



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

May 13, 2013

DA 13-1087

## **Small Entity Compliance Guide**

### **Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees**

FCC 12-55

WT Docket No. 12-64

WT Docket No. 11-110

**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 new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, 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, perhaps, 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.**

**In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. 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 decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:**

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**Fax: 1-866-418-0232**

**[fccinfo@fcc.gov](mailto:fccinfo@fcc.gov)**

**TABLE OF CONTENTS**

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

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

**A. Channel Spacing and Bandwidth Flexibility for EA-based 800 MHz SMR  
    Licensees ..... 3**

**B. Protection of 800 MHz Public Safety Licensees ..... 4**

**III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS..... 5**

**IV. WEBLINK ..... 5**

## **I. OBJECTIVES OF THE PROCEEDING**

In this *Report and Order* in WT Docket No. 12-64 and WT Docket No. 11-110, the Commission amended a legacy regulatory requirement in Part 90 of its rules and provided certain spectrum licensees with increased regulatory and technical flexibility to deploy advanced wireless services in portions of the 800 MHz band. The Commission also took action in this *Report and Order* to help ensure that the flexibility provided to EA-based 800 MHz SMR licensees does not cause harmful interference to 800 MHz public safety licensees. By removing a legacy channelization scheme and bandwidth limitation, this *Report and Order* will allow Economic Area (EA)-based 800 MHz Specialized Mobile Radio (SMR) licensees in the 813.5-824/858.5-869 MHz portion of the 800 MHz band to more efficiently utilize their spectrum resources to deploy competitive wireless services.

Under the legacy channel spacing requirement and bandwidth limitation in Section 90.209(b)(5) of the Commission's rules, EA-based 800 MHz SMR licensees are unable to deploy competitive wireless services because the rule limits operations to 25 kHz channels with a bandwidth of 20 kHz.<sup>1</sup> CDMA operations, for example, require 1.25 MHz channels.

The rule adopted in this *Report and Order* applies to the 813.5-824/858.5-869 MHz band segment in the Southeastern United States as specified in Section 90.614(c), and to the 817-824/862-869 MHz band segment in other areas of the United States (frequently referred to as enhanced SMR or ESMR). The Commission found that consumers will benefit from the flexibility afforded by this rule change through improved access to advanced wireless services, including in rural, unserved, and underserved areas.

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

In the *Report and Order*, the Commission amended Section 90.209 of its rules to allow EA-based 800 MHz SMR licensees operating in the 817-824/862-869 MHz band segment, and the 813.5-824/858.5-869 MHz band segment in the Southeastern United States, to provide wireless services across aggregated channels without unnecessary bandwidth limitation or channelization requirements. The Commission's rule also requires affected licensees to provide notice to certain 800 MHz public safety licensees prior to exceeding the channel spacing and bandwidth limitation.

### **A. Channel Spacing and Bandwidth Flexibility for EA-based 800 MHz SMR Licensees**

Under the rule adopted in the *Report and Order*, EA-based 800 MHz SMR licensees may exceed the channel spacing and bandwidth limitation in Section 90.209 in the 813.5-824/858.5-869 MHz band segment of the 800 MHz band in National Public Safety Planning Advisory Committee (NPSPAC) regions where 800 MHz reconfiguration is complete. In NPSPAC regions where 800 MHz reconfiguration is incomplete, EA-based 800 MHz licensees may exceed the channel spacing and bandwidth limitation only in 813.5-821/858.5-866 MHz. Upon all 800 MHz public safety licensees in a region completing band reconfiguration, EA-based 800 MHz SMR licensees in 821-824/866-869 MHz may also exceed the channel spacing and bandwidth limitation.

The *Report and Order* limits the frequencies on which an EA-based 800 MHz SMR licensee may exceed the standard channel spacing and bandwidth limitation based on the completion of 800 MHz reconfiguration in a given geographic area. In 2004 the Commission initiated the 800 MHz reconfiguration process, whereby 800 MHz commercial wireless operations were separated from 800

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<sup>1</sup> 47 C.F.R. § 90.209(b)(5).

MHz public safety operations to prevent harmful interference to public safety users. The process is still ongoing, and the rule adopted in the *Report and Order* aims to avoid impacting the 800 MHz reconfiguration process.

