

Wireless Roundup (August 2020)

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Upcoming Filing and Comment Deadlines

FCC Solicits Input on Proposed Modifications to Tower Siting Rules:

Reply comments are due August 3 on the Federal Communications Commission's (FCC or Commission) Notice of Proposed Rulemaking soliciting input on whether it should allow excavation outside of the geographical boundaries of an existing tower site. This includes whether including the definition of "boundaries" under Section 6409 (a) of the Spectrum Act would advance its objectives.

FCC Seeks Comment on the CVAA Fifth Biennial Report to

Congress: The FCC is soliciting feedback on developing its Fifth Biennial Report to Congress under the Twenty-First Century Communications and Video Accessibility Act (CVAA) via Public Notice. Specifically, the CVAA requires the Commission to ensure that persons with disabilities have access to emerging communications technologies, and to issue a report to Congress every two years on the extent to which accessibility barriers still exist. Comments are due August 4.

FCC Requests Feedback on Expanding Commercial Use in the 70/80/90 GHz Bands: Comments are due August 5 on the Commission's Notice of Proposed Rulemaking regarding potential changes that would facilitate increased commercial use of the 71–76 GHz, 81–86 GHz, 92–94 GHz, and 94.1–95 GHz bands (70/80/90 GHz bands). The bands are currently allocated to co-primary Federal and non-Federal use. Among other things, the FCC is seeking comment on whether to change regulatory standards to allow smaller antennas to operate in the bands. Reply comments are due September 4.

DOE Issues Request for Information on Securing the U.S. Bulk-Power System: The Department of Energy is seeking comment through a Request for Information on Executive Order 13920 – “Securing the United States Bulk-Power System.” Commenters should focus on specific bulk-power system equipment and components, along with recommended cyber and supply chain risk management standards and guidelines. Comments are due August 7.

NIST Seeks Comment on Federal IoT Profile: NIST is establishing a federal profile of the Core Baseline, established in NISTIR 8259A and analyzed the controls found in NIST SP 800-53, to help government entities securely incorporate IoT devices into their systems and meet security requirements for federal information and systems. NIST is seeking feedback on the detailed capabilities catalog for use in the Federal Profile by August 7.

FCC Asks for Feedback on CTIA and USTelecom Petition for Rulemaking and Declaratory Ruling to Streamline Pro Forma Transactions: The FCC is seeking comment via Public Notice on a Petition for Rulemaking and Declaratory Ruling filed by CTIA – The Wireless Association (CTIA) and USTelecom (available [here](#)). The petition asks the Commission to modify its rules to eliminate the existing prior approval requirement for *pro forma* transactions currently subject to such notification obligations. Reply comments are due August 10.

FCC Seeks Comment on the FCC's 6 GHz Report and Order: Replies to an opposition are due August 10 on the FCC's Public Notice seeking comment on four petitions for reconsideration on the FCC's 6 GHz Report and Order filed by APCO International (available [here](#) (since withdrawn)), CTIA (available [here](#)), Fixed Wireless Communications Coalition (available [here](#)), and Verizon (available [here](#)). Specifically, the petitions ask the Commission to reconsider (1) allowing low-power indoor operations across the 6 GHz band without an automated frequency control (AFC) system and (2) allowing both indoor and outdoor operations in 850 megahertz of the band with an AFC system.

NIST Solicits Pre-Draft Comments on Digital Identity Guidelines: The National Institute of Standards and Technology (NIST) is requesting comments on the four-volume set of Digital Identity Guideline documents, which include Special Publication (SP) 800-63-3 Digital Identity Guidelines, SP 800-63A Enrollment and Identity Proofing, SP 800-63B Authentication and Lifecycle Management, and SP 800-63C Federation and Assertions. NIST has identified several recent developments that suggest that the Digital Identity Guideline documents are in need of review, including the ongoing COVID-19 pandemic, which has restricted the frequency of in-person interactions. Comments are due August 10.

