



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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WIRELESS TELECOMMUNICATIONS BUREAU, PUBLIC SAFETY AND HOMELAND SECURITY BUREAU, AND OFFICE OF ENGINEERING AND TECHNOLOGY PROVIDE REMINDER OF JANUARY 1, 2013 DEADLINE FOR TRANSITION TO NARROWBAND OPERATIONS IN THE 150-174 MHz AND 421-512 MHz BANDS AND GUIDANCE FOR SUBMISSION OF REQUESTS FOR WAIVER AND OTHER MATTERS

This *Public Notice* reminds licensees, frequency coordinators, equipment vendors, and other interested parties of the Federal Communications Commission's January 1, 2013 deadline for private land mobile radio services in the 150-174 MHz and 421-512 MHz (VHF/UHF) bands to migrate to narrowband (12.5 kHz or narrower) technology.¹ It also provides guidance for licensees that intend to submit requests for waiver of the deadline and sets forth additional information regarding the transition to narrowband technology.

Key Narrowbanding Deadlines

Licensees and frequency coordinators should be aware that

(1) as of **January 1, 2011**, the Commission no longer accepts VHF/UHF applications for:

- new wideband operations (*i.e.*, operations with only one voice path per 25 kHz of spectrum); or
- modification of existing wideband 25 kHz stations that expand the authorized interference contour (19 dBu VHF, 21 dBu UHF); and

(2) by **January 1, 2013**, all VHF/UHF Industrial/Business and Public Safety Radio Pool licensees must:

- operate on 12.5 kHz (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).

¹ See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, WT Docket No. 99-87, RM-9332, 18 FCC Rcd 3034 (2003) (*Second R&O*); Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Third Memorandum Opinion and Order, Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004) (*Third MO&O*); Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Order*, WT Docket No. 99-87, RM-9332, 25 FCC Rcd 8861 (2010) (*Narrowbanding Waiver Order*); see also 47 C.F.R. §§ 90.203(j), 90.209(b).

Equipment manufacturers should be aware that, as of **January 1, 2011**, the Commission no longer certifies 150-174 MHz or 421-512 MHz band equipment capable of operating with only one voice path per 25 kHz of spectrum. Providers may manufacture and import previously-certified equipment that includes a 25 kHz mode until January 1, 2013.²

Guidance for Submitting Requests for Waiver of the Narrowbanding Deadline

VHF/UHF licensees that anticipate the need for additional time beyond the January 1, 2013 deadline to complete the narrowbanding of their systems must request a waiver. The guidance contained in this *Public Notice* is intended to expedite the preparation and submission of waiver requests by licensees, as well as the review of such requests by the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau, consistent with the Commission's overarching goal of ensuring a timely transition to narrowband operations.

The Commission has long emphasized its commitment to the January 1, 2013 deadline for migration to narrowband technology.³ Consequently, requests for waivers of the deadline will be subject to a high level of scrutiny under the waiver standard set forth in Section 1.925 of the Commission's rules, which requires the waiver petitioner to demonstrate either that "(i) [t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the waiver would be in the public interest; or (ii) [i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."⁴ For licensees seeking to demonstrate that they meet the Section 1.925 standard, we have set out a number of factors (see "Recommended Content of Waiver Requests" below) that are likely to be relevant to our assessment of their case, and we recommend that they present facts addressing these factors.

Filing Procedures

Industrial/Business Pool licensees (radio service codes IG, YG, IK, and YK) may file requests with the Wireless Telecommunications Bureau pursuant to Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925. Public Safety Pool licensees (radio service codes PW and YW) and licensees whose systems include both Industrial/Business Pool licenses and Public Safety Pool licenses may file requests with the Public Safety and Homeland Security Bureau pursuant to Section 1.925 or via e-mail through the narrowbanding@fcc.gov mailbox.⁵ Requests will be posted in the Universal Licensing System (ULS).⁶

Coordinated Requests

We strongly encourage licensees that are part of a regional coordination plan (or that are otherwise coordinating their rebanding efforts) to file coordinated requests.⁷

² See *Narrowbanding Waiver Order*, 25 FCC Rcd at 8864 ¶ 8.

³ See *id.* at 8866 ¶ 12 (citing *Second R&O*, 18 FCC Rcd at 3038 ¶ 12; *Third MO&O*, 19 FCC Rcd at 25047 ¶ 2).

⁴ 47 C.F.R. §§ 1.925(b)(3).

⁵ Requests filed via e-mail should be attached to the e-mail as a separate document.

