APPENDIX C

800 MHZ REALIGNMENT DRAFT RULE FRAMEWORK

800 MHZ REALIGNMENT DRAFT RULE FRAMEWORK

I. **General**

A. Definitions. As used throughout this Order, the following terms shall be defined as follows:

1. Cellular Block The current 800 MHz block from 861-869 MHz, paired 816-824 MHz, shall be reclassified for use only by low-site digital cellular-type CMRS systems (the "Cellular Block"). Except for existing Upper-200 Economic Area ("Upper-200 EA") Licensees, Licensees under all other service classifications shall be relocated from the Cellular Block to comparable facilities within the 800 MHz band under this Order.

2. Current NPSPAC Block: Included within the Cellular Block is the current public safety radio allocation at 866-869 MHz, paired with 821-824 MHz (the "Current NPSPAC Block").

3. Non-Cellular Block: The 800 MHz block, currently authorized for several different services from 851-861 MHz, paired 806-816 MHz, shall be reclassified for use only by high-site, high-power wide-area systems (the "Non-Cellular Block"). Pursuant to FCC rule waiver, high-site, high-power systems may convert their operations to Cellular-use, as that term is defined in the text of the First Report and Order, but will be subject to certain restrictions in order to prevent interference to other licensed operations in the Non-Cellular Block.

4. New NPSPAC Block Included within the Non-Cellular Block is the designated relocation spectrum for the NPSPAC Block, which shall be reclassified for public safety radio use at 851-854 MHz, paired with 806-809 MHz (the "New NF'SPAC Block"). Licensees under all service classifications shall be relocated from the New NPSPAC Block to comparable facilities within the 800 MHz band or to other spectrum under this Order to accommodate relocation of the Current NPSPAC Block.

5. Guard Band Included within the Non-Cellular Block at 859-861 MHz, paired with 814-816 MHz, is the designated primary relocation spectrum for Business, Industrial/Land Transportation and high-site SMR licensees (the "Guard Band"). Station operation in the Guard Band will be limited to high-site, wide-area systems for all radio services, except that low-power "campus" systems covering small, discrete geographic areas are expressly encouraged because their operations are less likely to cause or experience interference to or from other licensees in the 800 MHz band. Current public safety licensees in the Guard Band are eligible for relocation to the portions of the Non-Cellular Block outside of the New NPSPAC Block, but relocation is voluntary for these licensees. Public safety licensees electing to remain in the Guard Band are deemed to accept certain interference from licensees in the Cellular Block lawfully operating within the parameters of their licenses, as set forth in this Order.

6. 900 MHz Replacement Block Spectrum in the 900 MHz band authorized for wide-area SMR operations and licensed to Nextel Communications, Inc., or its subsidiaries and affiliates (collectively, "Nextel"), shall be made available for Business and Industrial/Land Transportation and Specialized Mobile Radio ("SMR") incumbent licensees in the New NF'SPAC Block, Non-Cellular Block and Cellular Block on a voluntary basis (the "900 MHz Replacement Block"). Incumbent licensees electing to relocate to the 900 MHz Replacement Block will receive replacement spectrum on a "2 for 1" basis, i.e., the licensee will receive four (4) 12.5 kHz channels in the 900 MHz Replacement Block for each 25 kHz channel surrendered in the New NPSPAC Block, Non-Cellular Block and/or Cellular Block.

B. Comparable Facilities. Incumbent licensees subject to mandatory relocation under this Order (and those licensees electing to voluntarily relocate to 900 MHz) shall be entitled to be relocation to "comparable facilities" as defined in this Order. Except where noted herein, all direct expenses arising from relocation shall be paid or reimbursed by the Relocation Fund (as defined, *infra.*) The determination of whether facilities are comparable shall be made from the perspective of the end user, as determined through four factors – System, Capacity, Quality of Service, and Operating Costs.

