



Federal Communications Commission
Washington, D.C. 20554

April 8, 2013

DA 13- 668

Small Entity Compliance Guide

Amendment of Part 90 of the Commission's Rules Service Rules for the 698-746, 747-762 and 777-792 MHz Bands Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band

Fourth Report and Order and Fifth Further Notice of Proposed Rulemaking
FCC 12-61
WP Docket No. 07-100, PS Docket No. 06-229, WT Docket No. 06-150
Released: June 13, 2012

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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Key Definitions

Frequency coordination. The process of obtaining the recommendation of a frequency coordinator for a frequency(ies) that will most effectively meet the applicant's needs while minimizing interference to licensees already operating within a given frequency band.

Background

In 2009, the Commission took the opportunity to seek comment on correcting and clarifying certain rules in 47 C.F.R. Part 90, and on a proposal for frequency coordination requirements in the 4940-4990 MHz (4.9 GHz), both of which relate to public safety operations. Commenters supported all the proposals on corrections and clarifications, and no commenters opposed. Thus, the Commission adopted all of the corrections and clarifications in the Fourth Report and Order. The comments on frequency coordination in the 4.9 GHz band identified two alternative proposals, so Commission declined to adopt any additional frequency coordination requirements for the 4.9 GHz band in the Fourth Report and Order pending further review of alternatives in the accompanying Fifth Further Notice of Proposed Rulemaking. As described below, the decisions of the Fourth Report and Order have no new compliance requirements.

Compliance Requirements

Summary of Decisions in this Fourth Report and Order with New Compliance Requirements

- (None)

Summary of Decisions in this Fourth Report and Order with No New Compliance Requirements

- The Commission corrected an inadvertent omission from 47 C.F.R. § 90.175 so that applicants for frequencies in the 4.9 GHz band are exempt from frequency coordination requirements once again. Small entities that plan to apply for frequencies in the 4.9 GHz band without the added step of frequency coordination will comply with the corrected rule and need to take no special action as a result of the Fourth Report and Order.
- The Commission corrected the band plan of 47 C.F.R. § 90.1213. Specifically, the Commission corrected the channel number 14 bandwidth from five megahertz to one megahertz, and the Commission amended the table in 47 C.F.R. § 90.1213 to list the center frequencies that applicants should request for every possible channel aggregation permitted in the rules. Because the Commission grandfathered any existing licensees that are authorized for greater than one megahertz bandwidth on channel 14 or for non-standard center frequencies, any small entities that are so authorized need to take no special action as a result of the Fourth Report and Order. We expect that small entity equipment manufacturers also need to take no special action because review of equipment certification applications indicates that 4.9 GHz band devices are capable of operating in one-megahertz, five-megahertz, or aggregated channel modes as permitted by the rule both before and after the rule change.
- The Commission corrected several typographical and ministerial errors in 47 C.F.R. § 90.20 relating to the Public Safety Pool Frequency Table and associated limitations:
 - In the 47 C.F.R. § 90.20(d)(66)(i) table of frequency pairs, the Commission corrected the mobile-only frequency for Channel MED-4 from 463.075 MHz to 468.075 MHz. Frequency 463.075 MHz is still part of Channel MED-4 and is available for base and mobile operations as set forth in the rule. Small entities that use either frequency already comply with the corrected rule and need to take no special action as a result of the Fourth Report and Order.

- In the 47 C.F.R. § 90.20(c)(3) table of Public Safety Pool frequencies, the Commission replaced limitation 38 with limitation 10 on nine medical service frequencies because the two limitations were identical, but since 2005, limitation 38 has been blank. Limitation 10 allows a licensee that regularly conducts two-way communication operations to also transmit one-way alert-paging signals to ambulance and rescue squad personnel on a secondary basis. Because this limitation is permissive in nature rather than restrictive, any small entities that use these frequencies need to take no special action as a result of the Fourth Report and Order.
- The Commission amended 47 C.F.R. § 90.20(c)(3) by replacing the text in the limitation column “O=’xl’≤72” for the 1427 to 1432 MHz band with the numeral “72.” This change is merely a typographical correction to remove excess characters, and the numeral “72” was present in the previous version of the rule to denote limitation 72 (47 C.F.R. § 90.20(d)(72)). Since this simply clarifies the reference to Section 90.259 of the rules, which already applies to this band, any small entities that use these frequencies need to take no special action as a result of the Fourth Report and Order.
- The Commission amended 47 C.F.R. § 90.20(c)(3) by replacing limitation 49 with limitation 59 for frequencies 453.03125 MHz and 453.04375 MHz, to correct a typographical error introduced in 2007. Because limitation 59 is permissive, and limitation 49 referred to uses already inconsistent with those permitted for these frequencies, any small entities that use these frequencies need to take no special action as a result of the Fourth Report and Order.

Dates

The above-summarized rules that the Commission adopted in the Fourth Report and Order were published in the Federal Register on August 1, 2012 and became effective on August 31, 2012.

Internet Links

- Fourth Report and Order and Fifth Further Notice of Proposed Rulemaking, FCC 12-61
*Amendment of Part 90 of the Commission’s Rules
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands
Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the
700 MHz Band; Amendment of Part 90 of the Commission’s Rules*

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A1.doc
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A1.pdf
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A1.txt
- Statement of Chairman Julius Genachowski

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A2.doc
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A2.pdf
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A2.txt
- Statement of Commissioner Robert M. McDowell

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A3.doc
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http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A3.txt
- Statement of Commissioner Mignon L. Clyburn

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A4.doc

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- Statement of Commissioner Jessica Rosenworcel

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- Statement of Commissioner Ajit V. Pai

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http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A6.pdf
http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-61A6.txt

- News Release – *Federal Communications Commission Proposed Plan to Improve Spectrum Efficiency and Promote Use of 4.9 GHz for Broadband Communications for First Responders and Public Safety Officials*

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314613A1.doc
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