



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU AND PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SUSPEND THE PROCESSING OF APPLICATIONS TO RENEW PART 22 AND 90 LICENSES FOR SYSTEMS OPERATING ON 470-512 MHz (T-BAND) SPECTRUM

PS Docket No. 13-42

By this *Public Notice*, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) announce that, until further notice, they will accept, but not grant, applications to renew Part 22 and Part 90 licenses for operation in the 470-512 MHz band (T-Band).¹ Licensees that have filed, and will in the future file, timely and complete applications for renewal of license² may continue to operate using their licensed facilities past the license expiration date while the suspension is in effect.³

The Middle Class Tax Relief and Job Creation Act of 2012 (the Act) requires the Commission to reallocate T-Band spectrum used by public safety licensees, begin a system of competitive bidding for reallocated spectrum by February 22, 2021 (nine years after the Act was enacted), and relocate public safety entities from the T-Band spectrum no later than two years after completion of the system of competitive bidding (T-Band-Mandate).⁴ On April 26, 2012, to stabilize the spectral environment in light of the T-Band Mandate, the Bureaus suspended acceptance and processing of certain other T-Band applications. That freeze was imposed to allow the Commission to consider issues surrounding future use of the T-Band and implement the Act.⁵

Despite findings from the Government Accountability Office that implementation of this provision of the Act could deprive first responders of their current ability to communicate by radio and its

¹ This *Public Notice* suspends processing of both applications for renewal only (purpose code RO); and applications for renewal/modification (purpose code RM).

² Defective applications and applications in return status that are not timely resubmitted will be dismissed.

³ 47 CFR § 1.62 (operation pending action on renewal application). The suspension of applications for license renewal was raised in a letter from Mark E. Crosby, President, Enterprise Wireless Alliance, to Lisa M. Fowlkes, Chief, Public Safety and Homeland Security Bureau, and Donald Stockdale, Chief, Wireless Telecommunications Bureau, PS Docket No. 13-42 (dated July 16, 2019). The action we take in this *Public Notice*, although initiated on our own motion, also addresses matters raised in the referenced letter.

⁴ Pub. L. No. 112-96, 126 Stat. 156 (2012) (Act), § 6103.

⁵ 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*, 27 FCC Rcd 4218 (WTB/PSHSB 2012).

recommendation that Congress allow public safety's continued use of the spectrum,⁶ the T-Band Mandate remains the law of the land and the Commission is required to implement it. Given that the February 22, 2021 statutory deadline is less than 15 months away, the Bureaus have determined that suspension of renewal processing is now necessary for the Commission to have the full range of implementation options available.

This suspension on the processing of renewal applications is procedural and, therefore, not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.⁷ The 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)

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.

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

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⁶ See *Required Auction of Public Safety Spectrum Could Harm First Responder Capabilities*, GAO 19-508 (Jun 21, 2019), available at <https://www.gao.gov/products/GAO-19-508#summary>.

⁷ 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); *Kessler v. FCC*, 326 F.2d 673, 680-82 (D.C. Cir. 1963).