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SMALL ENTITY COMPLIANCE GUIDE

Creation of Interstitial 12.5 Kiloherertz Channels in the 800 MHz Band Between 809-817/854-862 MHz; Amendment of Part 90 of the Commission's Rules to Improve Access to Private Land Mobile Radio Spectrum

**FCC 18-143
WP Docket Nos. 15-32, 16-261
Released October 22, 2018**

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 revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking docket(s). This Guide is not intended to replace or supersede these rules, but to facilitate compliance 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 cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

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 then 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 it may 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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TABLE OF CONTENTS

I. OBJECTIVES OF THE PROCEEDING	1
II. COMPLIANCE REQUIREMENTS	1
A. Additional Industrial/Business Pool Frequencies	1
B. Interstitial Channels in the 800 MHz Band.....	1
C. Licensing Additional 800 MHz Channels.....	2
D. Trackside Signal Boosters.....	3
E. Conditional Licensing Authority	3
F. Termination of the Freeze on Inter-Category Sharing in the 800 MHz Band	3
G. Central Station Alarm Channels	3
H. Editorial Corrections and Updates	3
III. RECORDKEEPING AND REPORTING REQUIREMENTS.....	4
IV. IMPLEMENTATION DATE.....	4
V. INTERNET LINKS.....	5

I. OBJECTIVES OF THE PROCEEDING

In the *Report and Order and Order* in WP Docket Nos. 15-32 and 16-261, the Commission adopted rules that are intended to expand access to private land mobile radio (PLMR) spectrum. PLMR services provide for the private, internal communications needs of public safety organizations, state and local government entities, large and small businesses, transportation providers, the medical community, and other diverse users of two-way radio systems.

Specifically, in the *Report and Order and Order* the Commission amended its rules to (a) make available for PLMR use particular 450-470 MHz frequencies located between the Industrial/Business Pool and either General Mobile Radio Service or Broadcast Auxiliary Service spectrum; (b) introduce 318 new, full power, interstitial 12.5 kilohertz bandwidth offset channels to the 809-817/854-862 MHz band (800 MHz Mid-Band), subject to certain protections designed to minimize the possibility of interference between licensees operating on adjacent channels; (c) authorize trackside boosters on PLMR railroad channels to facilitate communication between the front and rear of trains where direct communication is unsatisfactory because of the length of the train or intervening terrain; (d) extend conditional licensing authority to applicants for site-based licenses in the 769-775/799-805 MHz (700 MHz) narrowband and 806-824/851-869 MHz (800 MHz) bands; (e) allow wider use of frequencies currently designated for central station alarm operations provided that the central station alarm frequency coordinator concurs; and (f) correct certain typographical errors. In addition, the Commission (a) declined to give incumbent 800 MHz licensees filing priority for 800 MHz Expansion Band and Guard Band over non-incumbents; (b) directed Commission staff to announce when applications for Expansion Band, Guard Band, Sprint-vacated, and interstitial channels may be filed in the 44 of 55 National Public Safety Planning Advisory Committee where 800 MHz rebanding has been completed; and (c) terminated the 1995 freeze on inter-category sharing of 800 MHz channels, making it no longer necessary for applicants to seek a waiver of the freeze.

II. COMPLIANCE REQUIREMENTS

In the *Report and Order and Order* the Commission addressed several issues pertaining to PLMR Services and updated the rules and requirements to provide new spectrum capacity, eliminate unnecessary restrictions in the PLMR bands and reduce the administrative burdens on applicants and licensees.

A. Additional Industrial/Business Pool Frequencies (47 CFR § 90.35)

- PLMR applicants can apply for licensing of frequency pairs 451/456.00625 MHz and 451/456.0125 MHz with an authorized bandwidth not to exceed six kilohertz, and frequency pairs 462/467.5375 MHz and 462/467.7375 MHz with an authorized bandwidth not to exceed four kilohertz.
- With the addition of the above frequencies to the I/B Pool, these channels are available for licensing by PLMR applicants for use on the same basis as other I/B Pool channels and require frequency coordination.