⁶ Information for which confidentiality is sought under Section 0.459 of the Commission's Rules, 47 C.F.R. § 0.459, will not be publicly viewable.

⁷ Coordinating licensees may designate a "lead" licensee to file a waiver request on their behalf. For tracking purposes, however, each licensee that is part of the requesting group should separately provide the information described in this Public Notice regarding its system.

Recommended Content of Waiver Requests

We recommend that licensees' waiver requests provide facts addressing the factors listed below (including the timetable information suggested in the second set of bullet points), which are likely to be relevant in assessing a licensee's showing that it has met the Commission's waiver standard under Section 1.925.

- Steps already taken to plan for, initiate, and complete the transition to narrowband operations
- System size and complexity
- Whether system equipment is narrowband-capable or must be replaced or upgraded
- Whether the licensee plans additional system upgrades or improvements in addition to converting to narrowband operation
- Funding sources, including whether the licensee's budget requires government approval or a multi-year budget process
- Whether the licensee's narrowbanding schedule is affected by neighboring systems due to interoperability relationships or other interdependencies
- Plans to minimize the negative impact of extended wideband operations on co-channel and adjacent channel operations, including a description of the spectrum environment in the affected area
- If the licensee plans to migrate to a non-VHF/UHF band (*e.g.*, 700 MHz or 800 MHz), whether it will relinquish VHF/UHF spectrum once it has migrated and the amount of spectrum to be relinquished

Licensees should also provide a proposed timetable for completion of narrowbanding that includes the following elements:

- What steps in the process have been or will be taken prior to January 1, 2013
- Anticipated dates of commencement and completion of:
 - Replacement or retuning of mobiles/portables
 - Infrastructure replacement or retuning

When addressing the above factors, we recommend that licensees explain how (i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process. Such showings can support various elements of the Section 1.925 waiver standard.

Finally, we strongly encourage licensees that anticipate the need for additional time beyond the January 1, 2013 deadline to file their waiver requests as soon as possible (preferably before the end of 2011), to allow sufficient time for Commission review of waiver requests and licensee implementation of proposed timetables.

Additional Narrowbanding Information

Below we provide information about the narrowbanding transition in response to questions that have been raised by interested parties. Additional information concerning narrowbanding migration and compliance, including other frequently asked questions, is available at the Public Safety and Homeland Security Bureau's narrowbanding webpage, www.fcc.gov/narrowbanding, which is updated regularly.

Do narrowbanding modification applications require frequency coordination or payment of Commission fees?

No. A “straight” narrowbanding modification application requires neither frequency coordination (pursuant to Section 90.175(j)(20) of the Commission’s Rules, 47 C.F.R. § 90.175(j)(20)) nor payment of Commission fees (pursuant to Section 1.1116(a) of the Commission’s Rules, 47 C.F.R. § 1.1116(a)). A straight narrowbanding modification application is an application to modify a license by deleting a wideband emission designator (occupied bandwidth in excess of 11.25 kHz) and, if necessary, adding one or more narrowband emission designators – but not changing the existing frequencies, emission types (the last three characters of the emission designator), locations, or other technical parameters of the license.⁸ An application that reduces the occupied bandwidth but also alters other technical parameters, such as changing from analog to digital emissions, is not a straight narrowbanding modification application and requires both frequency coordination and payment of Commission fees.

Straight narrowbanding applications are fee-exempt pursuant to Section 1.1116(a) of the Commission’s Rules, which exempts applications filed for the sole purpose of modifying a license in order to comply with new requirements of the Commission’s rules.⁹ To file under the fee exemption, the applicant filling out FCC Form 601 must enter ‘yes’ responses to Items 9 (exempt from the application fee) and 10 (exempt from the regulatory fee). In addition, the applicant must respond ‘yes’ to Item 8 on Form 601 and submit an attachment explaining why the application is fee-exempt. The attachment type should be the 'fee exemption' attachment. It is recommended that licensees reference Section 1.1116(a) in the attachment explanation field and indicate that the filing was made exclusively to comply with the Commission's narrowbanding mandate.¹⁰

Must a licensee that currently employs narrowband-equivalent technology on 25 kHz channels affirmatively certify that it meets the narrowband spectrum efficiency standard?

Not at this time. Existing narrowband-equivalent licensees are not required to provide a separate certification to show that their equipment meets the narrowband efficiency standard. However, such licensees must provide this information in conjunction with an application to either renew or modify the license. After January 1, 2013, the Commission may ask narrowband-equivalent licensees that have not renewed or modified their licenses prior to January 1, 2013 to provide certification.

