



# PUBLIC NOTICE

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## WIRELESS TELECOMMUNICATIONS BUREAU AND PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SUSPEND THE ACCEPTANCE AND PROCESSING OF CERTAIN PART 22 AND 90 APPLICATIONS FOR 470-512 MHz (T-BAND) SPECTRUM

By this *Public Notice*, the Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau (“the Bureaus”) announce a limited suspension of the acceptance and processing of certain applications for Part 22 and 90 services operating in the 470-512 MHz spectrum band (“T-Band”) in order to maintain a stable spectral landscape while the Commission determines how to implement recent spectrum legislation contained in the Middle Class Tax Relief and Job Creation Act of 2012 (“the Act”).<sup>1</sup> As described below, the suspension implemented by this *Public Notice* applies only to applications for new or expanded use of T-Band frequencies.

This action will serve to stabilize the spectral environment while the Commission considers issues surrounding future use of the T-Band, solicits input from interested parties, and works to implement the directives of the Act. In the interim, and until further notice, we conclude that prudent spectrum management dictates that we should stabilize the existing spectrum landscape by suspending the acceptance and processing of T-Band licensing applications that could alter the spectrum landscape and thereby make implementing the Act more difficult or costly. Consequently, we suspend the acceptance and processing of applications for new or expanded use of the spectrum, as described below.

**Affected services.** The filing and processing suspension imposed by this *Public Notice* applies to applications for the following radio services in the 470-512 MHz band:

Part 22 Public Mobile Services: Paging and Radiotelephone (radio service code CD), Offshore Radiotelephone (radio service code CO)

Part 90 Industrial/Business Pool: Industrial/Business Pool - Conventional (radio service code IG), Industrial/Business Pool - Commercial, Conventional (radio service code IK), Industrial/Business Pool - Trunked (radio service code YG), Industrial/Business Pool - Commercial, Trunked (radio service code YK)

<sup>1</sup> Pub. L. No. 112-96, 126 Stat. 156 (2012). Section 6103 of the Act provides that, not later than nine years after the date of enactment, the Commission shall “reallocate the spectrum in the 470-512 MHz band ... currently used by public safety eligibles ...” *Id.*, § 6103(a). The Act instructs the Commission to “begin a system of competitive bidding under Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new initial licenses for the use of the spectrum.” *Id.* It also provides that “relocation of public safety entities from the T-Band Spectrum” shall be completed not later than two years after completion of the system of competitive bidding. *Id.*, § 6103(b), (c).

Part 90 Public Safety Pool: Public Safety Pool - Conventional (radio service code PW), Public Safety Pool - Trunked (radio service code YW).

This action applies only to the services listed above.

**Affected applications.** As noted above, the intent of this action is to foster a stable spectral landscape while the Commission determines how to implement the Act. As described below, we are suspending the filing and processing of only those applications for the services listed above that would, if granted, tend to increase the degree to which the 470-512 MHz band currently is licensed. This action does not apply to applications for radio services listed above that pertain only to operations on spectrum other than the 470-512 MHz band.

Effective immediately and until further notice, the Bureaus will not accept or process (1) applications for new licenses; (2) applications that seek to modify existing licenses by adding or changing frequencies or locations; (3) applications that seek to modify existing licenses by changing technical parameters in a manner that expands the station's spectral or geographic footprint, such as, but not limited to, increases in bandwidth,<sup>2</sup> power level, antenna height, or area of operation; and (4) any other application that could increase the degree to which the 470-512 MHz band currently is licensed.<sup>3</sup> We clarify that affected applications that are now pending will not be further processed until the Commission decides how to implement the Act, except that defective applications and applications in return status that are not timely resubmitted will be dismissed.<sup>4</sup>

This action does not apply to applications that would not destabilize the licensing landscape, including (1) applications to renew existing licenses without modification; (2) applications that seek to modify existing licenses by deleting frequencies or locations; (3) applications that seek to modify existing licenses by changing technical parameters in a manner that does not expand the station's spectral or geographic coverage, such as decreases in bandwidth, power level, or antenna height; (4) applications that seek to modify existing licenses by changing the number of associated mobile units or temporary fixed stations; (5) applications that seek to modify existing licenses by adding or moving control points; (6) applications to assign, transfer, or lease existing licenses; (7) notices of construction or consummation; (8) requests for extensions of time to construct or consummate previously granted applications; (9) applications to cancel licenses; and (10) applications for special temporary authority for short-term operations. The Bureaus may in the future begin placing a special condition on new, renewed, and modified licenses for stations in radio services and frequencies subject to this action to remind licensees

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<sup>2</sup> For purposes of the freeze, applications to modify Part 90 licenses for 25 kilohertz channels to widen the bandwidth and change the emission designator to reflect use of TETRA equipment will not be deemed to expand the station's spectral footprint. *See* Amendment of Part 90 of the Commission's Rules to Permit Terrestrial Trunked Radio (TETRA) Technology, *Order on Clarification*, WT Docket No. 11-69, 26 FCC Rcd 13360, 13363-64 (WTB/PSHSB/OET 2011); Amendment of Part 90 of the Commission's Rules to Permit Terrestrial Trunked Radio (TETRA) Technology, *Notice of Proposed Rule Making and Order*, WT Docket No. 11-69, 26 FCC Rcd 6503, 6511 n.59 (2011).

<sup>3</sup> Accordingly, applications for affected services should not be filed during the freeze. Such applications that are filed on or after the date of this *Public Notice* will be dismissed without prejudice and filing fees will not be automatically refunded.

<sup>4</sup> Applicants and potential applicants may have recourse to the waiver provisions in Section 1.925 to request an exception to the filing and processing freeze. Parties filing such a request should carefully review the rule's criteria for a waiver and must provide complete support, including but not limited to documentation, demonstrating that they meet the criteria set out in the rule.

that the stations may be subject to future relocation or other Commission action taken pursuant to or in connection with the Act.

The decision to impose this freeze is procedural in nature, and therefore the freeze is not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.<sup>5</sup> Moreover, we find that there is good cause for not delaying the effect of the freeze until after publication in the Federal Register. Such a delay would be impractical, unnecessary, and contrary to the public interest because it would undercut the purposes of the freeze.<sup>6</sup>

For further information, contact the FCC ULS Customer Support Hotline at (877) 480-3201 option 2, (717) 338-2888, or (717) 338-2824 (TTY). The Hotline is available to assist with questions Monday through Friday 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to the Hotline are recorded.

Action by the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau.

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<sup>5</sup> See 5 U.S.C. § 553(b)(A), (d); *see also, e.g., Neighborhood TV Co. v. FCC*, 742 F.2d 629, 637-38 (D.C. Cir. 1984) (holding that the Commission's filing freeze is a procedural rule not subject to the notice and comment requirements of the Administrative Procedure Act); *Buckeye Cablevision, Inc. v. United States*, 438 F.2d 948, 952-53 (6th Cir. 1971).

<sup>6</sup> See 5 U.S.C. § 553(b)(B), (d)(3).