BIS Issues Final 90-Day Extension for Huawei TGL: Unless further extended, the Department of Commerce Bureau of Industry and Security's (BIS) grant of a Temporary General License (TGL) to Huawei Technologies Co. (Huawei) will expire on August 13. BIS authorized the Huawei TGL on May 20, 2019 through a Final Rule and extended it on both March 12 and May 15. If the authorization expires, then U.S. telecommunications providers utilizing Huawei devices in their networks may no longer be able to use such devices if the authorization is eliminated.

State Department Requests Information on Providing a 5G Clean Path: Responses to the U.S. Department of State's (State Department) Request for Information on developing a 5G Clean Path were extended to August 15. According to the State Department, a 5G Clean Path is "an end-to-end communication path that does not use any 5G transmission, control, computing, or storage equipment from an untrusted vendor." Responders from industry should identify technical capabilities that they could utilize to accomplish a 5G Clean Path if a solicitation were issued.

BIS Seeks Comment on Interim Final Rule on 5G Standards Setting: Comments are due August 17 on an Interim Final Rule titled, *Release of "Technology" to Certain Entities on the Entity List in the Context of Standards Organizations*. BIS's Interim Final Rule would allow U.S. companies to work on 5G standards setting committees with Huawei. Specifically, technology that would have required a license to be disclosed to Huawei under the Export Administration Regulations (EAR) can be disclosed if it is for the purpose of standards development in a standards-development body without the need for an export license.

FCC Requests Comment on NCTA Petition for Declaratory Ruling: The Commission is seeking comment on a petition for declaratory ruling filed by NCTA – The Internet & Television Association (available [here](#)) via Public Notice. Among other things, the petition for declaratory ruling asks the FCC to declare that pole owners must share in the costs of pole replacements in unserved areas pursuant to Section 224 of the Communications Act and pole attachment disputes in unserved areas should receive priority treatment through the creation of an accelerated docket under Section 1.736 of the Commission's rules. Comments are due August 19 and Reply comments are due September 3.

NIST Seeks Comment on Enhanced Security Requirements to Protect Controlled Unclassified Information: Comments are due August 21 on Draft NIST Special Publication (SP) 800-172. This final public draft provides security requirements that NIST hopes will protect the confidentiality, integrity, and availability of Controlled Unclassified Information associated with critical programs or high value assets in nonfederal systems and organizations from the advanced persistent threat.

NIST Requests Feedback on Second Draft of Integrating Cybersecurity and ERM: NIST is seeking comment on the second draft of NISTIR 8286, which is intended to help organizations to improve their cybersecurity risk information sharing within their enterprise risk management (ERM) programs. Comments are due August 21.

NIST Seeks Comment on NICE Framework Draft Revision: Comments are due August 28 on Draft NIST Special Publication 800-181 which describes the Workforce Framework for Cybersecurity (NICE Framework). The NICE Framework is intended to be a reference from which companies or industries can develop

additional tools to meet their cybersecurity education and training needs.

NIST Solicits Input on Security Guidelines for Storage Infrastructure: NIST is seeking comment on SP 800-209, which includes security recommendations for storage infrastructure for information technology. The security focus areas in the draft include physical infrastructure, authentication and authorization, change management, configuration control, data protection and isolation, and data encryption. Comments are due August 31.

FCC Seeks Comment on Countering Contraband Wireless Device Use in Prisons: On July 28, 2020, the Wireless Telecommunications Bureau issued a Public Notice seeking to refresh the record in GN Docket No. 13-111, which aims to address the threat of contraband wireless device use by inmates in correctional facilities. The Commission has an outstanding 2017 Further Notice of Proposed Rulemaking in this proceeding. Comments and Reply Comments will be due 30 and 45 days from publication in the Federal Register, respectively.

FAA Solicits Stakeholder Feedback on Spectrum for Unmanned Aircraft Systems Report. Comments are due August 7 on the FAA's draft "Report to Congress under Section 374 of FAA Reauthorization Act of 2018, Public Law 115-254: Unmanned Aircraft Systems Use of Spectrum."

