As with the median desired signal, the value was adopted for this ratio is consistent with the value that is applicable to the 800 MHz band during the rebanding transition.
- The proposal put forth by the Joint Commenters for establishing minimum receiver standards for mobile and portable units used in the 900 MHz B/ILT band: 60 dB intermodulation rejection ratio; 60 dB adjacent channel rejection; and -116 dBm reference sensitivity. These minimum receiver standards are part of the package of rule provisions designed to guard against unacceptable interference in the 900 MHz B/ILT band.

The Commission adopted modified interference protection standards for the 900 MHz B/ILT frequencies based on those previously implemented in the 800 MHz band. The Commission did not mandate an interference resolution process, but the B/ILT community and its representatives, including authorized frequency coordinators, are free to establish a system for resolving any interference situations that may arise. The 900 MHz band has and will continue to include systems employing different technologies and with different operational characteristics that are spectrally interleaved, the 800 MHz "interim" environment is sufficiently similar to the 900 MHz spectrum environment that the rules the Commission

adopted for use during the 800 MHz rebanding transition are appropriate for the 900 MHz B/ILT spectrum. The Commission encouraged 900 MHz B/ILT licensees and their representatives to establish an electronic notification system in the event they consider such a step to be an appropriate method for addressing any future unacceptable interference.

C. Lifting the Freeze Placed on Applications for New 900 MHz B/ILT Licenses

The Commission lifted the freeze placed on the filing of applications for new 900 MHz B/ILT authorizations. Specifically, the freeze will be lifted in a NPSPAC region six months after rebanding is complete in that particular NPSPAC region. The Commission believes this approach best balances the demands for 900 MHz B/ILT spectrum, including the ongoing needs of Nextel for access to this spectrum to support its rebanding efforts. As of October 9, 2008, the Commission has granted special temporary authorizations to Sprint Nextel to operate temporarily on 900 MHz B/ILT spectrum in 101 markets in order to provide “green space” necessary to enable the relocation of 800 MHz incumbents during the reconfiguration of this band. The Commission is concerned that lifting the 900 MHz B/ILT application freeze in its entirety at this time could jeopardize Nextel's 800 MHz rebanding efforts. Accordingly, the Commission will not lift the freeze in a particular NPSPAC region until six months after the date that rebanding is completed in that particular region. The Commission believes that this timeframe will provide Nextel a reasonable opportunity to relocate its facilities off the 900 MHz B/ILT frequencies it is now using under special temporary authority.

In order to avoid any confusion regarding the date when the 900 MHz B/ILT application freeze is lifted in any particular NPSPAC region, the Commission directed the Bureau, in coordination with the Public Safety and Homeland Security Bureau, to provide public notice as to when the freeze will end within 60 days of rebanding being completed within a specific NPSPAC region.

The Commission noted there may be situations in which an applicant seeks a 900 MHz B/ILT authorization for spectrum in a NPSPAC region where the freeze has been lifted that could extend the applicant's service contour into an adjacent NPSPAC region where the freeze has not been lifted. In such a case, the applicant may file a waiver request to allow its coverage to extend into the NPSPAC region in which the freeze remains in effect, provided the overlapping coverage area is limited and would not disrupt Nextel's rebanding efforts in the region.

Further, the Commission reminded potential 900 MHz B/ILT applicants that, under the applicable rules, co-channel frequency usage in a NPSPAC region where the freeze has not yet been lifted may limit the geographic area in which applications can be permissibly filed in a NPSPAC region where the freeze is no longer in effect.

The Commission advised potential applicants that, upon lifting the freeze in each NPSPAC region, the Commission will be particularly vigilant in assessing an applicant's basic minimum qualifications to hold a 900 MHz B/ILT license and in monitoring the filing of applications for new authorizations in this band. This scrutiny will be undertaken in order to avoid re-creating the situation that necessitated the imposition of a freeze on the filing of applications for new 900 MHz B/ILT authorizations in the first place. If the Commission ascertains abuse in the application process, it will take appropriate enforcement or other remedial action.

III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

There are no new reporting or recordkeeping requirements that impose new compliance requirements for small entities in the *Report and Order*.

The other decisions adopted in the *Report and Order* may adversely affect entities which could include small businesses. These specific other decisions are regarding amending Part 90 of the Commission's rules to account for, and limit harmful interference within, the interleaved environment of the 900 MHz B/ILT spectrum, where the Commission considered three options:

- To adopt the same rules as will be applied in the post-rebanded 800 MHz environment;
- To retain the current 900 MHz B/ILT interference protection rules; and
- To adopt the rules currently in effect at 800 MHz during the rebanding transition period.

The first option could have been too burdensome for Sprint Nextel and possibly other 900 MHz B/ILT licensees; complying with 800 MHz-type interference protection would have been so costly as to prevent Sprint Nextel from even considering use of the 900 MHz B/ILT band.

The second option, based as it is on the assumption of little interference, may not provide sufficient protection for a number of 900 MHz B/ILT licensees from powerful commercial carrier such as Sprint Nextel, which in turn would impede their (*i.e.*, incumbent and "traditional" 900 MHz B/ILT licensees) ability to operate effectively.

The first and second options could adversely affect entities which could include small businesses.

Regarding lifting the freeze placed on applications for new authorizations for 900 MHz B/ILT licenses, with adoption of the *Report and Order*, there is no compelling reason to maintain the freeze; the Commission's action will only benefit small businesses, as it will allow them to apply for new or additional 900 MHz B/ILT spectrum.

For details of other compliance requirements refer to the *Report and Order*.

IV. WEBLINK

Report and Order, FCC 08-244, adopted October 9, 2008 and released October 22, 2008. Final rules adopted in the *Report and Order* became effective on December 17, 2008.

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