



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU PROVIDES ADDITIONAL GUIDANCE FOR SUBMISSION OF SUPPLEMENTAL 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's Public Safety and Homeland Security Bureau (Bureau) provides guidance for submission by non-border 800 MHz licensees of supplemental 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).<sup>1</sup> The Commission's orders required 800 MHz licensees in non-border areas to complete rebanding by June 26, 2008.<sup>2</sup> Accordingly, all 800 MHz non-border licensees that did not complete rebanding by June 26, 2008, must request and receive a waiver of the deadline from the Bureau.<sup>3</sup> Note, however, that licensees that completed the physical reconfiguration of their systems by June 26, 2008, are deemed to have met the deadline.<sup>4</sup>

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<sup>1</sup> 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).

<sup>2</sup> 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.-Mexico border are not subject to this *Public Notice*. We will establish timelines for rebanding completion by U.S.-Mexico border area licensees at a later date. The Bureau has established a separate rebanding timeline for the Canadian border region. See Improving Public Safety Communications in the 800 MHz Band, *Second Report and Order*, WT Docket No. 02-55, 23 FCC Rcd 7605 (PSHSB 2008), and these licensees are also not subject to this *Public Notice*.

<sup>3</sup> See Improving Public Safety Communications in the 800 MHz Band, *Third Memorandum Opinion and Order*, 22 FCC Rcd 17209, 172224 ¶ 48 (2007) (*800 MHz 3<sup>rd</sup> 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. See FCC Announces Supplemental Procedures and Provides Guidance for Completion of 800 MHz Rebanding, *Public Notice*, 22 FCC Rcd 17227, n.14 (2007).

<sup>4</sup> See Federal Communications Commission Provides Guidance for Submission of Requests for Waiver of June 26, 2008 Deadline for Completion of 800 MHz Rebanding, *Public Notice*, 23 FCC Rcd 664 (PSHSB 2008) (*2008 Waiver Guidance Notice*). 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. *Id.*

On June 17, 2008, the Bureau released a series of orders addressing approximately 500 requests by public safety licensees for waiver of the June 26, 2008 deadline to complete 800 MHz rebanding.<sup>5</sup> In these orders, the Bureau granted waivers to those public safety licensees that sought extensions to complete rebanding on or before July 1, 2009, and granted partial relief to licensees that requested more lengthy extensions because of system size or interoperability coordination issues.<sup>6</sup> In addition, the Bureau granted interim relief to licensees requesting more time to submit proposed timetables because they were still in the planning process or had not completed negotiations with Sprint, and directed these licensees to submit supplemental waiver requests, with milestone dates, by July 18, 2008.<sup>7</sup>

On July 14, 2008, the Bureau addressed additional requests for waiver that were filed after June 17, 2008, or were not addressed in the *June 17, 2008 Orders*.<sup>8</sup> With respect to those licensees, the Bureau granted interim relief conditioned on each licensee submitting a supplemental waiver request, with milestone dates, no later than July 25, 2008.<sup>9</sup> On June 9, 2009, the Bureau released an order addressing the supplemental waiver requests that were filed as a result of those previous orders and directed those licensees whose reconfiguration would not be complete as of October 1, 2009, to supplement their request within 30 days of the release of the order.<sup>10</sup> Specifically, the Bureau directed them to submit the supplemental information required by the *June 17, 2008 Orders* and the Commission's *2008 Waiver Guidance Notice*, *i.e.*, a proposed extension date and proposed milestone dates for subscriber unit deployment, system cut-over, and post-cutover modifications.<sup>11</sup>

The guidance contained in this *Public Notice* is intended for those non-border licensees whose extension requests were not addressed by the Bureau in the *June 9, 2009 Supplemental Waiver Order* (Affected Licensees).

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<sup>5</sup> Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9421 (PSHSB 2008) (*Wave 1 Interim Waiver Order*); Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9430 (PSHSB 2008) (*Wave 1 Waiver Order*); Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9445 (PSHSB 2008) (*Wave 2 Interim Waiver Order*); Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9454 (PSHSB 2008) (*Wave 2 Waiver Order*); Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9464 (PSHSB 2008) (*Wave 3 Interim Waiver Order*); Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9476 (PSHSB 2008) (*Wave 3 Waiver Order*); Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9485 (PSHSB 2008) (*Wave 4 Interim Waiver Order*); Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 9491 (PSHSB 2008) (*Wave 4 Waiver Order*) (collectively, *June 17, 2008 Orders*).

<sup>6</sup> See *Wave 1 Waiver Order* ¶¶ 4-12; *Wave 2 Waiver Order* ¶¶ 4-13; *Wave 3 Waiver Order* ¶¶ 4-9; *Wave 4 Waiver Order* ¶¶ 4-9.

<sup>7</sup> See *Wave 1 Interim Waiver Order* ¶¶ 5-8; *Wave 2 Interim Waiver Order* ¶¶ 5-9; *Wave 3 Interim Waiver Order* ¶¶ 5-8; *Wave 4 Interim Waiver Order* ¶¶ 5-9.

<sup>8</sup> Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, 23 FCC Rcd 10911 (PSHSB 2008) (*July 2008 Supplemental Waiver Order*).