1. System. To meet the comparable facilities requirement, an incumbent licensee must be provided with a comparable system, as defined functionally from the end user's point of view, i.e., a system is comprised of base station facilities that operate on an integrated basis to provide service to a common end user, and all mobile units associated with those base stations. This definition can include multiple-licensed facilities that share a common switch or are otherwise operated as a unitary system, provided that an end user has the ability to access all such facilities. A "system" also may cover more than one EA or NF'SPAC planning region if its existing geographic coverage extends beyond those borders. In general, reprogramming of the system should be completed in a manner that avoids substantial disruption to the greatest extent possible. On the end-user side, eligible reprogramming costs shall cover all "units in service", defined as any fully operational unit (i) currently programmed to operate on the system, and (ii) which has generated airtime use or system/airtime revenue for the system operator within the previous 12-month period. Total unit count for Public Safety systems shall include all operational units currently programmed to operate on the system. In addition, retuning should be completed without significant disruption to the users of the system. Replacement frequencies designated in accordance with the procedures set forth in this Order are hereby deemed to be "comparable" for the purposes of this Order. Because (i) replacement frequencies are known to be comparable to existing frequencies; (ii) it is anticipated most systems will be reprogrammed within the 800 MHz band, rather than replaced; and (iii) the Commission and the industry have substantial positive experience gained through the 800 MHz Upper-200 relocations under WT Docket No. 93-144, there shall be no requirement to "build and test" a new

replacement system before an incumbent licensee shall be required to relocate under this Order; this provision shall also extend to incumbent licensees voluntarily electing to relocate to the 900 MHz Replacement Block. As described in Section A.6. above, incumbent licensees electing to relocate to the 900 MHz Replacement Block will only be eligible for compensation in the amount which would have been spent to retune such licensee's current system within the 800 MHz band only under certain elections.

2. Capacity. A comparable system must have at least the same channel capacity, defined as the same number of channels with the same bandwidth that is currently available to the end user. For example, if an incumbent's system consists of five 50 kHz (two 25 kHz paired frequencies) channels the replacement system must also have five 50 kHz channels. If a different channel configuration is used, it must have the same overall capacity as the original configuration, specifically, four 25 kHz (two 12.5 kHz paired frequencies) 900 MHz channels are comparable to two 50 kHz (two 25 kHz paired frequencies) 800 MHz channels, even if the 900 MHz channels are not adjacent and do not provide 25 kHz of contiguous spectrum. In addition, the geographic coverage of 800 or 900 MHz replacement channels must be coextensive with that of the original system, but replacement channels meeting the "quality of service" factors shall be presumed by a rebuttable presumption to provide coextensive coverage. Replacement channels need not have the same channel spacing as current frequencies, as long as the relocation plan meets the test of comparable facilities herein, and the incumbent licensee is compensated (if eligible) for the cost of additional antenna and/or combiner changes required to make system operate effectively with the new channel spacing.

3. Quality of Service. In order for a replacement system to be comparable, the end user must perceive substantially similar quality of service. Replacement 800 MHz or 900 MHz frequencies provided to an incumbent licensee are deemed to provide a comparable quality of service for the purposes of this Order if the replacement frequencies meet the following criteria: (1) provide at least the same quantity of spectrum; (2) are licenses at the same licensed coordinates as incumbent's current license, with the same or substantially similar effective radiated power (ERF), elevation, antenna height and height above average terrain (HAAT); and (3) provide co-channel protection equal to the lesser of: (i) the co-channel protection required under FCC Rule § 90.621; or (ii) incumbent licensee's current co-channel protection, if less than provided for under § 90.621 due to consensual short-spacing, failure to gain exclusivity through adequate loading, or other historic factors. Public safety licensees relocated from the New NPSPAC Block and the Guard Band to channels 121-320 within the Non-Cellular Block shall only be entitled to the co-channel protection granted under § 90.621. Incumbent licensees in the Current NPSPAC Block are also provided the same mandatory minimum protection under § 90.621 of the FCC Rules, and this protection under the rules shall be extended to the New NPSPAC Block. The Commission

acknowledges that NPSPAC regional plans have sometimes been developed to provide co-channel separation to licensees in excess of their entitlement under FCC Rules, and nothing in this Order shall prevent NPSPAC Regional Planning Committees from continuing this practice in the New NPSPAC Block should they choose to do so in license planning and coordination.

4. Operating Costs. A comparable system must not increase operating costs for the licensee. "Operating Costs" shall be defined as costs that affect the delivery of services to the end user. If the facilities provided entail higher operating costs than the incumbent's currently configured system, those costs shall be subject to reimbursement under this section. Increased Operating Costs may take the form of increased recurring costs (additional rent payments, higher utility fees) and/or increased maintenance costs. Any increased Operating Costs directly attributable to system relocation under this Order shall be reimbursable for two years from the closing date of a voluntary relocation agreement.

