



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU AND PUBLIC SAFETY AND HOMELAND SECURITY BUREAU MODIFY THE SUSPENSION ON ACCEPTANCE OF CERTAIN APPLICATIONS FROM INCUMBENT LICENSEES AND NEW APPLICANTS SEEKING TO LICENSE PART 22 AND PART 90 FACILITIES ON 470- 512 MHZ (T-BAND) SPECTRUM

By this Public Notice, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau (Bureaus) modify the suspension on acceptance of applications from incumbent licensees and new applicants seeking to license facilities on 470-512 MHz spectrum (T-Band) provided applicants meet certain spectral efficiency requirements.

Background

On April 26, 2012, the 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.¹ The suspension was put into place to maintain a stable spectral environment pending implementation of Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012, which mandated the Commission reallocate and auction frequencies used by public safety eligible entities in the T-Band.²

On December 27, 2020, the Don't Break Up the T-Band Act was signed into law as part of the Consolidated Appropriations Act, 2021 which repealed section 6103 of the T-Band Mandate.³ Therefore, on January 19, 2021, the Bureaus released a Public Notice providing, *inter alia*, that, for a 90-day period following the release of the Public Notice, certain Part 22 and Part 90 applications for T-Band facilities would be accepted from incumbent licensees.⁴ The 90-day period limiting applications to incumbent

¹ *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and Part 90 Applications for 470-512 MHz (T-Band) Spectrum*, Public Notice, 27 FCC Rcd 4218 (WTB/PSHSB 2012) (*Suspension Notice*).

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

³ 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 Section 902(b)(1) of the Consolidated Appropriations Act, 2021 repealed Section 6103 of the Spectrum Act.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).

⁴ *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*, Public Notice, 36 FCC Rcd 788 (WTB/PSHSB 2021) (*January 19, 2021 Public Notice*). (Applicants 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. The 90-day incumbent-only filing window expired on Jun. 21, 2021).

licensees was imposed to ensure the orderly resumption of application and licensing processes.⁵ The Bureaus extended the incumbent-only filing window two more times until April 1, 2022.⁶

Modifying Suspension for Certain Applications

After a 375-day incumbent-only filing window, the Bureaus believe it now appropriate to modify the application suspension and open the band to new entrants. Therefore, beginning on April 2, 2022, the Bureaus will accept:

- Applications for modification of license characterized as minor under sections 1.929 and 1.947(b) of the Commission's rules.⁷
- Applications characterized as major under Part 22 of the Commission's rules from new applicants or incumbent licensees.
- Applications governed by Part 90 of the Commission's rules from new applicants or incumbent licensees, 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).

The Bureaus retain a suspension on T-Band applications governed by Part 90 of the Commission's rules which do *not* meet the spectral efficiency requirements described above per the Bureaus' 2012 *Suspension Notice*.⁸

The decision to modify the suspension on acceptance of certain T-Band applications described above is procedural in nature, and therefore not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.⁹ Moreover, we find that there is good cause for not delaying the effect of modifying the suspension until after publication in the Federal Register. Such a delay would be impractical, unnecessary, and contrary to the public interest because it would undercut the purposes of modifying the suspension.

⁵ *January 19, 2021 Public Notice*, 36 FCC Rcd at 788.

⁶ *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Extend the Date for the Acceptance and Processing of Certain Part 22 and Part 90 Applications for 470-512 MHz (T-Band) Spectrum*, Public Notice, DA 21-721 (WTB/PSHSB Jun. 21, 2021) (extending the incumbent-only filing window until Dec. 19, 2021); *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Extend the Date for the Acceptance and Processing of Certain Part 22 and Part 90 Applications for 470-512 MHz (T-Band) Spectrum*, Public Notice, DA 21-1596 (WTB/PSHSB Dec. 17, 2021) (extending the incumbent-only filing window until Apr. 1, 2022).

⁷ 47 CFR §§ 1.929, 1.947(b).

⁸ *Suspension Notice*, 27 FCC Rcd at 4218.

⁹ 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 a Commission 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).

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