



# PUBLIC NOTICE

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## WIRELESS TELECOMMUNICATIONS BUREAU AND PUBLIC SAFETY AND HOMELAND SECURITY BUREAU MODIFY SUSPENSIONS OF ACCEPTANCE AND PROCESSING OF CERTAIN PART 22 AND PART 90 APPLICATIONS FOR 470-512 MHZ (T-BAND) SPECTRUM

On December 27, 2020 the President signed the Don't Break Up the T-Band Act (T-Band Act) into law as part of the Consolidated Appropriations Act, 2021.<sup>1</sup> The T-Band Act repeals section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012, which had mandated that the Commission reallocate and auction frequencies used by public safety eligibles in the 470-512 MHz spectrum band (T-Band Mandate).<sup>2</sup>

Shortly after the T-Band Mandate was enacted, on April 26, 2012, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) jointly imposed a suspension on the acceptance and processing of certain applications for Part 22 (Public Mobile Services) and Part 90 (Private Land Mobile Radio) services operating in the T-Band to maintain a stable spectral environment pending implementation of the T-Band Mandate.<sup>3</sup> Additionally, on December 2, 2019, the Bureaus suspended the processing of applications to renew Part 22 and Part 90 licenses for operation in the T-Band.<sup>4</sup>

Now that the Commission is no longer required to implement the T-Band Mandate, the rationale for the suspensions no longer exists.<sup>5</sup> To ensure the orderly resumption of application and licensing processes, we therefore modify the suspensions as follows:

Within 30 days of release of this Public Notice, the Bureaus will:

- Resume processing T-Band applications for renewal of license.
- Process all other pending T-Band applications, but dismiss without prejudice any pending applications that include a request for waiver of the Suspension Notice. We dismiss requests for waiver of the application suspension in order to provide equal opportunity to

<sup>1</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, Division FF, Title IX, section 902 (2020). Section 902(b)(1) of the Consolidated Appropriations Act, 2021 repealed Section 6103 of the Spectrum Act. *Id.*, § 902(b)(1).

<sup>2</sup> See also Pub. L. No. 112-96, 126 Stat. 156, section 6103 (2012) (T-Band Mandate).

<sup>3</sup> *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) (*Suspension Notice*).

<sup>4</sup> *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Processing of Applications to Renew Part 22 and Part 90 Licenses for Systems Operating on 470-512 MHz (T-Band) Spectrum*, PS Docket No. 13-42, Public Notice, 34 FCC Rcd 11136 (WTB/PSHSB 2019) (*Renewal Suspension*). The Bureaus currently accept and will continue to accept applications to renew T-Band licenses. *Id.*

<sup>5</sup> See *Reallocation of 470-512 MHz (T-Band) Spectrum*, PS Docket No. 13-42, Order, DA 21-52 (PSHSB/WTB Jan. 13, 2021) (terminating T-Band proceeding).

all applicants and establish a stable spectral environment for modifying the suspension as detailed below.<sup>6</sup>

Following that 30 day processing period, applicants and frequency coordinators will have a 30 day period to prepare and begin pre-coordination of certain new applications. Immediately thereafter, for a ninety-day period, i.e., from March 22, 2021 until June 21, 2021, the Bureaus will accept the categories of applications listed below but only from incumbent licensees.<sup>7</sup>

- Applications for modification of license characterized as minor<sup>8</sup> under sections 1.929 and 1.947(b) of the Commission's rules.
- Applications characterized as major under Part 22 of the Commission's rules;
- Applications governed by Part 90 of the Commission's rules, but only if such applications;
  - propose operation with 12.5 kHz bandwidth (11.25 kHz occupied bandwidth) or narrower channels, or
  - employ a technology that achieves the narrowband equivalent of at least one channel per 12.5 kHz of channel bandwidth for voice, and transmission rates of at least 4800 bits per second per 6.25 kHz for data systems operating with bandwidths greater than 12.5 kHz (narrowband-equivalent technology).<sup>9</sup>

Frequency coordinators must follow pre-coordination procedures to eliminate conflicts between Part 90 applications prior to their being filed with the Commission, and they must attach the appropriate certifications to each application. Frequency coordinators may accept applications for T-Band channels submitted to them on or before the release date of this notice. To eliminate the possibility that the Commission could receive mutually exclusive Part 90 applications, each frequency coordinator must provide notification of each application submitted to it for coordination to all other participating coordinators prior to filing the application with the Commission. The purpose of this notification process is to enable frequency coordinators to address and resolve conflicting applications prior to filing with the Commission.

Pre-coordination may commence no sooner than February 18, 2021 at 8:00 AM Eastern Time. On this date, and after that time, each frequency coordinator may submit electronic notification to the

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<sup>6</sup> 47 CFR § 1.925(c)(ii) (Denial of a rule waiver request associated with an application renders that application defective and may be dismissed without prejudice).

<sup>7</sup> Applicants in this phase qualify as incumbent licensees if they have an active call sign under the same FCC Registration Number (FRN) and are authorized to operate on at least one frequency within the same T-Band market as the application.

<sup>8</sup> See 47 CFR §§ 1.929, 1.947(b).

<sup>9</sup> See 47 CFR §§ 90.203(j)(3), 90.209(b)(5). Incumbent Part 90 licensees need not be fully transitioned to narrowband operations when filing such applications, but in order to be processed their applications must specify narrowband operation. In 2012, the Bureaus and the Office of Engineering and Technology (OET) waived the January 1, 2013 deadline for private land mobile radio licensees in the T-Band to migrate to narrowband (12.5 kHz or narrower) technology. See *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies*, WT Docket No. 99-87, RM-9332, Order, 27 FCC Rcd 4213 (WTB PSHSB OET 2012). That waiver will expire on a date specified in a future release. To allow incumbent licensees that have not fully converted to narrowband operation adequate time to do so, the authorizations issued to those licensees will be conditioned on conversion to narrowband operation by a date to be specified by the Bureaus and OET.

other participating coordinators of Part 90 applications it has prepared for coordination. Each notification for T-Band channels must be sent individually; batch filing is prohibited.

The Bureaus will process accepted applications specified above in accordance with the Commission's rules. The acceptance and processing suspension remains in effect for major applications that do not meet narrowband requirements, i.e., those applications that do not propose narrowband operation. We note that any application that was dismissed earlier for violation of the *Suspension Notice*, or dismissed after release of this Public Notice, must be refiled to be considered without preference or priority, pursuant to this Public Notice.

Applicants may submit requests for waiver of any provision of this Public Notice pursuant to section 1.925 of the Commission's rules.<sup>10</sup> Waiver requests must demonstrate why grant of the waiver is justified by special circumstances and is consistent with the public interest, including the policies underlying the T-Band rules.

The modifications of the suspension on acceptance of T-Band applications established herein are procedural in nature, and therefore not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.<sup>11</sup> Moreover, we find that there is good cause for not delaying the effect of the modifications until after publication in the Federal Register. Such a delay is unnecessary and contrary to the public interest because, without good reason, it would impede timely access to T-Band channels to applicants that require new or enhanced communications services.

For further information regarding this proceeding contact Joshua Smith, Mobility Division, Wireless Telecommunications Bureau, (voice) (717) 338-2502 or [Joshua.Smith@fcc.gov](mailto:Joshua.Smith@fcc.gov), or Brian Marengo, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (voice) (202) 418-0838 or [Brian.Marengo@fcc.gov](mailto:Brian.Marengo@fcc.gov).

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

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<sup>10</sup> *Id.* at § 1.925.

<sup>11</sup> 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).