B. Interstitial Channels in the 800 MHz Band (47 CFR § 90.613)

- PLMR applicants can apply for licensing in the 12.5 kilohertz bandwidth offset channels between the existing 25 kilohertz channels in the heavily used 800 MHz Mid-Band.
- The new interstitial channels will be made available for licensing by National Public Safety Planning Advisory Committee (NPSPAC) region.

- Interstitial channels will be available in all regions except the five bordering Mexico (Regions 3 (Arizona), 5 (Southern California), 29 (New Mexico), 50 (West and Central Texas), and 53 (Southern Texas)).
- Interstitial channels will only be available for licensing below the dividing line between the 800 MHz Mid-Band and Enhanced SMR (ESMR) segments of the band, including in regions of the United States where the Commission adopted alternate channel plans with extended ESMR segments and reduced Mid-Bands.
- The Commission's Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau (the Bureaus) will announce the availability of the interstitial channels, the application procedures, and when applicants can apply, after the termination of the application freeze (*i.e.*, once all licensees have re-tuned to their replacement channels) in each NPSPAC region.
- Frequency coordinators are required to abide by the contour protection values in the interference matrix set forth in the *Report and Order* to prevent interference to licensees on adjacent channels.
- Allocation and assign eligibility for each 12.5 kilohertz channel is based on the pool to which the lower-adjacent standard 25 kilohertz channel belongs: General Category, Public Safety, Business/Industrial/Land Transportation (B/ILT), or Specialized Mobile Radio (SMR).
- For a three-year period after the frequencies are made available for licensing, priority access to 800 MHz Mid-Band interstitial channels will be given to T-Band incumbents in the urban areas specified in section 90.303 of the Commission's rules. In this context, priority access means that if a T-Band licensee and another—non-T-Band—applicant timely file for the same frequency, and the frequency conflict cannot be resolved by the Commission-certified frequency coordinator, the frequency coordinator shall recommend the T-Band licensee's application to the Commission.
- To be eligible for priority, the T-Band incumbent licensee must commit to surrendering an equal amount of T-Band spectrum. Channels from the 470-512 MHz band will be counted on a one-for-one basis for 12.5 kilohertz bandwidth interstitial channels from the 800 MHz Mid-Band.

C. Licensing Additional 800 MHz Channels (47 CFR § 90.617)

- All 800 MHz Expansion Band (EB) and Guard Band (GB) collectively, (EB/GB) channels will be available on an equal basis to incumbents and new applicants when the Bureaus announce the availability of the channels in each NPSPAC region.
- The Bureaus will announce by public notice the dates and procedures for submitting applications for EB/GB and vacated interleaved channels in those regions where rebanding is complete - NPSPAC Regions 9 (Florida), 33 (Ohio), and 43 (Washington State).
- For EB/GB channels in those regions where EB/GB licensing was deferred pending the resolution of the petition seeking incumbent priority, the dates and procedures for submitting applications will also be announced by the Bureaus by public notice.

D. Trackside Signal Boosters (47 CFR §§ 90.219(d)(3), 90.261(f))

- Railroad licensees are permitted to use single-channel Class A signal boosters with up to 30 watts effective radiated power on frequencies 452/457.9000 MHz to 452/457.96875 MHz in areas where communication between the front and rear of trains is unsatisfactory due to distance or intervening terrain barriers, and not in typical urban or industrial areas.

E. Conditional Licensing Authority (47 CFR §§ 90.159, 1.931)

- 700 MHz narrowband and 800 MHz band PLMR applicants proposing to operate a new or modified PLMR station on frequencies that require frequency coordination are permitted to begin operating the proposed station 10 days after the application is filed and to continue to operate it for up to 180 days while the application is pending.
- An applicant operating under the conditional licensing authority whose application is pending longer than 180 days must request and, if warranted, be granted special temporary authority if it wishes to continue operating.

F. Termination of the Freeze on Inter-Category Sharing in the 800 MHz Band (47 CFR § 90.621(e)(1)-(5))

- Inter-category sharing is permitted allowing an applicant eligible for licensing in the 800 MHz Public Safety or B/ILT Pool to be licensed on channels outside of its pool if (a) a Commission-certified frequency coordinator certifies that no channels are available in the pool for which the applicant is eligible, and (b) the desired out-of-pool channel is available as certified by the out-of-pool channel coordinator.
- An inter-category sharing application may be opposed by a party.
- In event the termination of the freeze results in difficulties similar to those that led to the institution of the 1995 freeze, the Bureaus are authorized to reinstitute the freeze as necessary.

