



PUBLIC NOTICE

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

**Application Filing Commences December 2, 2009
Pre-Filing Coordination Notification Commences November 11, 2009**

WT Docket No. 02-55

By this *Public Notice*, the Public Safety and Homeland Security Bureau (PSHSB) announces that on December 2, 2009, it will begin accepting applications for licensing of certain available channels in the 809.5-815/854.5-860 MHz (Channels 251- 470) portion of the 800 MHz band that have been, or will be, relinquished by Sprint Nextel Corporation (Sprint) in certain National Public Safety Planning Advisory Committee (NPSPAC) regions. 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 made available 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

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.

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 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 following channels have been or will be made available for licensing and use by eligible public safety agencies in all NPSPAC regions on a staged basis. 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. The channels available to public safety agencies at each stage are as follows:

- Stage 1: Sprint channels in the 809-809.5/854-854.5 MHz block of the Interleaved Band were made available in non-border NPSPAC regions. This stage was initiated on January 28, 2009 and applications for these channels may still be filed.⁵
- Stage 2: Sprint channels in the 809.5-810.5/854.5-855.5 MHz block will be available in each region when 25% of channels in the former NPSPAC block (*i.e.*, 30 channels) are clear⁶ in the NPSPAC region.⁷
- Stage 3: Sprint channels in the 810.5-812/855.5-857 MHz block will be available in each region when 50% of channels in the former NPSPAC block (*i.e.*, 60 channels) are clear in the NPSPAC region.
- Stage 4: Sprint channels in the 812-814/857-859 MHz block will be available in each region when 75% of channels in the former NPSPAC block (*i.e.*, 90 channels) are clear in the NPSPAC region.⁸ Sprint will also make its channels in the 814-815/859-860 MHz block available if there is public safety demand for additional channels in the NPSPAC region.⁹
- Stage 5: To the extent that channels in the 814-815/859-860 MHz block have not been made available in Stage 4, Sprint channels in this block will be available in each region when 90% of channels in the former NPSPAC block (*i.e.*, 108 channels) are clear in the NPSPAC region.¹⁰

⁴ *Id.* See 47 C.F.R. §§ 90.615, 90.617(g). Note that, except for channels assigned to relocating licensees by the 800 MHz Transition Administrator, both the Expansion Band and Guard Band Channels are not available for licensing. The date and the conditions under which these channels will be made available will be announced in a future Commission *Public Notice*. See n. 10 *infra*.

⁵ See Public Safety and Homeland Security Bureau Announces Application and Licensing Procedures for Channels Relinquished by Sprint Nextel Corporation in the 809-809.5/854-854.5 MHz Band, *Public Notice*, 23 FCC Rcd 18343 (2008) (*Initial Interleaved Public Notice*).

⁶ “Clear” as the term is used herein means that public safety licensees have vacated the stated percentages of the NPSPAC channels in a NPSPAC region and relocated to new frequencies.

⁷ Because Sprint operates on 25 kHz spaced channels, we define a “clear” channel for this purpose as a 25 kHz channel vacated by NPSPAC incumbents throughout the stated percentages of the NPSPAC region.

⁸ In the Southeast ESMR Band Plan area, Sprint is only required to vacate channels below 813.5/858.5 MHz, which is the dividing line in that area between the ESMR and non-ESMR portions of the band.

⁹ Public safety entities will be allowed to apply for channels in the 814-815/859-860 MHz block in Stage 4 if the frequency coordinator certifies that there are no suitable Interleaved Band channels available to the applicant below 814/859 MHz.

¹⁰ Sprint channels in the 815-816/860-861 MHz Expansion Band block will not be available in any region until 90% of the channels in the former NPSPAC block are clear, and a Public Notice is issued to that effect. Additionally, Sprint channels in the 816-817/861-862 MHz Guard Band block will not be available in any region until 100% of channels in the old NPSPAC block (*i.e.*, 120 channels) are clear in the region and a Public Notice is issued to that

Information Regarding Available Channels

To facilitate licensing of available channels, Sprint has cancelled or modified a number of 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 vacated by Sprint varies by NPSAC region. By this *Public Notice*, we are announcing that additional spectrum, up to Stage 5 in some regions, will be available for application beginning on December 2, 2009.¹¹ Table 1 lists, for each region, the date on which public safety entities may apply for specific vacated Sprint channels.¹²

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>.¹³ 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.¹⁴

For channels available for licensing pursuant to this *Public Notice*, the VCSE will specify December 2, 2009 as the availability date in the “Channel Availability” field. Please note that we will continue to update the VCSE on a regular basis with additional information regarding available channels as Sprint and other licensees relocate to the ESMR band and non-cellular licensees relocate to the Guard band.

