



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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FEDERAL COMMUNICATIONS COMMISSION PROVIDES GUIDANCE FOR SUBMISSION OF REQUESTS FOR WAIVER OF JUNE 26, 2008 DEADLINE FOR COMPLETION OF 800 MHZ REBANDING

WT Docket No. 02-55

By this *Public Notice*, the Federal Communications Commission (Commission) establishes procedures and provides guidance for submission by 800 MHz licensees of requests for waiver of the 800 MHz rebanding deadline. As part of the rebanding process, certain licensees are being relocated to new frequencies in the 800 MHz band, with all rebanding costs to be paid by Sprint Nextel Corporation (Sprint).¹ The Commission's orders provide for the 800 MHz licensees in non-border areas to complete rebanding by June 26, 2008.²

Any 800 MHz non-border licensee that will require additional time past June 26, 2008 to complete rebanding³ must request a waiver of the deadline from the Public Safety and Homeland Security Bureau (Bureau).⁴ The guidance contained in this *Public Notice* is intended to expedite both the preparation and submission of waiver requests by licensees as well as the review of such requests by the Bureau, consistent with the Commission's overarching goal of ensuring that rebanding is accomplished in a reasonable, prudent, and timely manner.

As the Commission has noted before: "Requests for extension will be subject to a high level of scrutiny. Licensees will be expected to demonstrate that they have worked diligently and in good faith to complete rebanding expeditiously, and that the amount of additional time requested is no more than is reasonably necessary to complete the rebanding process." *See* FCC Announces Supplemental Procedures

¹ *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).

² Non-border licensees are Wave 1-3 licensees and those Wave 4 licensees that have received rebanding frequency assignments from the 800 MHz Transition Administrator (TA). Licensees that have not received frequency assignments from the TA due to their proximity to the U.S.- Canada or U.S.- Mexico border are not subject to this *Public Notice*. We will establish timelines for rebanding completion by border area licensees at a later date.

³ Licensees that have completed physical reconfiguration of their systems by June 26, 2008 will be deemed to have met the deadline. Such licensees remain responsible after the deadline for promptly submitting final rebanding cost documentation to Sprint and/or the TA and modifying their licenses to delete pre-rebanding channels.

⁴ *See* Improving Public Safety Communications in the 800 MHz Band, *Third Memorandum Opinion and Order*, 22 FCC Rcd 17209, 172224 ¶ 48 (2007) (*800 MHz 3rd MO&O*). Failure to seek a waiver may result in a licensee being required to pay its own rebanding costs based on a determination that the licensee has caused unjustified delay or has otherwise failed to meet its obligation to implement rebanding in good faith.

And Provides Guidance For Completion Of 800 MHz Rebanding, *Public Notice*, 22 FCC Rcd 17227, 17232 (2007).

Deadline for Filing Waiver Requests

Licenses in Waves 1 and 2 must file requests for waiver no later than March 17, 2008, while Wave 3 licensees and non-border Wave 4 licensees must file their requests no later than April 15, 2008. Licensees may file waiver requests after these deadlines if they are based on subsequent developments.

Filing Procedures

Licenses may file requests with the Bureau via e-mail through the PSHSB800@fcc.gov mailbox or pursuant to 47 CFR § 1.925.⁵ Licensees should provide copies of requests to both Sprint and the 800 MHz Transition Administrator (TA).⁶ Requests will be posted on the Bureau website and in the licensee's Universal Licensing System (ULS) file.⁷ For ULS posting purposes, we recommend that licensees with multiple call-signs designate a lead call-sign in the request.

Coordinated Requests

We encourage licensees that are part of a regional coordination plan or that are otherwise coordinating their rebanding efforts to file coordinated requests.⁸

Recommended Content of Waiver Requests

We recommend that licensees address the following factors in their request:

- System size and complexity.
- Interoperability with other systems, and how such interoperability will affect the ultimate rebanding schedule.
- Steps already taken to complete physical reconfiguration, including participation in the Subscriber Equipment Deployment (SED) program and participation in a TA-sponsored regional planning session in its Public Safety Region (or commitment to participate in such a session).⁹

Licenses should provide a proposed timetable that includes the following elements:

- What steps in the rebanding process have been or will be taken prior to the June 26, 2008 deadline.
- Anticipated dates of commencement and completion of:
 - Replacement or retuning of mobiles/portables.
 - Infrastructure retuning.

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

⁶ Copies should be submitted to the TA via e-mail to Waivers@800ta.org or by facsimile to (877) 434-2974. Copies should be submitted to Sprint via e-mail to 800MHz@sprint.com or by facsimile to (866) 525-1087.

⁷ Information for which confidentiality is sought under Part 0.459 of the Commission's Rules will not be posted.

⁸ 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 regarding its system described in this Public Notice and set forth in the template developed by the TA.

⁹ For a list of previously held and upcoming regional planning sessions sponsored by the TA, see www.800ta.org. Licensees that have failed to participate in a planning session for their region should contact the TA to determine whether their proposed schedule is consistent with implementation goals identified in the planning session.

- The anticipated date(s) that the licensee will commence operations on its post-rebanding channels and stop operations on its pre-rebanding channels.
- Additional rebanding steps that the licensee must take after commencement of operations on rebanded channels (*e.g.*, removing old channels from radios) and the anticipated date for completion of these steps.

The TA has developed a template form for licensee use to provide the above information in their waiver requests. The template is available at the TA's website at www.800ta.org. To expedite licensee preparation of requests and Bureau review, we recommend that licensees use this template in preparing their requests.

Waiver Requests by Licensees Without Frequency Reconfiguration Agreements (FRAs)

Licensees that are unable to propose a specific timetable because they have not executed a Frequency Reconfiguration Agreement (FRA) with Sprint by the applicable deadline for filing a waiver request should file an interim extension request. The interim extension request should state when the licensee anticipates having an FRA and filing a final waiver request that will include a proposed timetable as described above.

Sprint Waiver Requests to Remain on Channel 1-120 Channels Past June 26, 2008

In the *800 MHz 3d MO&O*, the Commission stated that “in the event that we grant any NPSPAC licensee a waiver allowing it to relocate to the new NPSPAC band after June 26, 2008, we will allow Sprint to petition to remain temporarily on the Channel 1-120 channels that it would otherwise have to vacate to accommodate the NPSPAC system.”¹⁰ Sprint may file such waiver petitions at any time after the corresponding NPSPAC petitions are filed, *i.e.*, it does not need to wait to file until the Bureau has acted on the corresponding NPSPAC petitions.

Contact Information

For further information, contact: Roberto Mussenden, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-1428 or Roberto.Mussenden@fcc.gov; John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0848 or John.Evanoff@fcc.gov.

Action by the Commission on January 17, 2008.

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¹⁰ See *800 MHz 3rd MO&O*, 22 FCC Rcd 17209, 17217 ¶ 27. To obtain a waiver, Sprint must demonstrate that public safety will not be adversely affected by the extension, that Sprint has no reasonable alternative, and that the extension is otherwise in the public interest. Sprint must also agree to relinquish the channels 1) on 60 days notice by the NPSPAC licensee that received the extension, or 2) once the corresponding channels in the old NPSPAC band (821-824/866-869 MHz) become available to it. *Id.*