



PUBLIC NOTICE

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**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES
APPLICATION AND LICENSING PROCEDURES FOR CHANNELS IN NON-
BORDER REGIONS RELINQUISHED BY SPRINT NEXTEL CORPORATION
IN THE 809.5-815/854.5-860 MHZ BAND**

**Application Filing Commences January 17, 2013
Pre-Filing Coordination Notification Commences December 11, 2012**

WT Docket No. 02-55

By this *Public Notice*, the Public Safety and Homeland Security Bureau (PSHSB) announces that on **January 17, 2013**, it will begin accepting applications for licensing of channels in the 809.5-815/854.5-860 MHz (Channels 251- 470) portion of the 800 MHz band that have been relinquished by Sprint Nextel Corporation (Sprint) in the National Public Safety Planning Advisory Committee (NPSPAC) regions listed in Table 1 of Appendix A. Specific information regarding available channels, application filing procedures, and frequency coordination requirements is set forth below.

Applicants who receive licenses for channels vacated by Sprint in accordance with this *Public Notice* must provide 60 days notice to Sprint¹ before they activate a channel for testing or the commencement of operations.

Background

In July 2004, the Federal Communications Commission ordered the reconfiguration of the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band.² As part of this plan, the Commission provided that spectrum vacated by Sprint in the Interleaved Band (809-815/854-860 MHz) would temporarily be reserved for licensing exclusively to public safety and critical infrastructure industry (CII) entities.³ Specifically, the Commission ordered that, upon initiation of licensing, eligibility for the vacated interleaved band channels will be limited to public safety entities for the first three years after the opening of a filing window and to public safety and

¹ Notice should be provided to Sprint by email at 800mhzinterleavedspectrum@sprint.com.

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*).

³ *Id.*, 19 FCC Rcd at 15052 ¶ 152.

CII entities for the following two years. After five years, any remaining vacated channels will revert to their original frequency pools and be available for licensing to any eligible applicant.⁴

The Commission made Interleaved Band channels available for licensing by eligible public safety agencies in each NPSPAC region based upon the percentage of channels cleared in the former NPSPAC block.⁵ The Commission also established a “backstop” deadline by which Sprint would need to make all of its non-border channels in the Interleaved Band available for licensing.⁶ After being extended once, the “backstop” date passed on March 31, 2012.⁷

Consequently, by this *Public Notice*, we announce that the remaining channels occupied by Sprint in the Interleaved Band, which were not previously released in the NPSPAC regions listed in Table 1 of Appendix A, are now available for licensing.⁸ Table 1 of Appendix A includes any region outside the border areas in which Interleaved Band channels occupied by Sprint have yet to be released for licensing because the region has yet to clear the former NPSPAC block.⁹

After new licenses are granted, Sprint will vacate any channel on 60 days notice from the new licensee that it is ready to use the channel.

Information Regarding Available Channels

To facilitate licensing of available channels, Sprint has cancelled or modified its site-based and Economic Area (EA)-based licenses that include channels in the 809.5-815/854.5-860 MHz band (Channels 251- 470) in certain regions. As of this date, the amount of spectrum previously released by Sprint varies by NPSPAC region. By this *Public Notice*, we are announcing that the remaining spectrum, not previously released, will be available for application beginning on **January 17, 2013** in the Regions listed in Table 1 of Appendix A.¹⁰

⁴ *Id.* See 47 C.F.R. §§ 90.615, 90.617(g).

⁵ Improving Public Safety Communications in the 800 MHz Band, *Order*, 23 FCC Rcd 15966, 15972-73 ¶ 17 (PSSHB 2008).

⁶ *Id.* at 15973 ¶ 17.

⁷ See Improving Public Safety Communications in the 800 MHz Band, *Order*, 26 FCC Rcd 5004, 5006 ¶ 5 (PSSHB 2011).

⁸ We note that Sprint will continue occupying any channels in these regions designated as replacement channels for licensees who are still implementing band reconfiguration. Sprint will vacate these facilities after all licensees complete their frequency retunes. Furthermore, PSSHB will announce the date by which Expansion Band and Guard Band channels become available for licensing in these regions in a future Public Notice once band reconfiguration is completed in these regions.

⁹ In a companion *Public Notice*, we announce the completion of band reconfiguration in several NPSPAC Regions and make available for licensing in those regions all remaining channels occupied by Sprint in the Interleaved Band as well as the Expansion Band and Guard Band. See Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Announce the Completion of 800 MHz Band Reconfiguration in Certain NPSPAC Regions, *Public Notice*, DA 12-1838 (PSSHB 2012).