Application Procedures

Beginning on December 2, 2009, 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

effect. This restriction does not apply to channels assigned by the 800 MHz Transition Administrator as part of rebanding.

¹¹ This date does not apply to public safety entity applications for vacated channels made available pursuant to the *Initial Interleaved Public Notice*. Those channels may be applied for at any time.

¹² Certain NPSAC regions are omitted from Table 1 if all the counties within that NPSAC region are impacted by the border region band plans. Furthermore, in those instances where a NPSAC region includes both border and non-border portions, Table 1 identifies, by county, those portions of the NPSAC region in which 809.5-815/854.5-860 MHz channels are unavailable pending implementation of border region band plans.

¹³ 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).

¹⁴ See *supra* n.10

90.623 and 90.627 of the Commission's rules.¹⁵ Due to the limited availability of channels during the period of exclusive eligibility, applicants will not be permitted to apply for 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.¹⁶

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.¹⁷

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 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 December 2, 2009, 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.¹⁸ The contour of the vacated facility must be calculated using the maximum Effective Radiated Power specified in Section 90.635(b) of the rules,¹⁹ 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.²⁰

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.

¹⁵ 47 C.F.R. §§ 90.623, 90.627.

¹⁶ 47 C.F.R. §90.629.

¹⁷ 47 C.F.R. § 90.175.

¹⁸ 47 C.F.R. § 90.693(b).

¹⁹ 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).

²⁰ 47 C.F.R. § 90.689(b).

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.²¹ 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.²² If mutually exclusive applications are filed, all will be dismissed without prejudice.

The notification process will commence on November 11, 2009, 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.²³ The exact date and time of each notification will be time-stamped in a shared database using an automated process agreed to by all participating coordinators.²⁴ 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.²⁵

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.

²¹ 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*.

²² 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).

²³ Each notification must be filed individually, batch filing is not permitted.

²⁴ See Memorandum of Agreement.

²⁵ 47 C.F.R. § 90.621(b)(4).

Exclusive Eligibility Periods

From December 2, 2009 to December 2, 2012, vacated channels identified by this *Public Notice* will be available exclusively for licensing to public safety eligible entities. From December 2, 2012 to December 2, 2014, 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.

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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Table 1 – Initial Filing Window Dates for Vacated Sprint Channels Available to Public Safety Entities by NPSPAC Region²⁶

Region #	Region	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
1	Alabama	1/28/2009	12/2/2009			
2	Alaska	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
3	Arizona ²⁷	1/28/2009				
4	Arkansas	1/28/2009				
6	Northern California ²⁸	1/28/2009				
7	Colorado	1/28/2009	12/2/2009	12/2/2009		
8	Metropolitan, NYC Area (NY, NJ, & CT)	1/28/2009				
9	Florida	1/28/2009				
10	Georgia	1/28/2009				
11	Hawaii	1/28/2009				
12	Idaho ²⁹	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
13	Illinois (except Southern Lake Michigan counties)	1/28/2009	12/2/2009			
14	Indiana (except Southern Lake Michigan counties) ³⁰	1/28/2009				
15	Iowa	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
16	Kansas	1/28/2009				
17	Kentucky	1/28/2009	12/2/2009	12/2/2009		
18	Louisiana	1/28/2009				
19	New England ³¹	1/28/2009				
20	District of Columbia, Maryland, & Northern VA	1/28/2009				
22	Minnesota	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
23	Mississippi	1/28/2009				

²⁶ Individual counties within a Public Safety Region may be on a different schedule. Consequently, applicants should always refer to the VCSE to determine which specific channels are available in their area.

²⁷ Counties not included: Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Mohave, Pima, Pinal, Santa Cruz, Yavapai, and Yuma.

²⁸ Counties not included: Fresno, Inyo, Kings, Monterey, San Benito and Tulare.

²⁹ Counties not included: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone.

³⁰ Counties not included: Adams, Allen, Blackford, De Kalb, Fulton, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Steuben, Wabash, Wells, and Whitley.