<sup>9</sup> *Id.* ¶ 3.

<sup>10</sup> Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Order*, DA 09-XXX (PSHSB 2009) (*June 9, 2009 Supplemental Waiver Order*).

<sup>11</sup> *2008 Waiver Guidance Notice*.

## Deadline and Procedures for Filing Updated Waiver Requests

Affected Licensees must update their requests for waiver no later than thirty days after the release of the *June 9, 2009 Supplemental Waiver Order*. Licensees may file the updated requests with the Bureau via email through the [PSHSB800@fcc.gov](mailto:PSHSB800@fcc.gov) mailbox. Licensees must provide copies of their updated requests to both Sprint and the 800 MHz Transition Administrator (TA).<sup>12</sup> We will post the updated requests on the Bureau website and in the licensee's Universal Licensing System (ULS) file.<sup>13</sup> For ULS posting purposes, we recommend that licensees with multiple call signs designate a lead call sign in the updated request. If a licensee has designated a lead call sign in a previously filed waiver, the same call sign should be used for this filing. In addition, licensees should note the previously filed waiver request for which they seek an extension by referring to the TA Waiver Reference Number, which can be found on the TA's website.<sup>14</sup> We continue to encourage licensees that are part of a regional coordination plan or that are otherwise coordinating their rebanding efforts with other licensees to file coordinated updates.<sup>15</sup>

## Required Content of Updates

As the Commission has noted before, “[r]equests 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.”<sup>16</sup>

Licensees must address the following factors in their updated waiver requests, if they did not address these factors in the original waiver request or if updated information is now available:

- System size, type and complexity, *i.e.*, conventional, trunked, simulcast, etc.; number of base stations and channels; any special features that may affect the implementation schedule, *e.g.*, fire station alerting.
- 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

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<sup>12</sup> Copies must be submitted to the TA via e-mail to [Waivers@800ta.org](mailto:Waivers@800ta.org) or by facsimile to (877) 434-2974. Copies should be submitted to Sprint via e-mail to [800MHZ@sprint.com](mailto:800MHZ@sprint.com) or by facsimile to (866) 525-1087.

<sup>13</sup> Information for which confidentiality is sought under Section 0.459 of the Commission's Rules will not be posted.

<sup>14</sup> The TA webpage listing previously filed waiver requests can be viewed at [http://www.800TA.org/content/documents/waiver\\_requests.asp](http://www.800TA.org/content/documents/waiver_requests.asp), and clicking on the link at the bottom of the page. The TA Waiver Reference Number appears in the first column of the table. If there are multiple TA Waiver Reference Numbers for a licensee, the licensee should refer to the “successor” TA Waiver Reference Number if assigned.

<sup>15</sup> 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.

<sup>16</sup> See FCC Announces Supplemental Procedures and Provides Guidance for Completion of 800 MHz Rebanding, *Public Notice*, 22 FCC Rcd 17227, 17232 (2007); see also *Wave 1 Waiver Order* ¶ 13.

Implementation Planning Session (IPS) in its NPSPAC Region (or commitment to participate in such a session).<sup>17</sup>

Licensees must also provide a revised timetable that includes the following elements:

- Anticipated dates of commencement and completion of:
  - Replacement or retuning of mobiles/portables.
  - Infrastructure retuning.<sup>18</sup>
  - The anticipated date(s) that the licensee will commence operations on its post-rebanding channels and cease 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.

If a licensee has not submitted a cost estimate for the reconfiguration of its radio system by October 1, 2009, the licensee should request from the Bureau an extension to file its cost estimate at a later date as part of its waiver filing.

The TA developed a template waiver form that seeks the estimated implementation milestones we have directed licensees to provide in their supplemental waiver requests. To expedite licensee preparation of supplemental waiver requests and Bureau review, we strongly encourage licensees to use this template in preparing their requests. The template is available at the TA's website at [http://www.800ta.org/content/documents/rebanding\\_deadline\\_extension\\_process.asp#wave\\_templates](http://www.800ta.org/content/documents/rebanding_deadline_extension_process.asp#wave_templates). Licensees that have not yet completed a Frequency Reconfiguration Agreement (FRA) should provide their best estimate of their proposed implementation schedule. Upon completing the FRA, such licensees may amend their waiver requests to reflect revisions to proposed milestone dates that have been negotiated in the FRA.

#### 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](mailto:Roberto.Mussenden@fcc.gov); John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0848 or [John.Evanoff@fcc.gov](mailto:John.Evanoff@fcc.gov).

By the Acting Chief, Public Safety and Homeland Security Bureau.

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<sup>17</sup> For a list of previously held and upcoming TA-sponsored IPS's, see [www.800ta.org](http://www.800ta.org). Licensees that have not participated in an IPS for their region should contact the TA to determine whether their proposed schedule is consistent with implementation goals identified in that session. Licensees that fail to participate in an IPS risk denial of further extensions.

<sup>18</sup> We strongly encourage the licensee to contact the TA via e-mail at [comments@800TA.org](mailto:comments@800TA.org) or by phone at (888) 800-8220 if the licensee previously submitted implementation dates to the TA which now differ from the dates in its supplemental request for waiver.