¹⁰ This date does not apply to public safety entity applications for vacated channels made available previously. Those channels may be applied for at any time. Please note, however, that portions of certain regions listed in Table 1 of Appendix A are subject to an application freeze along the U.S.-Canada and U.S.-Mexico borders. No channels are available for licensing in areas subject to the application freeze until the freeze is lifted. See Public Safety and Homeland Security Bureau Extends 800 MHz Application Freeze for Wave 4 Border Area NPSPAC and Non-NPSPAC Licensees Along the U.S.-Canada Border, *Public Notice*, 27 FCC Rcd 4037 (PSSHB 2012). See also Public Safety and Homeland Security Bureau Extends Voluntary 800 MHz Rebanding Negotiation Period for Wave 4 Border Area NPSPAC and Non-NPSPAC Licensees Along the U.S.-Mexico Border Pending Establishment of

To identify specific channels that are available for licensing, interested parties should consult the Vacated Channel Search Engine (VCSE) accessible at <http://wireless2.fcc.gov/UlsApp/UlsSearch/searchLicense.jsp>.¹¹ The VCSE contains detailed geographic and frequency data regarding these vacated channels. The vacated channel public access file, which can be downloaded by users with data-processing capability (e.g., frequency coordinators), may be accessed at <http://wireless.fcc.gov/uls/index.htm?job=transaction&page=weekly>. Although Expansion Band and Guard Band channels are listed in the VCSE, they are not available for licensing at this time in the NPSPAC Regions listed in Table 1 of Appendix A.¹²

For channels available for licensing pursuant to this *Public Notice*, the VCSE will specify **January 17, 2013** as the availability date in the “Channel Availability” field.

Application Procedures

Beginning on **January 17, 2013**, Commission-certified frequency coordinators may file applications on behalf of eligible applicants (see “Exclusive Eligibility Periods” below) in the Universal Licensing System (ULS) for vacated channels specified in this *Public Notice*. Any application filed for these channels before the initial filing date will be dismissed.

To be accepted for filing, applications must be coordinated by a certified frequency coordinator (see “Frequency Coordination” below) that follows pre-filing coordination procedures to eliminate conflicts between applications prior to their being filed with the Commission (see “Pre-filing Coordination Procedures” below). If coordinators do file mutually exclusive applications, all will be dismissed without prejudice. Applications must meet the frequency limitations specified in Sections 90.623 and 90.627 of the Commission’s rules.¹³ Due to the limited availability of channels during the period of exclusive eligibility, applicants will be permitted to apply for no more than five channels per fixed location. Furthermore, requests for extended implementation pursuant to Section 90.629 of the Commission’s rules will be subject to a high level of scrutiny and will not be routinely granted.¹⁴

Frequency Coordination

Applications for vacated channels made available pursuant to this *Public Notice* must include a certification of frequency coordination by an appropriate Commission-certified frequency coordinator in accordance with Section 90.175 of the Commission’s rules.¹⁵

The certification must state that the coordinator has searched the VCSE and the Commission’s licensing database and has verified that the frequencies and locations being applied for are available for licensing under the rules and the procedures detailed in this *Public Notice*. The certification must include

Negotiation Timetable, *Public Notice*, 27 FCC Rcd 7312 (PHSHB 2012). Any records in the freeze areas which were previously made available have had their availability date removed and a new date—re-starting the eligibility periods—will be inserted once the freeze is lifted.

¹¹ See Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Establish New 800 MHz Vacated Channel Search Engine for Identifying Vacated Channels in the 800 MHz Interleaved Band That Will be Available for Licensing to Public Safety and Critical Infrastructure Industry Entities, *Public Notice*, 23 FCC Rcd 16481 (2008).

¹² See *supra* n. 8.

¹³ 47 C.F.R. §§ 90.623, 90.627.

¹⁴ 47 C.F.R. §90.629.

¹⁵ 47 C.F.R. § 90.175.

the applicant's name, a list of locations/frequencies that were the subject of the search, and the search date. Additionally, all applications filed for these vacated channels, notified for coordination prior to **January 17, 2013**, must comply with the pre-filing coordination procedures detailed below.

When coordinating applications for vacated site-based channels, the frequency coordinator must confirm that the 22 dB μ V/m F(50,10) contour of the proposed facility does not extend beyond the 22 dB μ V/m F(50,10) contour of the vacated facility.¹⁶ The contour of the vacated facility must be calculated using the maximum Effective Radiated Power specified in Section 90.635(b) of the rules,¹⁷ and the actual antenna height above average terrain (HAAT).

When coordinating applications for vacated EA-based channels, the frequency coordinator must confirm that the 40 dB μ V/m F(50,50) contour of the proposed facility does not extend into an adjacent EA where the channel is unavailable for licensing.¹⁸

Frequency coordinators are not required to submit the contour analysis described above with the application, but must retain records of their studies and VCSE/database searches for six months after the application is granted.

