



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU PROVIDES GUIDANCE FOR SUBMISSION OF REQUESTS FOR WAIVER OF THE APRIL 14, 2011 DEADLINE FOR COMPLETION OF 800 MHZ REBANDING IN REGIONS ALONG THE U.S.-CANADA BORDER

Bureau Extends U.S. – Canada Border Application Freeze Dates WT Docket No. 02-55

By this *Public Notice*, the Public Safety and Homeland Security Bureau (Bureau) establishes procedures and provides guidance for submission of requests for waiver of the April 14, 2011 rebanding deadline for 800 MHz licensees in or affected by the Canada Border Region (CBR). Rebanding commenced in regions adjacent to the Canada border pursuant to the *Second Report and Order* in WT Docket 02-55 released May 9, 2008.¹

Any 800 MHz licensee in or affected by the CBR (CBR Licensee) that will require additional time past April 14, 2011 to complete rebanding² must request a waiver of the deadline from the Bureau.³ The guidance in this *Public Notice* is intended to expedite the preparation and submission of waiver requests by licensees and the review of waiver 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 [of 800 MHz rebanding] 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."⁴

¹ Improving Public Safety Communications in the 800 MHz Band, New 800 MHz Band Plan for U.S. – Canada Border Regions, WT Docket 02-55, *Second Report and Order*, 23 FCC Rcd 7605 (PSHSB 2008), *amended by Erratum*, May 28, 2008.

² Licensees that have completed physical reconfiguration of their systems by April 14, 2011 will be deemed to have met the deadline. Such licensees remain responsible after the deadline for promptly submitting final rebanding cost documentation to Sprint Nextel Corporation and/or the Transition Administrator and modifying their licenses to delete pre-rebanding channels.

³ See, e.g., Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *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.

⁴ See Federal Communications Commission Provides Guidance for Submission of Requests for Waiver of June 26, 2008 Deadline for Completion of 800 MHz Rebanding, WT Docket 02-55, *Public Notice*, 23 FCC Rcd 664 (2008).

Deadline for Filing Waiver Requests

CBR Licensees requiring additional time past April 14, 2011 to complete rebanding must file requests for waiver no later than 45 days after April 14, 2011, *i.e.* by May 31, 2011,⁵ except for licensees for which the filing deadline is tolled.

CBR Licensees that must file waiver requests by May 31, 2011 fall in three categories:

1. CBR Licensees that executed a Frequency Reconfiguration Agreement (FRA) with Sprint Nextel Corporation (Sprint) before April 14, 2011 must file an extension request and a proposed timetable for completion.⁶
2. CBR Licensees that have executed an FRA with Sprint but cannot complete rebanding because a “downstream” licensee is blocking their replacement channels must file a waiver request detailing the non-frequency dependent activities they have engaged in to date, and must propose a timetable for completion of all rebanding activities once their replacement channels are free of encumbrances.
3. CBR Licensees that are unable to propose a specific timetable because they have not executed an FRA with Sprint prior to April 14, 2011 must file an interim waiver request in which they state when they anticipate signing an FRA. Once the FRA is signed, these licensees must submit a final waiver request, including a proposed timetable for completion.

Waiver Requirement Tolled for Licensees Without TA Approval of their FRAs

Some CBR licensees have completed negotiations for an FRA and filed the FRA with the 800 MHz Transition Administrator (TA), but the TA has not yet approved the FRA pending resolution of frequency conflicts with Canadian stations. For these licensees (listed in Appendix A), the deadline for completion of rebanding is tolled until twelve months after their FRA is approved by the TA. Any such licensee that will not complete rebanding by that deadline must submit a waiver request prior to that date.

Filing Procedures

CBR Licensees may file waiver requests with the Bureau via e-mail through the PSHSB800@fcc.gov mailbox.⁷ Licensees should provide electronic copies of their requests to both Sprint and the TA.⁸ Requests will be posted on the Bureau website and in the licensee’s Universal Licensing System (ULS) file.⁹ For ULS posting purposes, we recommend that licensees with multiple call-signs designate a lead call-sign in the request.

⁵ Because the 45th day after April 14th falls on a weekend and the following Monday is a holiday, licensees shall file waiver requests on or before Tuesday, May 31, 2011.

⁶ Any licensee that executes an FRA with Sprint after April 14, 2011 but prior to May 31, 2011 may file an extension request as if it completed the FRA prior to April 14, 2011.

⁷ Requests filed via e-mail must be attached to the e-mail as a separate document.

⁸ Copies of the waiver requests must be sent to the TA via e-mail to Waivers@800ta.org, and to Sprint via e-mail to 800MHz@sprint.com.