5. Filing Fees; Applications. The Commission shall use its best efforts to act upon all applications filed pursuant to relocations under this Order within 60 days of receipt, and shall act on all applications for Special Temporary Authority within 15 days of receipt. The Commission hereby deems all such applications are in the public interest by a rebuttable presumption and therefore should be granted expeditiously unless challenged by a party with standing to do so. All Incumbent Licensees must ensure their TIN, password, ULS registration and tower registration (if applicable) are current within forty-five (45) days following the effective date of this Order, and may be subject to FCC audit and possible administrative action. All filing fees shall be waived ***for*** applications pursuant to this Order; waiver is in the public interest because licensees are being required to relocate systems under this Order to solve interference issues caused by the Commission's current licensing scheme.

C. Provision of System Information. In order to protect the public and provide for improved public safety communications and to complete the relocation of incumbent licensees set forth in this Order, it is imperative that all parties involved have accurate information about the system to be relocated in order to properly determine the costs and logistics of the relocation. Therefore, the requirements for providing information placed on incumbent licensees throughout these rules are being made pursuant to the Commission's broad authority to compel FCC licensees to provide necessary, relevant factual information to the Commission under penalty of perjury.[1] Any information provided by incumbent

[1] 47 U.S.C. §308(b) allows the Commission to request "further written statements of fact" from licensees; 47 C.F.R. $1.17 gives the Commission power to request from any licensee written statements of fact relevant to any matter within its jurisdiction; 47 C.F.R. $90.439 requires that station records – including information on station operations and loading – be made available for inspection upon reasonable request of the Commission.

licensees to any third-party for the purpose of completing the system relocations contemplated by this Order shall not be used by any third-party for any other purpose, including, specifically, any unrelated marketing or commercial purposes. The specific Commission request to provide accurate system information under penalty of perjury, and the Commission's distribution of such information to specific, identified third-parties acting pursuant to this Order to assist the Commission in carrying out the relocations contemplated hereby, is within the scope of the FCC's administrative authority under the Communications Act, which states, "The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." Without being required to make specific showing, licensees shall receive confidential treatment for this information by the Commission, and the Commission shall require any third-parties receiving such information for the purposes of relocation to agree to keep such information in confidence; and to use such information strictly for the purposes intended, and not for any other commercial use.

D. Relocation Fund. Nextel shall provide up to $850 million to facilitate the relocations contemplated herein (the "Relocation Fund"). The Relocation Fund shall be administered by an Administrator (either a natural person or corporate entity) who shall have a fiduciary duty to maintain the Relocation Fund in accordance with the rules set forth in this Order.

E. Relocation Coordination Committee. In order to facilitate the system relocations contemplated under this agreement, certain powers shall be delegated to a committee composed of four representatives appointed by the Land Mobile Communications Council ("LMCC") and one from Nextel (the "Relocation Coordination Committee", or "RCC"). The RCC shall be responsible for frequency coordination, dispute resolution and licensing application responsibilities during the 800 MHz realignment process. The LMCC shall appoint two representatives from its public safety membership and two representatives from its private wireless membership to serve on the RCC. For the purposes of carrying out their delegated responsibilities under this Order, the members of the RCC may elect to organize in corporate form and devolve such responsibilities to the new entity. The RCC on its own account, and all member entities of the RCC, shall execute Confidentiality Agreements with the Commission. The RCC shall be responsible for the appointment and compensation of the Relocation Fund administrator selected by a super-majority of the RCC members including the approval of Nextel, but shall only be able to remove the Administrator for cause during his term in office. All relocation cost reimbursement claims by licensees pursuant to any negotiated agreements between the affected parties under this Order shall be submitted by the incumbent licensee to the RCC, which shall be responsible for the review and approval of all relocation cost reimbursement claims to ensure consistency with the provisions of this Order. The RCC shall then approve the reimbursement request and direct the Relocation Fund Administrator to release the appropriate funds to the Incumbent Licensee or its designee.