⁸ Applicants should modify the emission designator for the existing frequency assignment(s), rather than modify the license by adding a “new” frequency that duplicates an existing frequency in all respects other than occupied bandwidth. Adding a “new” frequency will result in ULS assigning a new construction deadline.

⁹ Applicants in the Special Emergency Radio and Public Safety Radio Services are generally fee-exempt. *See* 47 C.F.R. § 1.1116(b).

¹⁰ Licensees that paid a fee to file a straight narrowbanding modification but believe that the exemption should apply may request a refund. All such requests must be submitted in writing, with an explanation of the grounds for the request, to:

Office of the Managing Director
Office of the Chief Financial Officer
Federal Communications Commission
445 12th Street, SW (Attn: Chief, RROG, Rm 1-A724)
Washington, DC 20554

How should an applicant demonstrate that a new or expanded 25 kHz application is a permissible narrowband-equivalent station rather than a prohibited wideband station?

Frequency coordinators are expected to take reasonable steps to verify that proposed new or expanded VHF/UHF operations comply with the narrowbanding requirement. In addition, an applicant for new or expanded operations with an occupied bandwidth exceeding 11.25 kHz must respond ‘yes’ to Item 8 on the FCC Form 601 and submit an attachment explaining that the proposed operations meet the narrowband efficiency standard. The attachment must include the equipment’s FCC ID#, which will enable Commission licensing staff to confirm that the equipment operates in a narrowband-equivalent mode. If necessary, Commission staff will seek further information from the applicant.

May a licensee correct the coordinates or other technical parameters on a wideband license even if the correction results in an apparent expansion of the interference contour?

Yes. The licensee must respond ‘yes’ to Item 8 on the FCC Form 601 and submit an attachment explaining that the data is being corrected to reflect the station’s actual parameters and does not in fact expand the authorized interference contour. Note, however, that changes to the licensed coordinates or technical parameters (other than in a straight narrowbanding application) could require frequency coordination.

Does the data efficiency standard apply to systems operating on narrowband channels?

No. The data efficiency standard of 4,800 bits per second per 6.25 kHz applies only to operations with an occupied bandwidth greater than 11.25 kHz. There is no minimum data rate for systems operating on narrowband channels.

Does the January 1, 2013 narrowbanding deadline apply to non-Part 90 VHF and UHF frequencies?

No. The narrowbanding mandate applies only to Industrial/Business and Public Safety Radio Pool licensees in the 150-175 MHz and 421-512 MHz bands regulated under Part 90 of the Commission’s Rules. It does not apply to other services in these bands, such as the Amateur, Maritime, or Personal (Multi-Use Radio Service, General Mobile Radio Service, Family Radio Service) Radio Services.

What are the potential enforcement consequences to VHF/UHF licensees of failing to narrowband by January 1, 2013?

As of January 1, 2013, the Commission’s rules will prohibit Industrial/Business and Public Safety Radio Pool licensees in the 150-174 MHz and 421-512 MHz bands from operating with wideband channels (unless their equipment meets the narrowband efficiency standard), even if the license still lists a wideband emission designator. Licensees operating in wideband mode after January 1, 2013 that have not received a waiver from the Commission extending the deadline will be in violation of these rules. Operation in violation of the Commission’s rules may subject licensees to appropriate enforcement action, including admonishments, license revocation, and/or monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up to \$112,500 for any single act or failure to act.¹¹

¹¹ See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation. 47 C.F.R. § 1.80(b)(5). Other statutory amounts may apply based on the status of the licensee. See 47 C.F.R. 1.80(b)(1), (2). In addition, in determining the amount of the forfeiture penalty, the Commission may consider other statutory factors, such as “the nature, circumstances, extent, and gravity of the violation and, with respect to the

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As noted above, additional information concerning narrowbanding migration and compliance is also available at the Public Safety and Homeland Security Bureau's narrowbanding webpage:

www.fcc.gov/narrowbanding

In addition, licensees and frequency coordinators may contact Mr. Melvin Spann of the Wireless Telecommunications Bureau, Mobility Division, (202) 418-1333, Melvin.Spann@fcc.gov, or Mr. Roberto Mussenden of the Public Safety and Homeland Security Bureau, Policy Division, (202) 418-1428, Roberto.Mussenden@fcc.gov. Equipment manufacturers may contact Mr. Andy Leimer of the Office of Engineering and Technology, (301) 362-3049, Andrew.Leimer@fcc.gov.

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violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require." See 47 U.S.C. § 503(b)(2)(E); 47 C.F.R. § 1.80(b)(4).