



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU PROVIDES GUIDANCE ON AMENDMENT OF 800 MHZ REGIONAL PLANS TO REFLECT 800 MHZ BAND RECONFIGURATION AND ON LICENSING OF NEW NPSPAC FACILITIES IN THE 806-809/851-854 MHZ BAND

**Regional Planning Committees for Non-Border NPSPAC Regions Must File Amended Plans or
Notifications by April 13, 2009**

WT Docket No. 02-55

By this *Public Notice*, the Public Safety and Homeland Security Bureau (Bureau) provides the following guidance to non-border 800 MHz Regional Planning Committees (RPCs) on amending their regional plans to reflect the reconfigured 800 MHz band plan established in the Commission's 800 MHz rebanding proceeding. We also provide guidance on licensing of new facilities on available channels in the new National Public Safety Planning Advisory Committee (NPSPAC) band at 806-809/851-854 MHz.

We direct RPCs for non-border National Public Safety Planning Advisory Committee (NPSPAC) regions¹ to file amendments to their 800 MHz regional plans by April 13, 2009 to bring them into conformity with the new 800 MHz band plan. These plan amendments will be subject to streamlined filing and approval procedures provided that they are limited to changes in frequency listings based on the new band plan. Alternatively, RPCs may elect to file amended regional plans by June 10, 2009 that combine rebanding-related changes with other modifications that are not rebanding-related, provided that they notify the Bureau by April 13, 2009 of their intent to do so. Amended plans that include substantive modifications not related to rebanding will be subject to standard public notice and approval procedures.

Background

The *800 MHz Report and Order* and subsequent orders in this proceeding provide for reconfiguration of the 800 MHz band in order to eliminate harmful interference to public safety operations within the band.² As part of band reconfiguration, in all non-border areas, the former NPSPAC band at 821-824/866-869 MHz has shifted 15 megahertz lower in the band to 806-809/851-854 MHz, and NPSPAC incumbents are in the process of relocating from the old to the new band.

¹ RPCs for all NPSPAC regions in Waves 1, 2, and 3, other than Region 19 (New England), must file amendments pursuant to this Public Notice. NPSPAC Region 19 and all NPSPAC regions in Wave 4 are excluded from the requirements of this Public Notice and RPCs for these regions are not required to submit amended plans at this time. We will provide information on the plan amendment process for these regions at a later date, after the 800 MHz Transition Administrator determines replacement channel assignments for NPSPAC licensees in the U.S. – Canada and U.S. - Mexico border areas.

² See Improving Public Safety Communications in the 800 MHz Band, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) (*800 MHz Report and Order*).

The Commission's policies require the RPCs to prepare and submit regional plans for use of the NPSPAC band in their respective Public Safety Regions.³ The RPCs must also update their regional plans as needed to conform them to changes in the nationwide NPSPAC band plan, and to reflect other changes in the disposition of NPSPAC channels within the region, technical requirements, or procedures for assigning channels.⁴

Amending 800 MHz Regional Plans to Reflect 800 MHz Band Reconfiguration

As a consequence of 800 MHz band reconfiguration, all non-border 800 MHz non-border RPCs must amend their regional plans currently on file with the Commission to reflect the 15 megahertz shift in the NPSPAC band from 821-824/866-869 MHz to 806-809/851-854 MHz. Some RPCs may also need to amend their regional plans to include other updates or modifications that are not rebanding-related. We establish the following alternative procedures for submission and approval of amended 800 MHz regional plans depending on whether the amendments are rebanding-related only or include other substantive changes.

Regional Plan Amendments Limited to Rebanding-Related Changes. We establish a streamlined process for RPCs that submit amended plans to reflect the 15 megahertz shift in the NPSPAC band from 821-824/866-869 MHz to 806-809/851-854 MHz, but that propose no other substantive amendments to their regional plans. Because the amendments are limited to shifting channel assignments in the existing plan downward by 15 megahertz, we will allow RPCs to submit such amendments without first seeking concurrence from adjacent Public Safety Regions. Furthermore, the Bureau will waive normal public notice and comment procedures for processing these rebanding-related amendments and will approve such amendments without seeking public comment. RPCs will not be eligible for this streamlined process if they submit amended plans with substantive changes that are not rebanding-related, such as changes to channel allocations within the region, technical parameters, or procedures for assigning channels. However, RPCs may include administrative updates (*e.g.*, changes to RPC by-laws or membership) in their amendments under the streamlined process.

Regional Plan Amendments That Include Rebanding-Related Changes and Other Substantive Changes. RPCs submitting rebanding-related amendments may also include other substantive modifications to their regional plans, such as changes to channel allocations within the region, technical parameters, or procedures for assigning channels.⁵ Proposed regional plan amendments that include such substantive modifications will be processed using standard procedures. Thus, RPCs will be required to obtain concurrence to their amendments from adjacent regions prior to filing, and the Bureau will place such amendments on public notice and seek comment prior to approval.