In order to facilitate the realignment efforts, the RCC shall establish two working committees within 30 days following the effective date of this Order. The Phase I Planning Committee shall consist of one representative, appointed by the constituent organization, from each of (i) an FCC authorized public safety coordinators in the RCC: (ii) an FCC authorized private land mobile coordinator in the RCC; and Nextel. The Phase II Planning Committee shall consist of one representative, appointed by the constituent organization, from each of (i) an FCC authorized public safety coordinator in the RCC; (ii) the NPSPAC Representative (as defined below); and (iii) Nextel. The RCC, in consultation with the NPSPAC Regional Planning committees and APCO, shall select one representative to the RCC from each of the **55** NPSPAC planning regions (the "NPSPAC Representatives"). Each NPSPAC Representative shall occupy the designated seat on the Phase II Planning Committee with respect to consideration of matters within his or her respective NPSPAC planning region.

F. Local, State and Federal Governmental Cooperation. The Commission recognizes that the completion of the system relocations contemplated herein will in some cases necessitate the construction of additional transmitter sites and/or the modification of existing transmission towers. The Commission finds these actions are in the public interest to mitigate current harmful interference to life-safety radio communications in the 800 MHz band. As such, the Commission strongly urges local governments to treat zoning applications filed **as** a result of this Order in the public interest, and to take all actions within their lawful power to expedite the review and approval of such applications.

II. Phase **I: Relocation of Incumbent Licensees From The New** NPSPAC **Block**

A. General. The mandatory relocation of all Incumbent Licensees from the New NPSPAC Block shall be completed within thirty-three **(33)** months following the effective date of this Order ("Phase I Completion Date"). The complete relocation of all incumbent licensees (including public safety, business, industrial/land transportation and high-site SMR) prior to commencement of NPSPAC channel relocation is in the public interest because: (i) the NPSPAC regional planning process is preserved; (ii) the separation of radio services will mitigate harmful interference; and (iii) the first priority for Relocation Funds should be ensuring clear replacement spectrum for NPSPAC licensees.

B. Exchange of Information. Because providing information is critical to carrying out the relocation process for all licensees, the FCC shall require incumbent licensees to provide the following information listed below ("System Information") to the RCC and FCC for use by third-parties in performing relocation of the subject facilities within forty-five **(45)** days of the effective date of this Order. This information shall only be distributed by the RCC to third-parties subject to Confidentiality Agreements and who have a need to know such information for the purposes of negotiating relocation agreements and completing the system relocations contemplated herein. Licensees shall cooperate in the provision of the required information and shall make themselves available to the

RCC to explain or elaborate upon any submissions. The FCC shall issue a Public Notice to announce the commencement of the applicable time period for providing the listed information and the RCC shall ensure that impacted licensees are provided notice of the required information submittal process via certified mail, return receipt requested, or other proof of delivery.

1. For Public Safety Licensees the following information shall be provided:

a. General Information:

- Agencyname
- Date of submission
- Designated Relocation contact, with all contact information (including mailing address, phone number, fax number, and e-mail address)
- Number and Location of Dispatch Centers

b. Voice System Information (this information must be provided for each independently operating system):

- System manufacturer and type
- Total number of transmitter sites
- For each site:
    - Site name
    - FAA Tower Registration Number
    - Presence of existing building and tower space to accommodate possible duplicate system elements during relocation
    - Call sign(s) and frequencies in operation at the site
    - System type (Single-Site, Simulcast, Back-up, Voted, etc.)
    - If Simulcast, how is this site linked to the other sites?
    - Repeaters:
        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #:
            - Output (watts)
    - Receive Antennas:
        - Quantity
        - ForEach:
            - Manufacturer
            - Type/Model #
            - Voted Receiver? (If yes, please provide detailed description)
    - Transmit Antennas:
        - Quantity
        - For Each
            - Manufacturer

