



# PUBLIC NOTICE

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## WIRELESS TELECOMMUNICATIONS BUREAU AND PUBLIC SAFETY AND HOMELAND SECURITY BUREAU MODIFY THE FILING FREEZE ON THE ACCEPTANCE OF PART 90 APPLICATIONS FOR CERTAIN 5850-5925 MHZ (5.9 GHZ BAND) SPECTRUM

### ET Docket No. 19-138

Consistent with the Commission's decisions in the *5.9 GHz First Report and Order*,<sup>1</sup> the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) hereby modify the filing freeze previously imposed on the acceptance and processing of new and expanded use applications, and on the processing of renewal applications, related to part 90 services operating in certain portions of the 5850-5925 MHz spectrum band (5.9 GHz band).<sup>2</sup> In the *5.9 GHz First Report and Order*, the Commission repurposed the 5850-5895 MHz portion of the 5.9 GHz band to allow for the expansion of unlicensed mid-band spectrum operations, while continuing to dedicate the 5895-5925 MHz portion of the 5.9 GHz band for the intelligent transportation system (ITS).<sup>3</sup> This *Public Notice* modifies the freeze to resume the acceptance and processing of ITS applications requesting channels in the 5895-5925 MHz portion of the band, and to implement the Commission's decision to bar the acceptance and processing of ITS applications in the 5850-5895 MHz portion of the band.<sup>4</sup>

On December 19, 2019, the Bureaus imposed a freeze on the acceptance and processing of new and expanded use applications related to part 90 services operating in certain portions of the 5.9 GHz band, and on the processing of applications to renew part 90 licenses in the 5.9 GHz band.<sup>5</sup> The purpose of the freeze was to stabilize the 5.9 GHz spectrum landscape by suspending the acceptance and processing of applications in these portions of the band while the Commission considered future use of

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<sup>1</sup> *Use of the 5.850-5.925 GHz Band*, ET Docket No. 19-138, First Report and Order, Further Notice of Proposed Rulemaking, and Order of Proposed Modification, 35 FCC Rcd 13440 (2020). We herein may refer to each individually as the *5.9 GHz First Report and Order*, the *Further Notice of Proposed Rulemaking*, and the *5.9 GHz Order of Proposed Modification*.

<sup>2</sup> See *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Announce Temporary Freeze on the Acceptance and Processing of Part 90 Applications for Certain 5850-5925 MHz (5.9 GHz Band) Spectrum*, ET Docket No. 19-138, Public Notice, 34 FCC Rcd 12333 (WTB & PSHSB 2019) (*Freeze PN*).

<sup>3</sup> Indoor unlicensed operations can begin immediately on the effective date of the rules adopted by the Commission in the *5.9 GHz First Report and Order*. Outdoor unlicensed operations are not allowed, except under Special Temporary Authority (STA), until after ITS operations have ceased operating in the 5.850-5.895 GHz portion of the 5.9 GHz band. *5.9 GHz First Report and Order* at 13477, para. 87.

<sup>4</sup> The Bureaus note that several Petitions for Reconsideration of the Commission's decision in the *5.9 GHz First Report and Order* remain pending. See Petition for Partial Reconsideration of the 5G Automotive Association, ET Docket No. 19-138 (filed June 2, 2021); Petition for Reconsideration of the Alliance for Automotive Innovation, ET Docket No. 19-138 (filed June 2, 2021).

<sup>5</sup> *Freeze PN*, 34 FCC Rcd at 12333.

the band.<sup>6</sup> On November 20, 2020, the Commission released the *5.9 GHz First Report and Order* adopting new rules for the 5.9 GHz band to make spectrum available for unlicensed uses, while retaining a portion of the band for automotive safety.<sup>7</sup> Specifically, the new band plan designates the lower 45 megahertz (5850-5895 MHz) for unlicensed uses and the upper 30 megahertz (5895-5925 MHz) for ITS services that the Commission ordered to transition from dedicated short-range communications (DSRC)-based technology to cellular vehicle to everything (C-V2X) based technology.<sup>8</sup> The Commission directed the Wireless Telecommunications Bureau to modify the freeze consistent with this approach, in order to allow licensees to register new roadside units to operate within the modified ITS band of 5.895-5.925 GHz.<sup>9</sup>

Consistent with the directions provided in the *5.9 GHz First Report and Order*, and pursuant to delegated authority, the Bureaus modify the freeze as it pertains to applications for new, modified, or expanded roadside unit (RSU) location registrations in the ITS services,<sup>10</sup> and will resume acceptance and processing of applications that request channels in the upper 30 megahertz (5895-5925 MHz) of the 5.9 GHz band. In addition, the Bureaus will resume processing renewal applications for ITS licenses in the 5895-5925 MHz band, conditioned upon any changes made by the *Order of Proposed Modification*<sup>11</sup> and any action that the Commission may take in consideration of the *FNPRM*. The Bureaus' modification of the Freeze PN as described herein will be effective as of the date of this Public Notice, i.e., **August 6, 2021**.