Pursuant to the rule adopted in the *Report and Order*, EA-based 800 MHz SMR licensees will be able to deploy new wireless technologies, such as CDMA and LTE, while incurring little additional compliance costs. Consumers will benefit from access to these advanced technologies. The Commission found that there will be little additional costs to 800 MHz public safety licensees from such operation relative to the status quo, which may be incurred through increased monitoring for harmful interference for a time following an EA-based 800 MHz SMR licensee's transition to a wideband technology. The Commission concluded that the minimal costs incurred are far outweighed by the benefits gained through the efficient utilization of spectrum resources and the deployment and availability of advanced wireless services.

### **B. Protection of 800 MHz Public Safety Licensees**

To further protect 800 MHz public safety licensees from harmful interference, the Commission also adopted a notice requirement. Under the *Report and Order*, EA-based 800 MHz SMR licensees must provide 30 days written notice to 800 MHz public safety licensees with base stations in a NPSAC region<sup>2</sup> where an EA-based 800 MHz SMR licensee intends to exceed the channel spacing and bandwidth limitation, and to public safety licensees with base stations within 113 kilometers (70 miles) of an affected NPSAC region border. This notice must include the estimated date on which the EA-based 800 MHz SMR licensee's operations will exceed the channel spacing requirement and bandwidth limitation.

The Commission concluded that the 30-day notice condition, in combination with the limitation preventing EA-based 800 MHz SMR licensees from exceeding the channel spacing and bandwidth limitation in NPSAC regions where reconfiguration is incomplete, adequately protects 800 MHz public safety licensees from harmful interference. The notice requirement is designed to provide notice to public safety licensees so that they may monitor their networks for any increase in harmful interference caused by EA-based 800 MHz SMR licensees that exceed the standard channel spacing and bandwidth limitation, and take appropriate steps to initiate a process to remedy such interference should it occur.

The Commission found that while this requirement will result in certain costs to EA-based licensees 800 MHz who must identify and timely notify affected public safety entities, the resulting benefits – flexibility to deploy advanced wireless services and efficient resolution of interference to a public safety entity – offsets such costs. This condition will impose only a modest burden on EA-based 800 MHz SMR licensees and will ensure that 800 MHz public safety licensees are fully informed, thus making it easier to swiftly resolve any issues or concerns that may arise.

Further, the *Report and Order* notes that EA-based 800 MHz SMR licensees will still be obligated to meet all other technical requirements under Part 90, including co-channel separation distances, out-of-band emission limits, interference abatement requirements, interference resolution procedures, and rules governing operations in the Mexico and Canada border areas.

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<sup>2</sup> The Commission divided the United States into 54 NPSAC regions for the purpose of creating a national public safety plan. Each region has a planning committee that develops regional plans to meet the specific public safety communications needs of the region. The boundaries of the regions roughly align with state borders, although several states have more than one region within their geographic borders.

### III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

The *Report and Order* is deregulatory in nature and imposes only a minor compliance requirement on all affected entities, including small entities. In recognition of the resources available to small entities, and in the interest of simplified compliance obligations, the *Report and Order* does not mandate any specific form or manner in which entities must comply with the notice requirement.

The *Report and Order* requires EA-based 800 MHz SMR licensees to provide 30 days advanced written notice to all 800 MHz public safety licensees with a base station in an affected NPSPAC region and within 113 kilometers (70 miles) of the border of an affected NPSPAC region. This notice must include the estimated date that the EA-based 800 MHz SMR licensee's operations will exceed the channel spacing and bandwidth limitation. The Commission believes this notice imposes only a small compliance burden, and is necessary to ensure that public safety licensees are aware of the operation and can actively monitor for any interference issues that may arise.

EA-based 800 MHz SMR licensees may determine the relevant NPSPAC region in which they operate and that border the region in which they operate by examining the NPSPAC region map.<sup>3</sup> EA-based 800 MHz SMR licensees may determine the 800 MHz public safety licensees within a given NPSPAC region by determining the approximate geographic coordinates of the region, and cross referencing the 800 MHz public safety license areas through the Commission's Universal Licensing System.<sup>4</sup>

### IV. WEBLINK

The *Report and Order*, FCC 12-55, adopted May 24, 2012 and released May 24, 2012. Final rules adopted in the *Report and Order* are effective on July 9, 2012.

**[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-55A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-55A1.doc)**

**[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-55A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-55A1.pdf)**

**[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-12-55A1.txt](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-55A1.txt)**

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<sup>3</sup> The NPSPAC region map is available at <http://publicsafety.fcc.gov/pshs/public-safety-spectrum/800-MHz/regional-planning.htm?region=Region%2042>.

<sup>4</sup> The Universal Licensing System is available at <http://wireless.fcc.gov/uls/index.htm?job=home>.