⁹ Information for which confidentiality is sought under Part 0.459 of the Commission’s Rules will not be posted.

Consolidated Waiver Requests

We encourage CBR Licensees that are part of a regional coordination plan, or that are otherwise coordinating their rebanding efforts, to file consolidated waiver requests.¹⁰

Recommended Content of Waiver Requests

The TA has developed a template waiver request form for licensees to use to provide the information that we recommend including in their waiver requests. The template is available on the TA's website at <http://www.800ta.org/content/resources/forms.asp>. To expedite licensee preparation of requests and Bureau review, we recommend that CBR Licensees use this template in preparing their requests.¹¹

We recommend that licensees include the following in their requests:

- A description of system size and complexity.
- Interoperability arrangements with other systems, and how accommodating continued interoperability may affect the ultimate rebanding schedule.
- Steps already taken to complete reconfiguration, including any participation in the Subscriber Equipment Deployment (SED) program and participation in a TA-sponsored regional Implementation Planning Session (or a commitment to participate in such a session).¹²
- A proposed timetable with the following elements:
 - The steps in the rebanding process that have been or will be taken prior to the April 14, 2011 deadline.
 - Anticipated dates of commencement and completion of:
 - Replacement or retuning of mobiles/portables.
 - Infrastructure retuning.
 - 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.

¹⁰ Consolidating 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.

¹¹ If the licensee has also previously filed a waiver request for a system in the non-border area, please reference the previous waiver ID as listed on the TA's website (<http://www.800ta.org/content/resources/tools.asp> - see Waiver Request Lookup) in your CBR filing.

¹² 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.

Freeze on Applications

Because of the significant number of CBR Licensees that must complete rebanding along the CBR, we extend, until April 14, 2012, the current freeze on filing non-rebanding related 800 MHz applications. As the Bureau has noted previously, a freeze on non-rebanding applications is needed to preserve vacant channels for use by licensees that still need to retune to post-rebanding replacement channels.¹³

The freeze on applications applies to the NPSPAC Regions listed in Appendix B attached to this *Public Notice*. The freeze also applies to stations located within seventy miles of the borders of the NPSPAC Regions listed in Appendix B. The freeze applies only to applications for new facilities or modification applications that involve a change of frequency or expand a station's existing coverage area.¹⁴ Applications that have no effect on frequency or coverage (*e.g.*, administrative updates, assignments/transfers, and renewal-only applications) are exempt from the freeze.¹⁵

Furthermore, for good cause shown, licensees may seek Special Temporary Authorization (STA) to expand their facilities or add channels during the freeze, based on an appropriate showing of public interest as described in the Bureau's December 2006 *STA Guidance Public Notice*.¹⁶

Contact Information

For further information, contact: Brian Marengo, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0838 or Brian.Marengo@fcc.gov; John Evanoff, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418-0848 or John.Evanoff@fcc.gov; Roberto Mussenden, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-1428 or at Roberto.Mussenden@fcc.gov.

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

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¹³ Public Safety and Homeland Security Bureau Reinstates 800 MHz Application Freeze for Wave 4 Border Area NPSPAC and Non-NPSPAC Licensees Along the U.S.-Canada Border, WT Docket 02-55, *Public Notice*, 25 FCC Rcd 11049, 11049-50 (PSHSB 2010).

¹⁴ *Id.* at 11050.

¹⁵ *Id.*

¹⁶ See Public Safety and Homeland Security Bureau Provides Guidance for Public Safety Licensees With Regard to License Application and Special Temporary Authorization Procedures and Payment of Frequency Relocation Costs for Public Safety Facilities Added During 800 MHz Band Reconfiguration, WT Docket No. 02-55, *Public Notice*, 21 FCC Rcd 14658 (PSHSB 2006).

Appendix A

Licensees for Which the Deadline is Tolloed

Federal Express Corporation
American Medical Response, Inc
ConocoPhillips Communications, Inc.
BP West Coast Products, LLC
Delta Air Lines, Inc
Chrysler, LLC
Wiztronics, Inc
Ford Communications, Inc
The Boeing Company
Detroit, City of, MI
Snohomish, County of, WA
Wayne, County of, NY
Warren, City of, MI
Tuscola, County of, MI
Detroit Public Schools

Appendix B
NPSPEC Regions in the Canada Border Region Subject to the Freeze

NPSPEC Region	Description of Region ¹⁷
21	Michigan
30	Eastern Upstate NY
33	Ohio
36	Western PA
43	Washington State
55	Western Upstate NY

¹⁷ Regions that are only a portion of a state or states are defined by counties. A list of the counties in each of these regions can be accessed at <http://www.fcc.gov/Bureaus/Wireless/Orders/1998/fcc98191.txt>.