As indicated in the *5.9 GHz First Report and Order*, the lower 45 megahertz of spectrum (5850-5895 MHz) in the 5.9 GHz band has been repurposed for unlicensed use, and the Commission specifically adopted rules establishing a timeline for existing ITS operations to cease use of the 5850-5895 MHz band as well as eliminating the Bureaus' regulatory authority for accepting, processing and granting such applications.<sup>12</sup> Accordingly, pursuant to the rules adopted by the Commission, applications for any new or expanded ITS use of the 5850-5895 MHz band will no longer be accepted.<sup>13</sup> Any applications for ITS

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<sup>6</sup> *Id.*

<sup>7</sup> *5.9 GHz First Report and Order*, 35 FCC Rcd at 13441, para. 1.

<sup>8</sup> *Id.* at 13446, para. 13, and 13465, para. 58. In the *Further Notice of Proposed Rulemaking*, the Commission proposed a transition date of two years to transition to C-V2X technology. 35 FCC Rcd at 13500, para. 147.

<sup>9</sup> *5.9 GHz First Report and Order*, 35 FCC Rcd at 13463-64, paras. 53-54 (“We direct the Wireless Telecommunications Bureau to modify the existing licensing freeze consistent with decisions we adopt today to allow licensees to register new roadside units to operate only within the modified ITS band of 5.895-5.925 GHz. Licensees may, at any time prior to the end of the one-year transition period, modify their currently existing roadside unit location registrations on their own motion to delete frequency usage in the lower 45 megahertz . . .”). This Public Notice implements the directions given by the Commission to the Wireless Telecommunications Bureau regarding modifications to the *Freeze PN*, and the Bureaus jointly make additional, consistent modifications to the freeze and to the processing of certain ITS applications pursuant to their respective delegations of authority set out in sections 0.331 and 0.392 of the Commission's Rules.

<sup>10</sup> Public Safety radio service code IQ and non-Public Safety radio service code QQ.

<sup>11</sup> *5.9 GHz Order of Proposed Modification*, 35 FCC Rcd at 13519, para. 204.

<sup>12</sup> *5.9 GHz First Report and Order*, 35 FCC Rcd at 13462, para. 48.

<sup>13</sup> As noted in the *5.9 GHz First Report and Order*, we may allow some outdoor operations in certain specified locations in the band through the STA process (i.e., on a non-interference basis relative to incumbent operations), where such operations would not cause harmful interference to any incumbent operations. *Id.* at 13466, para. 59. Notably in March 2020, the Wireless Telecommunications Bureau began granting temporary access to 5.9 GHz spectrum (via STA) for certain wireless Internet service providers that serve largely rural and suburban communities and have been helping to address the increased demand for broadband associated with the COVID-19 pandemic.

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use of the 5850-5895 MHz band that are filed on or after the date of this *Public Notice* will be dismissed with prejudice. Should applicants currently have a pending application before the Commission that requests RSUs on channels in the 5850-5895 MHz band, they must amend their application within sixty days of this *Public Notice* to remove those channels, or else the application will be dismissed with prejudice.

Under the new rules adopted by the Commission, existing ITS licensees authorized in the 5850-5895 MHz portion of the 5.9 GHz band will have one year from the July 2, 2021 effective date of the *5.9 GHz First Report and Order* to vacate the lower 45 megahertz of the band (i.e. no later than July 5, 2022).<sup>14</sup> Details on how to notify the Commission of a licensee's transition out of the 5850-5895 MHz portion of the 5.9 GHz band will be provided at a later date.

Finally, in a companion *Public Notice* released today, the Bureaus provide guidance on the procedures for seeking waivers of the rules to allow use of C-V2X technology in the 5895-5925 MHz portion of the band prior to the adoption of C-V2X service rules.

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

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See News Release, 5.9 GHz Band Boosts Consumer Internet Access During Covid-19 Pandemic (May 4, 2020), <https://www.fcc.gov/document/59-ghz-band-boosts-consumer-internet-access-during-covid-19-pandemic>.

<sup>14</sup> The one-year period from the *5.9 GHz First Report and Order* effective date of July 2, 2021 falls on Saturday, July 2, 2022, and is on a holiday weekend. Accordingly, the date established in the rules, 47 CFR § 90.372, is Tuesday, July 5, 2022, the succeeding Federal business day. See 1 CFR § 18.17.