Finally, applicants should be aware that the channels to be vacated by Sprint in the Interleaved Band are in a variety of pools (General Category, Business/Industrial/Land Transportation, and SMR), each of which has a specific set of eligible coordinators. In the event that a frequency coordinator is not eligible to coordinate a channel category specified in an application, it must obtain the concurrence of an eligible coordinator.

Pre-Filing Coordination Procedures

Pursuant to this *Public Notice*, frequency coordinators may accept applications for vacated channels specified in this *Public Notice* that are submitted to them for coordination.¹⁹ In order to avoid the possibility of the Commission receiving mutually exclusive applications, each frequency coordinator must provide notification of each application submitted to it for coordination to all other participating coordinators prior to filing the application with the Commission. The purpose of this notification is to enable frequency coordinators to address and resolve conflicting applications prior to filing an application with the Commission.²⁰ If mutually exclusive applications are filed, all will be dismissed without prejudice.

The notification process will commence on **December 11, 2012**, at 8:00 AM Eastern Standard Time. At that time, but no earlier, each frequency coordinator may submit electronic notification to the other participating coordinators of applications it has prepared for coordination.²¹ The exact date and time of each notification will be time-stamped in a shared database using an automated process agreed to

¹⁶ 47 C.F.R. § 90.693(b).

¹⁷ The maximum ERP varies with the antenna height above average terrain (HAAT). For instance, a maximum ERP of 1000 watts is permitted for all HAAT values below 305 meters. See 47 C.F.R. § 90.635(b).

¹⁸ 47 C.F.R. § 90.689(b).

¹⁹ Coordinators may also accept applications submitted to them for coordination prior to the date of this *Public Notice*, provided that they comply with the pre-filing coordination notification procedures set forth in this *Public Notice*.

²⁰ See Letter dated May 22, 2009 from William Brownlow, Chairman, Public Safety Communications Council to David L. Furth, Acting Chief, Public Safety and Homeland Security Bureau, Attachment (Memorandum of Agreement).

²¹ Each notification must be filed individually, batch filing is not permitted.

by all participating coordinators.²² Applications that are submitted for notification must include the following exhibits:

- A showing that the appropriate contour of the proposed facility is within the contour of the vacated facility or, in the case of vacated EA spectrum, does not extend into an adjacent EA where the channel is not available for licensing;
- A statement verifying channel availability;
- A study detailing the directional height of the antenna above average terrain (DHAAT) for any proposed facility employing the short-spacing separation table in Section 90.621(b)(4) of the rules.²³

All participating frequency coordinators will check each notified application for conflicts with other notified applications. Conflicting applications that are submitted for notification on the same date will be considered “mutually exclusive.” In such cases, the application with the earliest notification date and time stamp will take precedence when frequency choices are made pursuant to the coordinators’ agreed-to procedures for eliminating mutually exclusive channel conflicts. However, later-notified mutually exclusive applications may maintain their priority for channels that have no conflicts. In instances where an application submitted for pre-filing coordination conflicts with an application notified on an earlier date, the later-notified applicant must either delete the pertinent conflicting channel or utilize an engineering solution to eliminate the conflict prior to the coordinator’s filing of the application with the Commission. Mutually exclusive applications filed with the Commission will be dismissed without prejudice.

Exclusive Eligibility Periods

From **January 17, 2013** to **January 17, 2016**, vacated channels identified by this *Public Notice* will be available exclusively for licensing to public safety eligible entities. From **January 17, 2016** to **January 17, 2018**, vacated channels identified by this *Public Notice* will be available exclusively for licensing to public safety eligible entities and critical infrastructure industry eligible entities.

Continued Operation By Sprint Subject to 60 Days Notice

Applicants who receive licenses for channels vacated by Sprint in accordance with this *Public Notice* must provide 60 days notice to Sprint before they activate a channel for testing or the commencement of operations. Sprint may continue existing operations on channels covered by this *Public Notice* after new licenses are granted until 60 days after the new licensee notifies Sprint of its intention to activate the channel(s) for testing or commencement of operations. This advance notice must be provided to Sprint by email at 800mhzinterleavedspectrum@sprint.com. Upon receipt of such notice, Sprint must cease operation on the channel(s) specified in the notice within 60 days to the extent necessary to comply with the co-channel spacing requirements of Section 90.621(b) of the rules. New licenses granted pursuant to this *Public Notice* will be conditioned on providing such 60-day notice to Sprint.

²² See Memorandum of Agreement.

²³ 47 C.F.R. § 90.621(b)(4).

Additional Information

For further information, contact Tracy Simmons, Policy Division, Public Safety and Homeland Security Bureau, at (717) 338-2657 or Tracy.Simmons@fcc.gov, or Brian Marengo, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0838 or Brian.Marengo@fcc.gov.

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

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Attachment A

Table 1 – Remaining Vacated Sprint Interleaved Band Channels Will be Made Available for Licensing in the Following NPSPAC Regions

| NPSPAC Region | Description of Region ²⁴ |
|---------------|---|
| 1 | Alabama |
| 6 | Northern California ²⁵ |
| 8 | Metropolitan, NYC Area (NY, NJ, & CT) ²⁶ |
| 9 | Florida |
| 14 | Indiana (except Southern Lake Michigan counties) ²⁷ |
| 16 | Kansas |
| 18 | Louisiana |
| 20 | District of Columbia, Maryland, & Northern VA ²⁸ |
| 27 | Nevada ²⁹ |
| 28 | Eastern Pennsylvania (east of Harrisburg, southern NJ & DE) ³⁰ |
| 31 | North Carolina |
| 34 | Oklahoma ³¹ |
| 37 | South Carolina |
| 39 | Tennessee |
| 40 | Texas (Central & Northeast) ³² |
| 42 | Virginia ³³ |

²⁴ Regions that are only a portion of a state or states are defined by counties. For a list of the counties in each of these regions see The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, *First Report and Order and Third Further Notice of Proposed Rule Making*, 14 FCC Rcd 152 (1998), available at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/fcc98191.txt>.

²⁵ Counties not included: Fresno, Inyo, Kings, Madera, Merced, Monterey, San Benito, Tulare.

²⁶ Counties not included: Fairfield, Litchfield, Middlesex, New Haven, CT; Bergen, Morris, Passaic, Sussex, Warren, NJ; Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester, NY.

²⁷ Counties not included: Adams, Allen, Bartholomew, Blackford, Brown, Clark, Dearborn, Decatur, De Kalb, Delaware, Fayette, Franklin, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jackson, Jay, Jefferson, Jennings, Johnson, Kosciusko, Lagrange, Madison, Marion, Miami, Noble, Ohio, Randolph, Ripley, Rush, Scott, Shelby, Steuben, Switzerland, Tipton, Union, Wabash, Washington, Wayne, Wells, Whitley.

²⁸ Counties not included: District of Columbia; Allegany, Anne Arundel, Baltimore, Baltimore City, Carroll, Cecil, Frederick, Garrett, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne's, Washington, MD; Alexandria City, Arlington, Fairfax, Fairfax City, Falls Church City, Fauquier, Loudoun, Manassas City, Manassas Park City, Prince William, VA..

²⁹ County not included: Clark, Lincoln, Nye.

³⁰ Counties not included: New Castle, DE; Berks, Bradford, Carbon, Chester, Columbia, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Montour, Northampton, Northumberland, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, Wyoming, York, PA.

³¹ Counties not included: Cimarron, Comanche, Cotton, Greer, Harmon, Jackson, Jefferson, Kiowa, Texas, Tillman.

³² Counties not included: Denton, Erath, Hood, Johnson, Palo Pinto, Parker, Somervell, Tarrant, Wise.

| NPSPAC Region | Description of Region ²⁴ |
|------------------|--|
| 47 | Puerto Rico |
| 48 | U.S. Virgin Islands |
| 49 | Texas - Central (Austin Area) ³⁴ |
| 51 | Texas - East (Houston Area) ³⁵ |
| 54 | Southern Lake Michigan (Great Lakes inc. WI, IL, & IN) ³⁶ |

³³ Counties not included: Buchanan, Clarke, Frederick, Page, Rappahannock, Rockingham, Shenandoah, Warren, Winchester City.

³⁴ Counties not included: Bastrop, Bell, Blanco, Bosque, Brazos, Burleson, Burnet, Coryell, Falls, Fayette, Hamilton, Hays, Hill, Lampasas, Lee, Llano, McLennan, Milam, Mills, San Saba, Travis, Washington, Williamson.

³⁵ Counties not included: Austin, Brazoria, Colorado, Fort Bend, Grimes, Harris, Matagorda, Montgomery, Waller, Wharton.

³⁶ Counties not included: Elkhart, La Porte, Marshall, St. Joseph, Starke, IN; Allegan, Barry, Berrien, Cass, Kalamazoo, Kent, Muskegon, Ottawa, St. Joseph, Van Buren, MI; Ozaukee, WI. The VCSE identifier for this region is 541 for counties in Wave 1 and 544 for counties in Wave 4.