Upcoming Effective Dates

Creation of Interstitial 12.5 Kiloherz Channels in the 800 MHz Band. The Order on Reconsideration goes into effect on August 10. The Order grants in part and denies in part a petition for reconsideration filed by the Land Mobile Communications Council (LMCC) seeking modification and clarification of certain technical rules adopted in a 2018 Report and Order for coordinating interstitial channels in the 809-817/854-862 MHz band. The FCC allows some applicants for interstitial applications to streamline their applications, clarifies standards for calculating interference contours that define the distances that must be maintained between interstitial and incumbent stations, and refines certain technical elements of the interstitial channel rules. The FCC declined to adopt certain proposals, including LMCC's proposal to allow applicants to use a matrix containing the dBu levels for certain technology combinations posted on the LMCC website, rather than codifying the matrix in the rules.

Review of the Commission's Rules Governing 896-901/935-940 MHz Band. The Report and Order goes into effect on August 17. The Report and Order creates a regulatory framework for 900 MHz broadband licensing by establishing licensing procedures and adopting operational and technical rules to minimize harmful interference to narrowband operations. In doing so the FCC realigns the 900 MHz band to enable a broadband transition from interleaved SMR and B/ILT blocks to one broadband segment and two narrowband segments. Compliance will not be required for §§ 27.1503 and 27.1505 until the Commission publishes a document in the Federal Register announcing that compliance date.

Upcoming Meetings and Events

Exploring Artificial Intelligence Trustworthiness Kickoff Webinar: The National Institute of Standards and Technology (NIST) will hold the kickoff webinar to its workshop series on exploring artificial intelligence (AI) trustworthiness on August 6. Registration is required for this workshop. More information, as well as registration, are available [here](#).

Live Webinar on the Implementation of Section 889 of the Fiscal Year 2019 National Defense

Authorization Act: The General Services Administration (GSA) will hold a live webinar on its implementation of the FY 2019 National Defense Authorization Act (NDAA) on August 12. Registration is required and closes on August 5. More information is available [here](#), and a correction including the registration link is available [here](#).

National Security Telecommunications Advisory Committee Meeting: The President's National Security Telecommunications Advisory Committee (NSTAC) will hold a virtual meeting open to the public on August 12. Email registration is required for meeting attendance and closes on August 5. More information is available in the Federal Register public notice [here](#), and an agenda is available [here](#).

Bias in Artificial Intelligence Workshop: NIST will hold a virtual workshop on bias in AI in August 18. Registration for the workshop is closed, but a recording will be available after the event. More information is available [here](#).

FCC Open Meeting: The next FCC Open Meeting is scheduled for August 6. More details are available [here](#). The agenda includes:

- C-band Auction Procedures, Public Notice
- Radio Duplication Rules, Report and Order
- Common Antenna Siting Rules, Report and Order
- Telecommunications Relay Service, Report and Order
- Inmate Calling Services, Report and Order on Remand and a Fourth Further Notice of Proposed Rulemaking

New Items on Circulation

The following items of interest went on circulation before the full Commission in the past month and remain pending as of publication of this Wireless Roundup.

- Media Bureau Order (7/23/2020, before the Media Bureau)
- Schools and Libraries Universal Support Mechanism, No. 02-6, Order. (7/22/2020, before the WCB)
- Notice of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion (7/22/2020, before the WCB)

- Amendment of Section 73.622(i) Post-Transition Table of DTV Allotments (Bridgeport and Stamford, Connecticut) (7/17/2020, before the Media Bureau)
- Application of Connecticut Public Broadcasting, Inc. to Convert to DTS Operation (7/17/2020, before the Media Bureau)
- Petition of Network Communications International Corporation for Forbearance Pursuant to 47 U.S.C. 160(c) from Application of Contribution Obligations on Inmate Calling Services; Securus Technologies, LLC Request for Waiver of Section 54.706 (7/10/2020, before the WCB)
- Kuiper Systems, LLC, Application to Deploy and Operate a Ka-band Non-Geostationary Orbit Satellite Network (7/10/2020, before the International Bureau)
- Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters (7/6/2020, before the International Bureau)
- Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules (7/2/2020, before OMD and OGC)

Coming Up Next...

