

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Part 90 of the Commission's Rules) WP Docket No. 07-100

ORDER ON RECONSIDERATION

Adopted: May 4, 2010

Released: May 7, 2010

By the Commission:

1. In this *Order on Reconsideration*, we act on our own motion to clarify the bases for certain rule changes adopted in the above-captioned proceeding. In the *Second Report and Order* in this proceeding,¹ we amended our rules to provide that Wireless Medical Telemetry Service (WMTS) operations are not permitted in the portions of the 1427-1432 MHz band where non-medical telemetry has primary status. We take this opportunity to further explain our analysis underlying this decision. We also clarify the rule change removing the frequency coordination requirement for applications to modify private land mobile radio licenses by reducing the authorized bandwidth.

2. WMTS was established to enhance the reliability of medical telemetry equipment, and to ensure that wireless medical telemetry devices can operate free of harmful interference.² The band 1427-1432 MHz is shared between medical and non-medical telemetry operations.³ Generally, WMTS has primary status in the lower half of the band, and non-medical telemetry is primary in the upper half.⁴ Our rules do not explicitly authorize WMTS systems to operate on a secondary basis on frequencies where non-medical telemetry is primary.⁵ In response to conflicting requests, the *Notice of Proposed Rulemaking* in this proceeding sought comment on amending the rules to clarify whether such operations

¹ Amendment of Part 90 of the Commission's Rules, *Second Report and Order and Second Further Notice of Proposed Rule Making*, WP Docket No. 07-100, 25 FCC Rcd 2479 (2010) (*Second Report and Order* and *Second Further Notice*, respectively).

² See Amendment of Parts 2 and 95 of the Commission's Rules to Create a Wireless Medical Telemetry Service, *Report and Order*, ET Docket 99-255, 15 FCC Rcd 11206 (2000). Medical telemetry equipment is used in health care facilities to transmit patient measurement data, such as pulse and respiration rates, to a nearby receiver. By permitting such remote monitoring of patients' vital signs, medical telemetry equipment provides significant benefits to patients in terms of mobility and comfort.

³ See Amendments to Parts 1, 2, 27, and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands, *Report and Order*, WT Docket No. 02-8, 17 FCC Rcd 9980, 9993-94 ¶ 27 (2003). The other two WMTS bands are 608-614 MHz and 1395-1400 MHz. See 47 C.F.R. § 95.630.

⁴ See 47 C.F.R. § 90.259(b). In seven areas (Pittsburgh, Pennsylvania; Washington, D.C.; Richmond/Norfolk, Virginia; Austin/Georgetown, Texas; Battle Creek, Michigan; Detroit, Michigan; and Spokane, Washington), WMTS is primary in the 1429-1431.5 MHz portion of the band, and non-medical telemetry is primary in the 1427-1429 MHz and 1431.5-1432 MHz portions of the band. *Id.*

⁵ Compare 47 C.F.R. § 90.259(b) (expressly authorizing secondary non-medical telemetry in the 1427-1432 MHz band) with 47 C.F.R. § 95.630 (authorizing only primary WMTS operations).

are permitted.⁶

3. In the *Second Report and Order*, we concluded that secondary WMTS operations should not currently be authorized.⁷ We noted that the Commission created WMTS in order to make available spectrum where medical telemetry services could operate free from harmful interference, and expressed concern that the authorization of secondary WMTS operations could subject such operations to the same interference issues that the WMTS allocation was intended to address.⁸ Because the record suggested that WMTS devices can operate safely on a secondary basis under certain conditions, however, we sought comment in the *Second Further Notice of Proposed Rule Making* on whether secondary WMTS operations should be sanctioned upon the adoption of adequate safeguards.⁹

4. We take this opportunity to further clarify that our decision in the *Second Report and Order* not to permit additional secondary WMTS operations¹⁰ at this time was not based on a conclusion that operation of medical devices on a secondary basis is *per se* contrary to the public interest. Rather, we concluded only that appropriate and effective measures must be taken to detect and avoid harmful interference, and that the existing record did not provide a sufficient basis to determine that such measures could be developed. This decision pertained only to WMTS, taking into account the unique technical characteristics of the service, the current lack of safeguards in our rules to promote safe secondary operations, and the operations with which WMTS shares spectrum. Further, as noted above, the issue of whether to amend the rules to authorize secondary operations under appropriate conditions remains pending in this proceeding.

5. In addition, the *Second Report and Order* amended Section 90.175(j) of the Commission's Rules¹¹ to remove the frequency coordination requirement for applications to modify existing licenses by reducing the authorized bandwidth.¹² We found no need for a Part 90 frequency coordinator to review such proposals in advance, because a simple reduction in authorized bandwidth cannot adversely impact co-channel or adjacent channel licensees.¹³ It may, however, increase the amount of power within a certain bandwidth. Consequently, we take this opportunity to remind licensees that the coordination and

⁶ See Amendment of Part 90 of the Commission's Rules, *Notice of Proposed Rulemaking and Order*, WP Docket No. 07-100, 22 FCC Rcd 9595, 9608 ¶ 29 (2007).

⁷ See *Second Report and Order*, 25 FCC Rcd at 2491 ¶ 29.

⁸ *Id.*

⁹ See *Second Further Notice*, 25 FCC Rcd at 2492-93 ¶ 32.

¹⁰ WMTS devices already registered to operate on secondary frequencies were grandfathered, and may continue operating. See *Second Report and Order*, 25 FCC Rcd at 2491 ¶ 29.

¹¹ 47 C.F.R. § 90.175(j).

¹² See *Second Report and Order*, 25 FCC Rcd at 2482 ¶ 7.

¹³ *Id.* at 2481-82 ¶ 7.

consent requirements set forth in Section 1.924 of our Rules regarding proposed new or modified operations in quiet zones continue to apply to such applications.¹⁴

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁴ 47 C.F.R. § 90.175(j). A quiet zone is a specified area where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference.