



PUBLIC NOTICE

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU AND WIRELESS
TELECOMMUNICATIONS BUREAU FURTHER MODIFY TEMPORARY FILING
FREEZE ON THE ACCEPTANCE AND PROCESSING OF CERTAIN PART 90
APPLICATIONS FOR THE 4940–4990 MHZ BAND**

WP Docket No. 07-100

Consistent with the Commission’s October 18, 2024 decision in the *Eighth Report and Order* in this proceeding, the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau (Bureaus) hereby modify the temporary filing freeze on the acceptance and processing of certain applications in the 4940–4990 MHz (4.9 GHz) band.¹ The Bureaus initially imposed the freeze on September 8, 2020, to maintain a stable spectral environment in the 4.9 GHz band while the Commission considered changes to the service rules governing operations in the band.² Specifically, the Bureaus suspended the acceptance of: (1) applications for new licenses authorizing operations of any kind (geographic area or permanent fixed site operations) in the 4.9 GHz band; and (2) applications to modify existing licenses authorizing operations in the 4.9 GHz band, unless otherwise excepted.³

The Bureaus subsequently modified the freeze on October 21, 2021, pursuant to the *2021 Order on Reconsideration*,⁴ to allow those with existing 4.9 GHz licenses to modify those licenses, whether for permanent fixed sites or geographic areas, as permitted under the rules.⁵ Specifically, the Bureaus accepted: (1) applications filed by incumbent 4.9 GHz licensees to modify existing licenses in the 4.9 GHz band, whether for permanent fixed sites or geographic areas; and (2) applications filed by incumbent 4.9 GHz licensees for new permanent fixed site operations located within their licensed service areas.⁶

¹ *Amendment of Part 90 of the Commission’s Rules*, WP Docket No. 07-100, Eighth Report and Order, FCC 24-114 (2024) (*Eighth Report and Order*).

² *Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Announce Temporary Filing Freeze on the Acceptance and Processing of Certain Part 90 Applications for the 4940–4990 MHz Band*, WP Docket No. 07-100, Public Notice, 35 FCC Rcd 9522 (PSHSB/WTB 2020) (*Freeze Public Notice*) (regarding affected services and spectrum the freeze applies “only to applications pertaining to licenses in the Private Mobile Radio Service, specifically those for the Public Safety 4940–4990 MHz Band (radio service code PA)”).

³ *Id.* at 9522–23 (listing “affected applications” subject to the freeze and “excepted applications” not subject to the freeze).

⁴ *Amendment of Part 90 of the Commission’s Rules*, WP Docket No. 07-100, Order on Reconsideration and Eighth Further Notice of Proposed Rulemaking, 36 FCC Rcd 15032, 15036, para. 9 (2021) (*2021 Order on Reconsideration or Eighth Further Notice*).

⁵ *Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Modify Temporary Filing Freeze on the Acceptance and Processing of Certain Part 90 Applications for the 4940–4990 MHz Band*, WP Docket No. 07-100, Public Notice, 36 FCC Rcd 15185 (PSHSB/WTB 2021) (*First Freeze Modification Public Notice*).

⁶ *Id.* at 15186 (listing “excepted applications” not subject to the freeze).

In the *Seventh Report and Order*, the Commission established a comprehensive and coordinated nationwide approach to managing the 4.9 GHz band.⁷ As part of this approach, the Commission added a Band Manager,⁸ and modified its rules to allow for the collection of granular data on public safety operations in the 4.9 GHz band.⁹ The Commission directed the Bureaus to make any necessary enhancements to ULS, to obtain any necessary review under the Paperwork Reduction Act, and to announce by public notice when ULS is prepared to accept the more granular data on public safety operations in the 4.9 GHz band.¹⁰ In addition, pending resolution of issues raised in the *Ninth Further Notice*, the Commission retained the freeze for all applicants who are not already 4.9 GHz licensees.¹¹

In the *Eighth Report and Order*, the Commission determined that the 4.9 GHz Band Manager, once selected, will be eligible to apply for a nationwide overlay license and authorized to enter into a sharing agreement with the First Responder Network Authority (FirstNet).¹² In connection with this decision, the Commission reinstated the freeze as it applies to incumbent licensees that was lifted pursuant to the *2021 Order on Reconsideration* and the subsequent *First Freeze Modification Public Notice*.¹³ The Commission further directed the Bureaus to implement this change to the freeze within 30 days of adoption of the *Eighth Report and Order*.¹⁴ The Commission clarified that this freeze shall not apply to any necessary filings associated with issuance of the Band Manager's nationwide overlay license.¹⁵

Accordingly, and effective immediately, we hereby modify the 4.9 GHz band licensing freeze in two ways. First, we remove from the list of “excepted applications” certain applications that the *Freeze Modification Public Notice* previously excepted, and we reincorporate them into the list of “affected applications:”

- (1) applications filed by incumbent 4.9 GHz licensees to modify existing licenses in the 4.9 GHz band, whether for permanent fixed sites or geographic areas; and
- (2) applications filed by incumbent 4.9 GHz licensees for new permanent fixed site operations located within their licensed service areas.

⁷ See *Amendment of Part 90 of the Commission's Rules*, WP 07-100, *Seventh Report and Order and Ninth Further Notice of Proposed Rulemaking*, 38 FCC Rcd 704 (2023) (*Seventh Report and Order* or *Ninth Further Notice*).

⁸ See *id.* at 711, para. 20.

⁹ See *id.* at 717–18, paras. 33–34; 47 CFR § 90.1207(f).

¹⁰ See *Seventh Report and Order*, 38 FCC Rcd at 717, para. 34. In the *Eighth Report and Order*, the Commission announced newly created radio service codes PB (public safety licensees performing base/mobile, mobile-only or temporary fixed operations) and PF (public safety licensees operating fixed links) associated with the granular data collection. *Eighth Report and Order*, FCC 24-114, at 37, para. 58. As directed by the Commission in the *Seventh Report and Order*, the Bureaus will release a public notice announcing when ULS is prepared to accept the more granular data on public safety operations in the 4.9 GHz band. See *Seventh Report and Order*, 38 FCC Rcd at 717, para. 34.

¹¹ See *Seventh Report and Order*, 38 FCC Rcd at 731, para. 70.

¹² *Eighth Report and Order*, FCC 24-114, at 2, para. 1.

¹³ *Id.* at 36, para. 55. In the *Eighth Report and Order*, the Commission retained the freeze for all applicants who are not already 4.9 GHz licensees because “issuing licenses to new entrants before the Commission has collected granular data from incumbent licensees would further complicate the spectrum environment and undermine the Band Manager's flexibility to provide for efficient use of this spectrum.” *Id.* at 35–36, paras. 53, 55; see also *First Freeze Modification Public Notice*.

¹⁴ *Eighth Report and Order*, FCC 24-114, at 36, para. 55.

¹⁵ *Id.* at 36, para. 55. The freeze applies to affected applications unless otherwise excepted below, and unless incumbents are filing certain types of applications to comply with the granular data collection.

Second, we add certain other applications to the list of “excepted applications:”

- (1) applications with radio service codes PB and PF filed by incumbent 4.9 GHz licensees that reflect *existing* authorized use of the 4.9 GHz band in accordance with the Commission’s collection of granular licensing data pursuant to section 90.1207(e)–(g);¹⁶ and
- (2) any necessary filings associated with issuance of the Band Manager’s nationwide overlay license.

Because this is the second modification of the freeze, for clarity, we provide the complete, updated lists of affected applications and excepted applications below.

Affected services and spectrum. The freeze modified by this Public Notice applies only to applications pertaining to licenses in the Private Mobile Radio Service, specifically those for the Public Safety 4940–4990 MHz Band (radio service codes PA, PB, and PF).

Affected applications. Effective immediately and until further notice, the Bureaus will not accept: (1) an application, whether filed by an incumbent 4.9 GHz licensee or filed by an entity who does not already have existing 4.9 GHz band license, for a new license authorizing operations of any kind (geographic area or permanent fixed site operations) in the 4.9 GHz band, except as provided for below; or (2) an application to modify an existing license authorizing operations in the 4.9 GHz band, whether for permanent fixed sites or geographic areas, except as provided for below. Any such applications that are filed on or after the date of this Public Notice will be dismissed without prejudice. Pending applications that remain subject to the freeze, as well as future applications that are subject to the freeze, will be either dismissed without prejudice, or if accompanied by a waiver request, reviewed pursuant to our waiver standard as appropriate.¹⁷ Notwithstanding the implementation of this freeze, a geographic area licensee may continue to deploy mobile units, base stations, and temporary fixed stations within its license area, as such actions do not require the filing of an application with the Commission.¹⁸ The Bureaus retain jurisdiction to manage and implement the freeze in the future.¹⁹

Excepted applications. This freeze does not apply to applications that would not destabilize the licensing landscape, including: (1) applications to renew existing licenses without modification; (2) applications that seek to modify existing licenses by deleting frequencies or fixed sites; (3) applications that seek to modify existing licenses by changing technical parameters in a manner that does not expand the station’s spectral or geographic coverage, such as decreases in bandwidth, power level, or antenna height; (4) applications to assign or transfer licenses; (5) notices of construction for permanent fixed site licenses or consummation of assignments or transfers; (6) requests for extensions of time to construct or consummate previously granted assignment or transfer applications; (7) applications to cancel licenses; (8) applications for special temporary authority for short-term operations; and (9) applications from geographic area licensees that require individual licensing under rule section 90.1207(b);²⁰ (10) applications with radio service codes PB and PF filed by incumbent 4.9 GHz licensees that reflect *existing* authorized use of the 4.9 GHz band in accordance with the Commission’s collection of granular licensing data pursuant to section 90.1207(e)–(g); and (11) any necessary filings associated with issuance of the Band Manager’s nationwide overlay license.

¹⁶ 47 CFR § 90.1207(e)–(g).

¹⁷ 47 CFR § 1.925; *see also Freeze Public Notice*, 35 FCC Red at 9523.

¹⁸ *See* 47 CFR § 90.1207(b), (c).

¹⁹ *Eighth Report and Order*, FCC 24-114, at 36, para. 55.

²⁰ 47 CFR § 90.1207(b)(1)(i)–(iii) (Commission rules state subject to section 90.1209, a 4940–4990 MHz band license gives the licensee authority to construct and operate any number of base stations anywhere within the area authorized by the license, but a station is required to be individually licensed if “(i) International agreements require coordination; (ii) Submission of an environmental assessment is required under § 1.1307 of this chapter; or (iii) The station would affect areas identified in § 1.924 of this chapter.”).

Modification of the freeze is procedural and, therefore, not subject to the notice and comment and effective date requirements of the Administrative Procedure Act.²¹ We find good cause for not delaying the effective date of the freeze modification pending publication of this Public Notice in the Federal Register, because delay would undermine the purpose of the modification. Specifically, the Commission stated that its decision to reinstate the freeze on expansions, additions to, or modification of other technical parameters applicable to incumbent licensees is necessary in light of its decision to enable expanded public safety access to the band through the Band Manager's nationwide overlay license and a sharing agreement with FirstNet.²²

Waiver Requests. Applicants continue to have the option to submit requests for waiver of this freeze on a case-by-case basis pursuant to section 1.925 of the Commission's rules.²³ Any waiver request would need to demonstrate why it is justified by special circumstances and consistent with the public interest, including the policies behind the rules that may be applicable to the band. While we will review each waiver request on a case-by-case basis, we encourage applicants to document their state or local authority to operate, and to address the existing use of 4.9 GHz band spectrum by other state or local entities in the same jurisdiction.

Additional Information. For further information regarding this Public Notice, please contact Thomas Eng, Public Safety and Homeland Security Bureau, at (202) 418-0019 or Thomas.Eng@fcc.gov; or Halie Peacher, Mobility Division, Wireless Telecommunications Bureau at (202) 418-0514 or Halie.Peacher@fcc.gov.

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

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²¹ 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); *Kessler v. FCC*, 326 F.2d 673, 680–82 (D.C. Cir. 1963).

²² *Eighth Report and Order*, FCC 24-114, at 36, para. 54.

²³ 47 CFR § 1.925; see also *Freeze Public Notice*, 35 FCC Rcd at 9523.