³ 47 C.F.R. § 90.16 (no assignments will be made in spectrum designated for the Public Safety National Plan until a regional plan for the area has been accepted by the Commission). *See also* Development and Implementation of a Public Safety National Plan and Amendment of Part 90 to Establish Service Rules and Technical Standards for Use of the 821-824/866-869 MHz Bands by the Public Safety Services, *Report and Order*, Gen. Docket 87-112, 3 FCC Rcd 905 (1987) (*National Plan Report and Order*).

⁴ *See National Plan Report and Order*, 3 FCC Rcd at 911 ¶57.

⁵ RPCs may also elect to file rebanding-related amendments and other substantive amendments separately. In such cases, the rebanding-related amendments will be processed under the streamlined procedures described in this Public Notice, while the other amendments will be processed under standard procedures.

Procedures and Filing Dates for Regional Plan Amendments

Rebanding-Related Amendments: RPCs in Waves 1 through 3 that intend to submit amended plans reflecting the 15 megahertz shift in the NPSPAC band without other substantive amendments must submit their modifications to the Public Safety and Homeland Security Bureau by April 13, 2009.

Combined Rebanding-Related and Other Substantive Amendments: RPCs in Waves 1 through 3 that intend to submit amended plans reflecting the 15 megahertz shift in the NPSPAC band combined with other substantive amendments must notify the Bureau of their intention by April 13, 2009, and must file amendments by June 10, 2009.

Content of Amendments: All NPSPAC plan amendments (both rebanding-related amendments and rebanding-related combined with other substantive amendments) must be submitted with a cover letter, signed by the regional chairperson, and must reference the original docket number specifically assigned to that region.⁶ RPCs are encouraged to file their amendments electronically using the Commission's Electronic Comment Filing System (ECFS). To expedite the amendment process, a region may electronically poll its RPC membership for review and approval of a proposed amendment. RPCs may also hold online meetings if they so choose.

Licensing of New NPSPAC Facilities Under Amended Regional Plans

Permanent licensing of new facilities on available channels in the new NPSPAC band at 806-809/851-854 MHz is now permitted in non-border regions.⁷ Such applications must be in accordance with the RPCs' amended regional plans.⁸ Applicants for new facilities in the new NPSPAC band should obtain frequency coordination from a public safety frequency coordinator and a letter of concurrence from the RPC.

In addition, until rebanding is complete in a NPSPAC region, applications for new NPSPAC facilities must be submitted to the 800 MHz Transition Administrator to verify that the requested channels are not required for rebanding purposes.

Conditional Operation By Sprint on New NPSPAC Channels

Prior to completion of rebanding in a NPSPAC region, Sprint Nextel Corporation (Sprint) may continue existing operations on 806-809/851-854 MHz channels after new NPSPAC licenses are granted, but must cease operations on any such channel to the extent necessary to comply with the co-channel spacing requirements of Section 90.621(b)⁹ on 60 days notice that the new NPSPAC licensee is ready to use the channel for testing purposes or to commence operations.¹⁰ Once Sprint has received the 60-day

⁶ A list of NPSPAC region contacts and docket numbers are available on the PSHSB web page at <http://www.fcc.gov/pshs/public-safety-spectrum/800-MHz/rpc-directory.html>

⁷ Licensing of "new" facilities refers to licensing of facilities that did not previously operate in the old NPSPAC band as well or to non-rebanding-related modification of facilities after they have been rebanded. The procedures in this Public Notice do not apply to rebanding-related license modifications to add post-rebanding channels and remove pre-rebanding channels from the licenses for rebanded facilities. Such rebanding-related modifications do not require coordination or RPC concurrence.

⁸ See Improving Public Safety Communications in the 800 MHz Band, *Supplemental Order and Order on Reconsideration*, WT Docket No. 02-55, 19 FCC Rcd 25120, 25159-60 ¶ 89 n. 226 (2004).

⁹ 47 CFR § 90.621(b).

¹⁰ Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9558, 9662 ¶ 14 (PSHSB 2008) (60-day notice procedure applies to channels "licensed for new post-rebanding NPSPAC

notice, Sprint will terminate its operations to the extent necessary to allow the new licensee to operate on the channel without harmful interference.

Contact Information

For further information, contact: Brian Marengo, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0838 or Brian.Marengo@fcc.gov; Jeannie Benfaida, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-2313 or Jeannie.Benfaida@fcc.gov.

Action by the Acting Chief, Public Safety and Homeland Security Bureau.

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facilities”). Prior to commencing operations, the new NPSPAC licensee must provide at least 60 days written or electronic notice to Sprint that it intends to activate the channel(s) for testing or commencement of operations. Sprint has established an email box to receive these notifications at 800mhzinterleavedspectrum@sprint.com.