



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 22-974

Released: September 19, 2022

180-DAY FREEZE ON APPLICATIONS FOR NEW OR MODIFIED AUTHORIZATIONS FOR THE 12.7-13.25 GHZ BAND

By this Public Notice, the International, Public Safety and Homeland Security, Media, and Wireless Telecommunications Bureaus (Bureaus) announce a 180-day freeze effective as of September 19, 2022, on the filing of new or modification applications for licenses or other authorizations in the 12.7-12.75 GHz and 12.75-13.250 GHz bands (collectively, 12.7 GHz band).¹ The purpose of this temporary freeze is to preserve the current landscape of authorized operations in the 12.7 GHz band pending the Commission's consideration of actions that might encourage the larger and more effective use of this radio spectrum in the public interest.²

Filing Freeze in 12.7-12.75 GHz and 12.75-13.25 GHz Band (12.7 GHz Band)

To preserve the current landscape of authorized operations in the 12.7 GHz band to facilitate the Commission's consideration of spectrum management and planning options, the Bureaus announce a 180-day freeze, effective as of September 19, 2022, on the filing of new or modification applications for fixed satellite service (FSS) space stations serving earth stations located in the United States, FSS earth stations, broadcast auxiliary services, cable television relay service, and fixed microwave services stations, in the 12.7 GHz band, except as otherwise noted herein. The decision to impose this temporary freeze is procedural in nature, and therefore the freeze is exempt from the notice and comment and effective date requirements of the Administrative Procedure Act.³ Moreover, and in the alternative, we find good cause to conclude that prior notice and comment or a delay in effectiveness would be impractical, unnecessary, and contrary to the public interest because they would undermine the purposes of the freeze.⁴ The Bureaus find that this temporary freeze will help preserve the options available to the Commission for consideration of additional uses of the band while limiting the potential for speculative applications that might be filed in anticipation of potential future actions by the Commission. The Commission or the Bureaus may extend the freeze if doing so is deemed necessary to avoid undermining the purpose of the

¹ In the United States, the entire 550 megahertz (12.7-12.75 GHz and 12.75-13.25 GHz) is allocated exclusively for non-Federal fixed, mobile, and fixed satellite service (earth-to-Space) use, except that the 500 megahertz from 12.75-13.25 GHz contains a Federal allocation specifically limited to the space (deep space) service for reception only at Goldstone, California. See Table of Frequency Allocations, United States Table, 47 CFR § 2.106 & n.US251. See also *id.*, § 2.106 nn.5.441, NG52, NG53, NG57, NG118. This action is not intended to affect that Federal allocation.

² See, e.g., 47 U.S.C. § 303(g) (requiring the Commission from time to time to "generally encourage the larger and more effective use of radio in the public interest").

³ See 5 U.S.C. § 553(b)(A) (d); see also *Neighborhood TV Co. v. FCC*, 742 F.2d 629, 637-38 (D.C. Cir. 1984) (holding that a filing freeze was 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); *Kessler v. FCC*, 326 F.2d 673, 680-82 (D.C. Cir. 1963).

⁴ See 5 U.S.C. § 553(b)(B), (d)(3).

freeze. Any conditional authority conferred by rule during the pendency of an application is inapplicable to an application that will be dismissed under this freeze.⁵ Any temporary authority to operate in the 12.7 GHz band at temporary locations conferred by rule or license will remain operative.⁶

Space stations. During the freeze, the International Bureau will dismiss any new space station license applications and new requests for access to the U.S. market through non-U.S.-licensed space stations, or those parts of any such applications and requests, that seek to operate in the 12.7 GHz band. EXCEPTIONS: The freeze does not apply to new applications for space stations limited to serving earth stations outside the United States, applications for modification of existing space station authorizations,⁷ relocations of existing space stations pursuant to the Commission's fleet management policy,⁸ or to applications for replacement space stations.⁹

Earth stations. During the freeze, the International Bureau will dismiss applications, or those portions of applications, received for new earth station licenses, and modifications to earth stations currently authorized, to operate in the 12.7 GHz band. EXCEPTIONS: The freeze does not extend to applications for renewal or cancellation of current earth station authorizations,¹⁰ or modifications to correct location or other data required in the earth station file,¹¹ or to certain other earth station modifications described below.