        - Type/Model #
    - Combiners:
        - Quantity
        - Foreach:
            - Manufacturer
            - Type/Model #
            - # of cavities
            - Frequencies used
    - Controller type
    - Controller model #
    - Control home channels
    - Control channel rotation scheme (if applicable)
    - Failsoft channels (Frequency and number of units programmed on each frequency) (if applicable)
    - Other companies or agencies with units capable of operating on this site/system (using this site/system as secondary)
        - organization name
        - Number of other companies/agencies units programmed for site
    - Any other information not specifically requested above which may affect the cost or logistics of retuning for this site on this site (accessibility, power supply, co-tenants, etc.)
- Transmission type (Analog, Digital, or Both)
- System Interconnect Design (if any)
- Total number of programmed units for your agency use (primary on this site/system), divided into active units and spare units:
    - Manufacturer
    - Model number
    - Unit type (portable or mobile)
- Radio assignment method (i.e., by officer, by vehicle, or to shift on duty, number of hours per day each radio is in use)
- Total number of programmed units owned or controlled by other agencies which use this site/system as primary
    - Agency name
    - Radio Manufacturer
    - radio Model number
    - Unit type (portable or mobile)
- Other radio systems programmed into your agency radios for cross-system operation
    - Agency/ies operating other system(s)
    - System type
    - Quantity of units programmed for operating on the other system

c. <u>Data System Information (this information must be provided for each independently operating system)</u>:

- General System Description, including coverage and main users of system
- System manufacturer and type
- Total number of transmitter sites
- For each site:
    - Sitename
    - FAA Tower Registration Number
    - Presence of excess building and tower space to accommodate possible duplicate system elements during relocation
    - Call sign(s) and frequencies in operation at the site
    - System type (Single-Site, Simulcast, Back-up, Voted, etc.)
    - If Simulcast, how is this site linked to the other sites?
    - Repeaters:
        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #:
            - Output (watts)
    - Receive Antennas:
        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #
            - Voted Receiver? (If yes, please provide detailed description)
    - Transmit Antennas:
        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #
    - Combiners:
        - Quantity
        - Foreach
            - Manufacturer
            - Type/Model #
            - # of cavities
            - Frequencies used
    - Controller type
    - Controller model #
    - Controlihome channels
    - Control channel rotation scheme (if applicable)
    - Other companies or agencies with units capable of operating on this site
        - organization name
        - Number of units programmed for site
        - Connection type to other organization's console, if any

- Any other information not specifically requested above which may affect the cost or logistics of retuning for this site on this site (accessibility, power supply, co-tenants, etc.)

- Total number of programmed mobile data terminals (MDTs), divided into active units and spare units (your agency)
  - Manufacturer
  - Modelnumber

d. Console Information:

- Quantity of console stations

e. Mutual Aid Information: (If agency owns and maintains any mutual aid system or channels on its licensed frequencies)

- For each site:
  - Sitename
  - FAA Tower Registration Number
  - Presence of excess building and tower space to accommodate possible duplicate system elements during relocation
  - Call sign(s) and frequencies in operation at the site
  - Repeaters:
    - Quantity
    - ForEach:
      - Manufacturer
      - Type/Model #:
      - Output (watts)
  - Receive Antennas:
    - Quantity
    - ForEach
      - Manufacturer
      - Type/Model #
      - Voted Receiver? (If yes, please provide detailed description)
  - Transmit Antennas:
    - Quantity
    - ForEach:
      - Manufacturer
      - Type/Model #
  - Combiners:
    - Quantity
    - Foreach:
      - Manufacturer
      - Type/Model #
      - # of cavities
      - Frequencies used

- Any other information not specifically requested above which may affect the cost or logistics of retuning for this site on this site (accessibility, power supply, co-tenants, etc.)

f. Any additional information not listed above about any aspect of the system(s) for which information is being provided that is critical to planning the costs and logistics of system relocation, including any funded near-term upgrade plans.

2. For Business and Industrial/Land Transportation Licensees the following information shall be provided:

a. General Information:

- Companyname
- Date of submission
- Designated Relocation contact, with all contact information (including mailing address, phone number, fax number, and e-mail address)

b. Voice System Information (this information must be provided for each independently operating system):

- System manufacturer and type
- Total number of transmitter sites
- For each site:
  - Site name
  - FAA Tower Registration Number
  - Presence of existing building and tower space to accommodate possible duplicate system elements during relocation
  - Call sign(s) and frequencies in operation at the site
  - System type (Single-Site, Simulcast, Back-up, Voted, etc.)
  - If Simulcast, how is this site linked to the other sites?
  - Repeaters:
    - Quantity
    - ForEach
      - Manufacturer
      - Type/Model #:
      - Output (watts)
  - Receive Antennas:
    - Quantity
    - ForEach:
      - Manufacturer
      - Type/Model #
      - Voted Receiver? (If yes, please provide detailed description)
  - Transmit Antennas:

        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #
    - Combiners:
        - Quantity
        - Foreach:
            - Manufacturer
            - Type/Model #
            - # of cavities
            - Frequencies used
    - Controller type
    - Controller model #
    - Control/home channels
    - Control channel rotation scheme (if applicable)
    - Failsoft channels (Frequency and number of units programmed on each frequency) (if applicable)
    - Are other companies or agencies with radios capable of operating on this system
        - **How** many Companies/Agencies
        - Total number of units
    - Any other information not specifically requested above which may affect the cost or logistics of retuning for this site on this site (accessibility, power supply, co-tenants, etc.)
- Transmission type (Analog, Digital, or Both)
- System interconnect design (if any)
- Total number of programmed units for company use, divided into active units and spare units:
    - Manufacturer
    - Modelnumber
    - Unit type (portable, mobile or base station)
- Radio assignment method (i.e., by employee, by vehicle, or to shift on duty, number of hours per day each radio is in use)
- Total number of programmed units owned or controlled by other organizations:
    - Manufacturer
    - Modelnumber
    - Unit type (portable or mobile)
- Other radio systems programmed into company radios for cross-system operation
    - Organizations operating other system(s)
    - Systemtype
    - Quantity of subject company's units programmed for operating on the other system

c. Data System Information (this information must be provided for each independently operating system):

- General system description, including coverage and main users **of** system
- System manufacturer and type
- Total number of transmitter sites
- For each site:
    - Site name
    - FAA Tower Registration Number
    - Presence of excess building and tower space to accommodate possible duplicate system elements during relocation
    - Call sign(s) **and** frequencies in operation at the site
    - System type (Single-Site, Simulcast, Back-up, Voted, etc.)
    - If Simulcast, how is this site linked to the other sites?
    - Repeaters:
        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #:
            - Output (watts)
    - Receive Antennas:
        - Quantity
        - ForEach:
            - Manufacturer
            - Type/Model #
            - Voted Receiver? (If yes, please provide detailed description)
    - Transmit Antennas:
        - Quantity
        - ForEach:
            - Manufacturer
            - Type/Model #
    - Combiners:
        - Quantity
        - Foreach
            - Manufacturer
            - Type/Model #
            - # of cavities
            - Frequencies used
    - Controller type
    - Controller model #
    - Controlhome channels
    - Control channel rotation scheme (if applicable)
    - Other companies or agencies with MDTs capable of operating on this site
        - How many Companies/Agencies

        - How many total units
    - Any other information not specifically requested above which may affect the cost or logistics of retuning for this site on this site (accessibility, power supply, co-tenants, etc.)
- Total number of programmed mobile data terminals (MDTs), divided into active units and spare units:
    - Manufacturer
    - Modelnumber

d. Console Information:

- Quantity of Console Stations

e. Any additional information not listed above about any aspect of the system(s) for which information is being provided that is critical to planning the costs and logistics of system relocation.

3. For SMR Licensees the following information shall be provided:

a. General Information:

- Companyname
- Date of submission
- Designated Relocation contact, with all contact information (including mailing address, phone number, fax number, and e-mail address)
- Total number of active billed units:
    - Manufacturer
    - Modelnumber
    - Unit type (portable, mobile, base station)

b. System Information (this information must be provided for each independently operating voice or data system):

- System manufacturer and type
- Total number of transmitter sites
- For each site:
    - Sitename
    - FAA Tower Registration Number
    - Presence of existing building and tower space to accommodate possible duplicate system elements during relocation
    - Call sign(s) and frequencies in operation at the site
    - System type (Single-Site, Simulcast, Back-up, Voted, etc.)
    - If Simulcast, how is this site linked to the other sites?
    - Repeaters:
        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #:
            - Output (watts)
    - Receive Antennas:
        - Quantity
        - ForEach:
            - Manufacturer
            - Type/Model #
            - Voted Receiver? (If yes, please provide detailed description)
    - Transmit Antennas:
        - Quantity
        - ForEach:
            - Manufacturer
            - Type/Model #
    - Combiners:
        - Quantity