³¹ Vermont Counties not included: Addison, Bennington, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, Washington, Windham, Windsor; Maine Counties not included: Aroostook.

Region #	Region	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
24	Missouri	1/28/2009	12/2/2009	12/2/2009		
25	Montana	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
26	Nebraska	1/28/2009	12/2/2009	12/2/2009		
27	Nevada ³²	1/28/2009				
28	Eastern Pennsylvania (east of Harrisburg, southern NJ & DE) ³³	1/28/2009				
29	New Mexico ³⁴	1/28/2009	12/2/2009	12/2/2009		
31	North Carolina	1/28/2009				
32	North Dakota	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
33	Ohio ³⁵	1/28/2009				
34	Oklahoma	1/28/2009				
35	Oregon	1/28/2009				
36	Western Pennsylvania ³⁶	1/28/2009				
37	South Carolina	1/28/2009				
38	South Dakota	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
39	Tennessee	1/28/2009	12/2/2009			
40	Texas (Central & Northeast)	1/28/2009				
41	Utah	1/28/2009	12/2/2009	12/2/2009	12/2/2009	
42	Virginia	1/28/2009				
44	West Virginia ³⁷	1/28/2009	12/2/2009	12/2/2009		

³² County not included: Clark.

³³ Counties not included: Bradford, Lackawanna, Lycoming, Sullivan, Susquehanna, Tioga, Wayne, and Wyoming.

³⁴ Counties not included: Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Lincoln, Luna, Otero, and Sierra.

³⁵ Counties not included: Allen, Ashland, Ashtabula, Athens, Auglaize, Belmont, Carroll, Champaign, Clark, Columbiana, Coshocton, Crawford, Cuyahoga, Darke, Defiance, Delaware, Erie, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Guernsey, Hancock, Hardin, Harrison, Henry, Hocking, Holmes, Huron, Jackson, Jefferson, Knox, Lake, Licking, Logan, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Mercer, Miami, Monroe, Montgomery, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Perry, Pickaway, Pike, Portage, Preble, Putnam, Richland, Ross, Sandusky, Scioto, Seneca, Shelby, Stark, Summit, Trumbull, Tuscarawas, Union, Van Wert, Vinton, Wayne, Williams, Wood, and Wyandot.

³⁶ Counties not included: Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Mercer, Mifflin, Potter, Somerset, Venango, Warren, Washington, and Westmoreland.

³⁷ Counties not included: Brooke, Hancock, Marshall, and Ohio.

Region #	Region	Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
45	Wisconsin (except Southern Lake Michigan counties) ³⁸	1/28/2009	12/2/2009	12/2/2009	12/2/2009	
46	Wyoming	1/28/2009	12/2/2009	12/2/2009	12/2/2009	
49	Texas - Central (Austin Area)	1/28/2009				
50	Texas - West & Central (Midland Area) ³⁹	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
51	Texas - East (Houston Area)	1/28/2009				
52	Texas - Panhandle, High Plains & Northwest (Lubbock Area) ⁴⁰	1/28/2009	12/2/2009	12/2/2009	12/2/2009	12/2/2009
53	Texas - Southern (San Antonio Area) ⁴¹	1/28/2009				
54	Southern Lake Michigan (Great Lakes inc. WI, IL, & IN) ⁴²	1/28/2009				

³⁸ Counties not included Brown, Door, Florence, Iron, Kewaunee, Marinette, Menominee, Oconto and Shawano.

³⁹ Counties not included: Andrews, Borden, Brewster, Coke, Concho, Crane, Crockett, Culberson, Dawson, Ector, El Paso, Gaines, Glasscock, Howard, Hudspeth, Irion, Jeff Davis, Kimble, Loving, Martin, Mason, McCulloch, Menard, Midland, Pecos, Presidio, Reagan, Reeves, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, Ward, and Winkler.

⁴⁰ County not included: Yoakum.

⁴¹ Counties not included: Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Comal, Dimmit, Duval, Edwards, Frio, Gillespie, Gonzales, Guadalupe, Hidalgo, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Val Verde, Webb, Willacy, Wilson, Zapata, and Zavala.

⁴² Counties not included: Elkhart, Marshall, Pulaski, St. Joseph, Starke, IN, Allegan, Barry, Berrien, Cass, Kalamazoo, Kent, Muskegon, Ottawa, St. Joseph, Van Buren, MI.