

Federal Communications Commission

§ 90.676

Washington, DC office of the Commission's Public Safety and Homeland Security Bureau.

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

§ 90.675 Information exchange.

(a) *Prior coordination.* Public safety/CII licensees may notify an ESMR or part 22 Cellular Radiotelephone licensee that they wish to receive prior notification of the activation or modification of ESMR or part 22 Cellular Radiotelephone cell sites in their area. Thereafter, the ESMR or part 22 Cellular Radiotelephone licensee must provide the following information to the public safety/CII licensee at least 10 business days before a new cell site is activated or an existing cell site is modified:

- (1) Location;
- (2) Effective radiated power;
- (3) Antenna height;
- (4) Channels available for use.

(b) *Purpose of prior coordination.* The coordination of cell sites is for informational purposes only: public safety/CII licensees are not afforded the right to accept or reject the activation of a proposed cell or to unilaterally require changes in its operating parameters. The principal purposes of notification are to:

- (1) Allow a public safety/CII licensee to advise the ESMR or part 22 Cellular Radiotelephone licensee whether it believes a proposed cell will generate unacceptable interference;
- (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 de-

scribed in this section must notify the appropriate ESMR and part 22 Cellular Radiotelephone licensees prior to any technical changes to their radio system.

§ 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)

§ 90.677

47 CFR Ch. I (10–1–20 Edition)

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) [Reserved]

(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.

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§ 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 licensees 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