

(2) Permit ESMR or part 22 Cellular Radiotelephone licensees to make voluntary changes in cell parameters when a public safety licensee alerts them to possible interference; and

(3) Rapidly identify the source if interference is encountered when the cell is activated.

(c) *Public safety information exchange.*

(1) Upon request by an ESMR or part 22 Cellular Radiotelephone licensee, public safety/CII licensees who operate radio systems in the 806–824/851–869 MHz shall provide the operating parameters of their radio system to the ESMR or part 22 Cellular Radiotelephone licensee.

(2) Public safety licensees who perform the information exchange as described in this section must notify the appropriate ESMR and part 22 Cellular Radiotelephone licensees prior to any technical changes to their radio system.

EFFECTIVE DATE NOTE: At 69 FR 67849, Nov. 22, 2004, § 90.675 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 90.676 Transition administrator for reconfiguration of the 806–824/851–869 MHz band in order to separate cellular systems from non-cellular systems.

The Transition Administrator will be an independent party with no financial interest in any 800 MHz licensee; and will be selected by a committee representative of 800 MHz licensees. The Transition Administrator will serve both a ministerial role and a function similar to a special master in a judicial proceeding.

(a) The duties of the Transition Administrator will include, but not be limited to:

(1) Obtaining estimates from licensees regarding the cost of reconfiguring their systems and ensuring that estimates contain a firm work schedule. The Transition Administrator will retain copies of all estimates and make them available to the Commission on request.

(2) Mediating disputes regarding cost estimates for reconfiguring a system.

(3) Issuing the Draw Certificate to authorize and instruct the Letter of

Credit Trustee to draw down on the Letter of Credit to pay relocation costs in connection with reconfiguring a licensee's system.

(4) Establishing a relocation schedule on a NPSPAC region-by-region basis, prioritizing the regions on the basis of population. However, should a given region be encountering unusually severe amounts of unacceptable interference, that region may be moved up in priority. Any party disputing such a change in priority may refer the matter to the Chief, Public Safety and Homeland Security Bureau, who hereby is delegated the authority to resolve such disputes. The Transition Administrator may direct that adjoining regions be reconfigured simultaneously when conditions so require.

(5) The Transition Administrator will coordinate relocation of a NPSPAC Region's NPSPAC channels with the relevant Regional Planning Committee(s) prior to commencing band reconfiguration in a NPSPAC Region.

(b) Once band reconfiguration commences in a given NPSPAC Region, the Transition Administrator will:

(1) Monitor the retuning schedule and resolve any schedule delays or refer same to the Chief, Public Safety and Homeland Security Bureau, for resolution;

(2) Coordinate with adjoining NPSPAC Regions to ensure that interference is not being caused to their existing facilities from relocated stations;

(3) Provide quarterly progress reports to the Commission in such detail as the Commission may require and include, with such reports, certifications by Nextel and the relevant licensees that relocation has been completed and that both parties agree on the amount received from the letter of credit proceeds in connection with relocation of the licensees' facilities. The report shall include description of any disputes that have arisen and the manner in which they were resolved. These quarterly reports need not be audited. The Transition Administrator may select the dates for filing the quarterly progress reports;

(4) Provide the Chief, Public Safety and Homeland Security Bureau, with

an annual audited statement of relocation funds expended to date, including salaries and expenses of Transition Administrator. The Transition Administrator may select the date for filing the annual audited statement;

(5) Facilitate resolution of disputes by mediation; or referral of the parties to alternative dispute resolution services as described in § 90.677(d).

(6) Notify the Commission when band reconfiguration is complete in each 800 MHz NPSPAC Region and identify which vacant channels are exclusively available to eligible applicants in the Public Safety or Critical Infrastructure Industry Categories as set forth in §§ 90.615(a), (b) and 90.617(g), (h).

(c) The Transition Administrator may not serve as the repository of funds used in band reconfiguration, excepting such sums as Nextel may pay for the Transition Administrator's services. Moreover, the Transition Administrator will not be certified by the Commission as a frequency coordinator.

[69 FR 67849, Nov. 22, 2004, as amended at 70 FR 6760, Feb. 8, 2005; 70 FR 76711, Dec. 28, 2005; 71 FR 69038, Nov. 29, 2006]

§ 90.677 Reconfiguration of the 806-824/851-869 MHz band in order to separate cellular systems from non-cellular systems.

In order to facilitate reconfiguration of the 806-824/851-869 MHz band ("800 MHz band") to separate high-density cellular systems from non-cellular systems, Nextel Communications, Inc. (Nextel) may relocate incumbents within the 800 MHz band by providing "comparable facilities." For the limited purpose of band reconfiguration, the provisions of § 90.157 shall not apply and inter-category sharing will be permitted under all circumstances. Such relocation is subject to the following provisions:

(a) Within thirty days of Commission approval of the Transition Administrator, the Transition Administrator described in § 90.676 will provide the Commission with a schedule detailing when band reconfiguration shall commence for each NPSPAC Region. The plan should also detail—by NPSPAC Region—which relocation option each non-Nextel ESMR licensee has chosen.

The Chief, Public Safety and Homeland Security Bureau will finalize and approve such a plan. The schedule shall provide for completion of band reconfiguration in no more than thirty-six months following release of a public notice announcing the start date of reconfiguration in the first NPSPAC region. Relocation will commence according to the schedule set by the Transition Administrator but all systems must have commenced reconfiguration within thirty months of release of a public notice announcing the start date of reconfiguration in the first NPSPAC region.

(b) *Voluntary negotiations.* Thirty days before the start date for each NPSPAC region other than Region 47 and Region 48, the Chief, Public Safety and Homeland Security Bureau will issue a public notice initiating a three-month voluntary negotiation period. During this voluntary negotiation period, Nextel and all incumbents may negotiate any mutually agreeable relocation agreement. Sprint Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator.

(c) *Mandatory negotiations.* If no agreement is reached by the end of the voluntary period, a three-month mandatory negotiation period will begin during which both Sprint Nextel and the incumbents must negotiate in "good faith." In Region 47, a 90-day mandatory negotiation period will begin 60 days after the effective date of the Third Report and Order and Third Further Notice of Proposed Rulemaking in WT Docket 02-55. In Region 48, a 90-day mandatory negotiation period will begin on March 21, 2011. Sprint Nextel and relocating incumbents may agree to conduct face-to-face negotiations or either party may elect to communicate with the other party through the Transition Administrator. All parties are charged with the obligation of utmost "good faith" in the negotiation process. Among the factors relevant to a "good-faith" determination are:

(1) Whether the party responsible for paying the cost of band reconfiguration