



PUBLIC NOTICE

Federal Communications Commission
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DA 11-274

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU
SEEKS COMMENT ON CONTINUED USE OF THE FORMER
800 MHZ NPSPAC MUTUAL AID CHANNELS
IN THE CANADA/UNITED STATES BORDER AREAS
WT DOCKET NO. 02-55**

COMMENT DATE: March 14, 2011

REPLY COMMENT DATE: March 29, 2011

On September 24, 2009, and November 25, 2009, respectively, the 800 MHz Regional Planning Committee 55 and the National Regional Planning Council (Petitioners) filed petitions for rulemaking seeking amendment of the Commission's rules to permit continued use of the former NPSPAC Mutual Aid Channels in the 821-824 MHz/866-869 MHz segment of the 800 MHz. band¹ in the Canada/United States border area. Petitioners submit that continued use of the NPSPAC Mutual Aid channels after 800 MHz rebanding is complete² will comport with international agreements and is necessary for international public safety mutual aid in the Canada Border Region (CBR). Specifically, Petitioners request that the Commission amend Section 90.619 of its rules³ to permit the former NPSPAC Mutual Aid channels to be used by public safety eligible entities throughout CBR 1-6⁴ and that Enhanced Mobile Radio System (ESMR) licensees protect the use of these channels in the CBR.

To determine whether Petitioners' proposals merit issuance of a Notice of Proposed Rule Making, the Public Safety and Homeland Security Bureau seeks public comment on the following:

¹ There were five such Mutual Aid Channels at 821.0125 MHz/866.0125 MHz; 821.5125 MHz/866.5125 MHz; 822.0125 MHz/867.0125 MHz; 822.5125 MHz/867.5125 MHz; 823.0125 MHz/868.0125 MHz.

² 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); Improving Public Safety Communications in the 800 MHz Band, *Supplemental Order and Order on Reconsideration*, 19 FCC Rcd 25120 (2004); Improving Public Safety Communications in the 800 MHz Band, *Memorandum Opinion and Order*, 20 FCC Rcd 16015 (2005). During rebanding, public safety licensees are transitioning their NPSPAC Mutual Aid channels to the 806-809 MHz/851-854 MHz band segment.

³ 47 C.F.R. § 90.619.

⁴ 47 C.F.R. § 90.619(c)(1).

- Should use of the former NPSPAC Mutual Aid channels, if allowed, include only mobile/portable use or should use by infrastructure (base stations) be permitted as well?
- The area in which ESMR licensees could expect objectionable interference from operations on the former NPSPAC Mutual Aid channels in the CBR. Include the standards used to determine objectionable interference.
- The area, if any, within which users of the former NPSPAC Mutual Aid channels could expect objectionable interference from ESMR licensees operating pursuant to the current rules. Include the standards used to determine objectionable interference.
- The economic and other effects on ESMR licensees and subscribers if ESMR systems were required to protect users of the former NPSPAC Mutual Aid channels.
- Whether, if allowed, operations on the former NPSPAC Mutual Aid channels should be permitted in the entire CBR 1-6 and, if not, the area in which such operations should be permitted.
- Whether, if allowed, operations on the former NPSPAC Mutual Aid channels in the CBR should be permitted on all five such channels or some smaller number.
- Whether, if allowed, operations on the former NPSPAC Mutual Aid channels should be limited to portable units with power output no greater than 4 watts.
- Whether, if allowed, operations on the former NPSPAC Mutual Aid channels in the CBR should be permitted on a day-to-day basis or limited to international emergencies affecting the safety of life or property. If the latter, which agency or agencies should be authorized to declare such an emergency?
- Whether there are alternatives to the use of the former NPSPAC Mutual Aid channels in the CBR that would serve the same or essentially the same purpose and, if so, the nature and cost of such alternatives.
- Whether or not Canadian public safety agencies have expressed interest in using the former NPSPAC Mutual Aid channels to communicate with counterpart agencies in the U.S. within the CBR and, if so, the identity of such public safety agencies and the person at such public safety agencies expressing the interest.

Procedural Matters

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁵ Parties making oral *ex parte* presentations are reminded that memoranda summarizing presentations must contain summaries of the substance of the presentations and not merely list the subjects discussed.⁶ More than a one- or two-sentence description of the views and arguments presented is generally required.⁷ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b). *See* 47 C.F.R. §§ 1.1200(a), 1.1206. Interested parties may file comments on or before March 14, 2011 and reply comments on or

⁵ 47 C.F.R. §§ 1.1200(a), 1.1206.

⁶ *See* Commission Emphasizes the Public’s Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Red 19945 (2000).

⁷ *See* 47 C.F.R. § 1.1206(b)(2). Other rules pertaining to oral and written presentations are also set forth in Section 1.1206(b). *See* 47 C.F.R. § 1.1206(b).

before March 29, 2011 All filings should reference the docket number of this proceeding, **WT DOCKET NO. 02-55**.

Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments. Generally, only one copy of an electronic submission must be filed. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the rulemaking number. Parties may also submit an electronic statement in support of or in opposition to the Petition and/or replies thereto by Internet e-mail.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.⁸ All filings must be addressed to: Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.
- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, DC 20554.

Comments filed in response to this *Public Notice*, along with the Petitions discussed above, will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT Docket DOCKET NO. The comments may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail fcc@bcpiweb.com. *See FCC Announces Change in Filing Location for Paper Documents, Public Notice*, DA 09-2529 (rel. Dec. 3, 2009).

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

⁸ *See FCC Announces Change in Filing Location for Paper Documents, Public Notice*, DA 09-2529 (rel. Dec. 3, 2009).

For further information, please contact Brian Marengo of the Public Safety and Homeland Security Bureau, Policy Division, at (202) 418-0838 or Brian.Marengo @fcc.gov.

Action by the Deputy Chief, Policy Division, Public Safety and Homeland Security Bureau.

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