



Federal Communications Commission
Washington, D.C. 20554

April 5, 2021

DA 21-399

SMALL ENTITY COMPLIANCE GUIDE

**Facilitating Shared Use in the 3100-3550 MHz Band
WT Docket No. 19-348
FCC 20-138
Released: Oct 2, 2020**

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 dockets. 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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I. OBJECTIVES OF THE PROCEEDINGS

In the Report and Order in *Facilitating Shared Use in the 3100-3550 MHz Band*, WT Docket No. 19-348 (*Report and Order*), the Commission removed the allocation for non-federal, secondary radiolocation operations from the 3.3-3.55 GHz band. It also removed the allocation for non-federal, secondary amateur operations from the 3.3-3.5 GHz band. The Commission left for a future decision the exact dates by which these operations must cease. It added a footnote to the U.S. Table of Allocations in part 2 of the Commission's rules allowing these secondary operations to continue pending the future Commission action.

Clearing this band of secondary services will allow the Commission to auction the 3.45-3.55 GHz band for flexible-use wireless services on a co-primary basis with federal radionavigation and radiolocation operations. The Commission is required to commence an auction for flexible-use licenses no later than December 31, 2021.¹ The Commission's actions in the *Report and Order* also will increase investment in communications services and technological developments by providing maximum opportunities for deployment of flexible-use services while continuing to provide spectrum for these secondary operations, and will prevent harmful interference between these operations and those pursuant to flexible-use licenses in the new 3.45-3.55 GHz band.

II. COMPLIANCE REQUIREMENTS

A. Clearing the 3.3-3.55 GHz Band of Secondary, Non-Federal Allocations

1. As of November 9, 2020, existing secondary non-federal radiolocation licensees and amateur license holders operating may continue operating while the Commission finalizes plans to reallocate spectrum in the 3.45-3.55 GHz band.

2. Authorization for these operations will sunset on a date consistent with the first possible grant of flexible use authorizations to new users in that portion of the band and secondary non-federal users will be required to cease operations in these bands.

B. Relocation of Secondary, Non-Federal Radiolocation Operations

1. Relocated secondary non-federal radiolocation operations will maintain their current 50-megahertz allocation and retain their secondary status.

2. These operations will be relocated to the 2.9-3.0 GHz band, already home to similar operations, where they will continue to operate on a secondary basis.

3. Secondary non-federal radiolocation licensees will need to coordinate with incumbents in this band and file any applications necessary to provide for modification of their licenses.

C. Sunset of Secondary Amateur Allocation

1. Secondary non-federal amateur operations will not be relocated due to the unique nature of the licensing of the amateur service.

¹ Consolidated Appropriations Act, 2021, Pub. L. 116-260, Division FF, Title IX, Sec. 905 (the Beat China by Harnessing Important, National Airwaves for 5G Act of 2020 or Beat CHINA for 5G Act of 2020).

2. Once their authorizations for this band sunset, secondary amateur licensees will be permitted to relocate their operations to any spectrum that currently is allocated for amateur use.²

III. RECORDKEEPING AND REPORTING REQUIREMENTS

There are no recordkeeping or reporting requirements created by this decision.

IV. IMPLEMENTATION DATE

The rules in the *Report and Order* became effective November 9, 2020, after publication of the text or a summary thereof in the Federal Register.

V. INTERNET LINKS

A copy of the *Report and Order*, FCC 20-138, WT Docket No. 19-348, is available at: <https://www.fcc.gov/document/fcc-seeks-facilitate-5g-345-355-ghz-band-0>.

A copy of the Federal Register Summary of the *Report and Order* is available at: <https://www.federalregister.gov/documents/2020/10/09/2020-22528/facilitating-shared-use-in-the-3100-3550-mhz-band>.

² 47 CFR § 97.301. The other bands available to amateurs of different license classes are: 135.7-137.8 kHz; 472-479 kHz; 1.8-2 MHz; 3.525-3.6 MHz; 3.7-4 MHz; 7.025-7.3 MHz; 10.1-10.15 MHz; 14-14.350 MHz; 18.068-18.168 MHz; 21-21.450 MHz; 24.89-24.99 MHz; 28-29.7 MHz; 50-54 MHz; 144-148 MHz; 219-220 MHz; 222-225 MHz; 420-450 MHz; 902-928 MHz; 1240-1300 MHz; 2300-2310 MHz; 10-10.5 GHz; 24-24.25 GHz; 47-47.2 GHz; 76-81 GHz; 122.25- 123 GHz; 134-141 GHz; and 241-250 GHz.