



PUBLIC NOTICE

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

On April 26, 2012, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) issued a public notice announcing a limited suspension of the acceptance and processing of certain applications for Part 22 and Part 90 services operating in the 470-512 MHz spectrum band (T-Band).¹ The *Suspension Notice* suspended the acceptance and processing of T-Band applications that could alter the spectrum landscape in order 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 Middle Class Tax Relief and Job Creation Act of 2012.² By this Public Notice, the Bureaus clarify the applicability of the suspension with respect to certain types of applications.

In the *Suspension Notice*, the Bureaus stated that the suspension applied to applications “that would, if granted, tend to increase the degree to which the 470-512 MHz band is currently licensed” but not to “applications that would not destabilize the licensing landscape,” and listed examples of both categories.³ The Bureaus have received inquiries from interested parties seeking further guidance on whether certain types of T-Band applications would or would not fall within the scope of the suspension.⁴ Accordingly, we offer the following clarifications:

- The *Suspension Notice* stated that the suspension applies to “applications that seek to modify existing licenses by adding or changing frequencies or locations.”⁵ We clarify that

¹ 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, *Public Notice*, DA 12-643 (WTB/PSHSB rel. Apr. 26, 2012) (*Suspension Notice*).

² *Suspension Notice* at 1-2. See also Pub. L. No. 112-96, 126 Stat. 156 (2012) (Act). 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).

³ See *Suspension Notice* at 2.

⁴ See, e.g., Letter dated May 8, 2012 from Mark E. Crosby, President, Enterprise Wireless Alliance (EWA), to David Furth, Acting Chief, Public Safety and Homeland Security Bureau, and Rick Kaplan, Chief, Wireless Telecommunications Bureau (EWA Letter); Motorola Solutions, Inc., *Ex Parte*, WT Docket No. 99-87 (filed May 22, 2012).

⁵ See *Suspension Notice* at 2.

applications that seek to add or change locations are suspended only if the new location extends the station's authorized interference contour in any direction. Locations may be added or changed if the new site does not increase the licensed contour.

- We further clarify that the suspension applies to any application that seeks to add a new channel to the authorization, whether the channel is a replacement or is being added to existing channels.⁶ As noted above, the purpose of the freeze is to stabilize the existing spectrum landscape. Allowing licensees to alter their active frequencies in the T-Band would be inconsistent with this purpose and would lead to an unpredictable and unstable spectral environment. This approach is consistent with prior filing and processing suspensions.⁷
- The *Suspension Notice* stated that the suspension included “applications that seek to modify existing licenses by changing technical parameters in a manner that expands the station’s spectral or geographic footprint.”⁸ We clarify that applications that seek to add or change an emission type (the last three characters of the emission designator) are suspended only if the licensee also proposes to increase the authorized bandwidth. Emission types may be added or changed so long as the emission remains within the existing authorized bandwidth, even if the new emission type nominally expands the station’s spectral footprint.⁹
- The Bureaus stated that the suspension did not include “applications to renew existing licenses without modification.”¹⁰ They also stated that applications requesting a modification the processing of which has been suspended will be dismissed.¹¹ We now clarify that a renewal/modification application filed during the filing and processing suspension that requests such a modification will be granted-in-part only with respect to the request for renewal.

Parties whose applications are subject to the filing and processing suspension, as clarified above, may seek a waiver of the suspension pursuant to Section 1.925 of the Commission’s rules.¹² Parties seeking a waiver must provide a showing that they meet the waiver criteria in Section 1.925.

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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⁶ Thus, we disagree with EWA’s proposed clarification in this respect. *See* EWA Letter at 2.

⁷ *See, e.g.,* Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969, 15078 ¶ 204 (2004); Amendment of the Commission’s Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Notice of Proposed Rulemaking and Order*, ET Docket No. 95-183, 11 FCC Rcd 4930, 4989 ¶ 124 (1996).

⁸ *See Suspension Notice* at 2.

⁹ As noted in the *Suspension Notice*, certain applications that widen a station’s bandwidth will not be deemed to expand the station’s spectral footprint. *Id.* at 2 n.2.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 2 n.3.

¹² 47 C.F.R. § 1.925.