*Broadcast Auxiliary.*¹² During the freeze, the Wireless Telecommunications Bureau will dismiss applications received for new or major modifications to fixed or mobile BAS stations to operate in the 12.7 GHz band. EXCEPTIONS: The freeze does not extend to applications for renewal, cancellation, and certain minor modifications described below.

*Cable Television Relay.*¹³ During the freeze, the Media Bureau will dismiss applications received for new or major modifications to fixed or mobile CARS stations to operate in the 12.7 GHz band. EXCEPTIONS: The freeze does not extend to applications for renewal, cancellation, and certain minor modifications discussed below.

⁵ See, e.g., 47 CFR §§ 74.25(a), 101.31(b) (conditional authorization during pendency of certain properly filed, completed formal applications that do not require a waiver).

⁶ See, e.g., 47 CFR §§ 74.24 (short-term operation), 101.31(a) (operation at temporary locations).

⁷ 47 CFR § 25.117.

⁸ 47 CFR § 25.118(e) (permitting the relocation of a GSO space station without prior authorization, but upon 30 days prior notice to the Commission and any potentially affected licensed spectrum user, provided that the operator meets specific requirements, including a requirement that the space station will be relocated to a position within $\pm 0.15^\circ$ of an orbital location assigned to the same licensee).

⁹ 47 CFR §§ 25.158(a)(2), 25.165(e)(1),(2).

¹⁰ 47 CFR § 25.121(e).

¹¹ See generally *International Bureau Addresses Accuracy of Earth Station Location Information in IBFS*, Public Notice, 32 FCC Rcd 9512 (IB 2017); 47 CFR § 25.117.

¹² See 47 CFR Part 74, subparts E, and F (ULS radio service codes: AI, AS, TB, TI, TP, TS, TT).

¹³ See 47 CFR Part 78 (COALS radio service: CS).

*Fixed Microwave.*¹⁴ During the freeze, the Wireless Telecommunications and Public Safety and Homeland Security Bureaus will dismiss applications received for new or major modifications to fixed or mobile microwave stations to operate in the 12.7 GHz band. EXCEPTIONS: The freeze does not extend to applications for renewal, cancellation, or certain minor modifications discussed below.

Exception to freeze for certain modification applications. Under the Commission's emerging technology policies (ET),¹⁵ microwave incumbents in 1.9 GHz and 2.1 GHz bands that were allocated for emerging technologies were permitted to retain primary status for certain minor modifications if they affirmatively justified primary status and established that the modification would not add to the relocation costs of ET licensees. Based on this precedent, under the instant freeze, incumbents with primary status will be permitted to make the following modifications on a primary basis to any future ET licensees if the incumbent licensee establishes that the modification would not add to any relocation costs, if applicable in the future:

- earth stations: modifications not requiring prior Commission authorization,¹⁶
- BAS, CARS, and Fixed Microwave stations: minor modifications.¹⁷

The appropriate Bureau will consider requests for waiver of this freeze on a case-by-case basis and upon a demonstration that waiver will serve the public interest and not undermine the objectives of the freeze.

-FCC-

¹⁴ See 47 CFR Part 101, subparts H, I, and J (ULS radio service codes: CF, CT, MG, MW, WA).

¹⁵ See generally 47 CFR § 101.81.

¹⁶ 47 CFR § 25.118(a)-(b).

¹⁷ See 47 CFR § 1.947(b) (licensees may make certain minor modifications to station authorizations, as defined in § 1.929 (Classification of filings as major minor). Section 1.929(d) discusses major actions in the microwave, aural broadcast auxiliary, and television broadcast auxiliary services and Section 1.929(k) states that any change not specifically listed as major is considered minor. See 47 CFR §§ 1.929(d) & (k); see also *id.* at §§ 78.109(c)-(d) (defining minor modifications for CARS licenses).