The next Open Commission Meeting is scheduled for September 30. The meeting agenda, once posted, will be available here.

Reply comments are due September 3 on the Commission's Public Notice requesting comment on a Petition for Declaratory Ruling filed by NCTA – The Internet & Television Association (available here).

Reply comments are due September 4 on the FCC's Notice of Proposed Rulemaking seeking comment on expanding commercial use of the 70/80/90 GHz bands.

Did You Know?

August 5: Partner Henry Gola will be a panelist to discuss small satellite spectrum policy during the Smallsat 2020 online conference. More information here.

August 11: Partner Anna Gomez will speak on "5G Spectrum and a Zero-Trust Network" during the International Symposium on Advanced Radio Technologies (ISART) Virtual Event. Learn more here.

August 26: Partner Josh Turner will speak on "Drone Use in the Telecommunications Industry: Shaping Policy at All Levels and Paving a Favorable Regulatory Path Forward" webinar during the Internet Wireless Communications Virtual Expo (IWCE) 2020 Connecting Critical Communications. Learn more here.

August 27: Partner Anna Gomez will moderate the "Getting Your City Ready to be Smart and Safe: Understanding 5G, Edge Computing, Smart X and Fiber" Virtual Panel at the Internet Wireless Communications Expo (IWCE) 2020 Connecting Critical Communications. More information is available here.

Partners Megan Brown, Jon Burd, Matthew Gardner, and Tracye Howard hosted a webinar on “What Does Section 889 Mean for My Organization?” Listen on demand here.

Recent Wiley Client Alerts, IoT Blog Posts, and Podcasts

New York DFS Takes First Enforcement Action Under Its Cybersecurity Regulation

DoD Issues Memorandum Implementing the Interim Rule for Section 889 Part B

Department of Justice Announces Increased Monitoring and Enforcement of National Security Agreements Under Team Telecom and CFIUS

FCC Robocall Action Adopts Key Safe Harbors and Seeks Input on TRACED Act Implementation

Eagerly Anticipated Small Satellite Rules Near Effective Date

FCC Acts on Supply Chain Security and Seeks Input on Secure Networks Act

Cross-Border Data Transfer Mechanisms in Flux as Court of Justice for the European Union Invalidates Privacy Shield

FTC Examines Proposed Amendments to the GLBA Safeguards Rule in Full-Day Workshop

After Years of Uncertainty, the Supreme Court Will Address “Autodialer” Under the TCPA

In the Absence of Congressional Action, FCC Proposes Rules for Reallocating T-Band Spectrum

Long Awaited, Controversial NDAA Section 889 Rule on Huawei, ZTE, and Video Companies Emerges from FAR Council

August Television License Renewal and Announcements Reminder: NC & SC

August Radio License Renewal and Announcements Reminder: IL & WI

The Supreme Court Invalidates TCPA Robocall Exception, with Fireworks About Severability

August 3, 2020 FCC EEO Deadlines Impacting Broadcast Stations in NC, SC, IL, WI, & CA

Federal Court Says Data Breach Alone Is Insufficient To Establish Standing

Tech, ICT and 5G will Stay Under Bipartisan Scrutiny in the Senate: Minority Report on Chinese “Digital Authoritarianism”

FTC Authority Under Challenge at Supreme Court: What’s At Stake

Examining the Arguments Behind the TCPA Autodialer Circuit Split That the Supreme Court Will Consider Next Term

A Discussion on Drone Tech Policy Issues with DJI's Brendan Schulman

General Counsel of the FCC: A Conversation with Tom Johnson

TCPA Update: New Declaratory Ruling Sheds Light on "Autodialer" Definition

Privacy in Focus (July 2020)

Roundup Disclaimer: Information in the Wireless Roundup is current as of July 30, 2020. This document is for informational purposes only and does not intend to be a comprehensive review of all proceedings and deadlines. Deadlines and dates are subject to change. Please contact your relevant Wiley attorney for further information on the content of this document.