G. Central Station Alarm Channels (47 CFR § 90.35(c), 90.175(b), 90.167(f))

- All PLMR eligible channels that were set aside for the exclusive use of central station commercial protection services will be available for other uses.
- Applications for these channels from entities other than central station commercial protection services must receive the concurrence of the central station alarm channel frequency coordinator. Such concurrence may be withheld only where granting the application would have an adverse effect on safety.
- Central station licensees are allowed more liberal use of primary channels for data signaling.

H. Editorial Corrections and Updates (47 CFR § 90.35)

- Kahului and Ke-Ahole airports were restored to the list of airports at or near which certain frequencies are reserved for commercial air transportation services. These two airports were inadvertently deleted when the list was last updated.
- The coordinates for the Boeing/King County International airport that were listed incorrectly were corrected.

- Entries in the I/B Pool table were corrected to restore the inadvertent deletion of the notation that applications for frequencies from 153.0425 MHz to 153.4025 MHz require the concurrence of the petroleum frequency coordinator.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

As a result of the Commission's actions in this *Report and Order and Order*, the below requirements may impact small entities' reporting, and/or recordkeeping obligations.

- By making 318 additional 12.5 kilohertz bandwidth offset channels available for licensing in the 800 MHz Mid-Band, we potentially increase the number of PLMR entities subject to the existing information collections associated 47 CFR § 90.175 that requires PLMR entities seeking licenses to obtain coordination from certain frequency coordinators. OMB has already approved the information collection requirements associated with Form 601, including the frequency coordination requirement.
- Amended Section 90.621(d) of the rules requires frequency coordinators recommending 800 MHz interstitial channels to perform a forward and reciprocal contour overlap analysis to minimize the potential for adjacent-channel interference. A frequency coordinator must perform the contour overlap analysis detailed in § 90.621(d) when coordinating applications for channels in the 809-817 MHz / 854-862 MHz band segment once interstitial 12.5 kHz bandwidth channels become available for licensing in a National Public Safety Planning Advisory Committee region.
- Amended Section 90.621(d)(4) of the rules allows applicants to submit applications which cause overlap under the forward contour analysis required in 90.621(d)(1) provided the applicant includes a written letter of concurrence from each incumbent that receives contour overlap agreeing to accept any interference that occurs because of the contour overlap.
- Amended Section 90.621(d)(4) of the rules also allows applicants to submit applications which receive contour overlap under the reciprocal analysis required in 90.621(d)(2) provided the applicant includes a written letter of concurrence from each incumbent that causes contour overlap stating that it does not object to the applicant receiving contour overlap from the incumbent's facility.
- Equipment manufacturers are required to obtain a new equipment authorization or modify an existing equipment authorization when designing equipment intended to operate on the new offset channels and must electronically file FCC Form 731. OMB has already approved the information collection requirements associated with obtaining a new or modified equipment authorizations.
- Amended Section 90.175(e) of the rules requires frequency coordinators recommending channels formerly reserved for central station commercial protection services to obtain the concurrence of the central station alarm channel frequency coordinator.

IV. IMPLEMENTATION DATE

The final rules adopted in the *Report and Order and Order* became effective on December 27, 2018, thirty (30) days after publication of the text or summary thereof in the Federal Register, except for 47 C.F.R. §§ 90.175(e) and 90.621(d)(4), which contain information collection requirements that require

approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These rules shall become effective after the Commission publishes a notice in the Federal Register announcing OMB approval and the relevant effective date.

V. INTERNET LINKS

A copy of the *Report Order and Order*, is available at:

<https://docs.fcc.gov/public/attachments/FCC-18-143A1.docx>

<https://docs.fcc.gov/public/attachments/FCC-18-143A1.pdf>

<https://docs.fcc.gov/public/attachments/FCC-18-143A1.txt>

A copy of the Federal Register Summary of the *Report Order and Order*, is available at:

<https://www.gpo.gov/fdsys/pkg/FR-2018-11-27/pdf/2018-24022.pdf>