- Foreach:
    - Manufacturer
    - Type/Model #
    - # of cavities
    - Frequencies used
  - Controller type
  - Controller model #
  - Control/home channels
  - Control channel rotation scheme (if applicable)
  - Failsoft channels (Frequency and number of units programmed on each frequency) (if applicable)
  - Any other information not specifically requested above which may affect the cost or logistics of retuning for this site on this site (accessibility, power supply, co-tenants, etc.)
- Transmission type (Analog, Digital, or Both)
- System interconnect design (if any)

c. Any additional information not listed above about any aspect of the system(s) for which information is being provided that is critical to planning the costs and logistics of system relocation.

C. Relocation Planning and Filing of Applications by RCC.

1. Following the provision of the information described above to the RCC and FCC, and within 90 days following the effective date of this Order, the Phase I Planning Committee shall establish a detailed frequency plan setting forth post-relocation spectrum assignments for the Economic Area ("EA") licensees on channels 1-120 currently licensed in the New NPSPAC Block and those other incumbent licensees with operations in more than three **(3)** NPSPAC Regions and more than 400 frequencies ("Large Regional Licensees"). The frequency plan shall ensure Incumbent Licensees receive equivalent spectrum to their current frequencies, including comparable incumbency, co-channel protections pursuant to Section 90.621(b) of the FCC's Rules and contiguous channels, to the extent possible.

2. Following the provision of the information described above to the RCC and FCC, and within 120 days following the effective date of this Order, the Phase I Planning Committee shall establish a detailed frequency plan setting forth post-relocation spectrum assignments for all other licensees in each of the first 14 NPSPAC planning regions (as prioritized by the RCC by population and severity of public-safety interference), and shall establish a frequency plan for the remaining 41 NPSPAC planning regions within 180 days following the effective date of this Order. The frequency plan shall ensure Incumbent Licensees receive equivalent spectrum to

their current frequencies, including comparable incumbency and co-channel protections pursuant to Section 90.621(b) of the FCC's Rules.

3. The RCC shall submit the detailed frequency plans to the Commission for certification; because no interested parties' rights would be adversely affected by coordination of the frequency plans, the regional plans shall be certified by the Commission without public notice. Once an incumbent licensee and Nextel have reached contractual agreement on a relocation plan, as described below, the RCC will prepare and file any necessary license applications with the Commission on behalf of the licensees. Applications involving public safety incumbents shall be filed by the RCC (or the relevant applicant) with a certified public safety coordinator, which will complete a final review and submit the application to the FCC. Public safety coordinators are required to submit such applications to the FCC within seven days of receipt by the public safety coordinator. Because the detailed frequency plans will have been previously certified, individual applications shall be considered "pre-coordinated" by the Commission, but it is expected that individual applications may be subject to 30-day public notice procedures in accordance with FCC rules. The Commission shall use its best efforts to act upon all applications filed pursuant to relocations under this Order within 60 days of receipt. The Commission hereby deems all such applications are in the public interest by a rebuttable presumption and therefore they shall be granted expeditiously unless challenged by a party with standing to do so.

4. To accomplish the relocations described herein, and to the extent that Nextel is not licensed for the Lower 1-120 EA Blocks, Nextel shall receive nationwide special temporary overlay authority commencing as physical retunes begin in each NPSPAC Planning Region, and ending with respect to each NPSPAC Planning Region upon termination of Nextel's operation in the lower 120 channels pursuant to the applicable Regional Migration Plan (the "Special Temporary Overlay Authority").[2] The Special Temporary Overlay Authority shall give Nextel primary authority to operate within the interference contour as previously licensed to an Incumbent Licensee upon the cancellation of such Incumbent License as the result of the relocations completed pursuant to this Order.

D. Timing and Negotiation of Relocations. In most cases, Nextel is the current EA licensee in the New NPSPAC Block, and, as such, must play a direct role in Phase I of the relocation process. In this phase, relocation may be accomplished through private contractual agreement of the Incumbent

[2] To minimize processing delays, the Commission should grant Nextel STA authority for channels 1-120 in the Report and Order, effective in each Region upon the commencement of physical retunes.

Licensees and Nextel, with the coordination of the RCC in the exchange of information and selection of replacement frequencies.

1. For all EA licensees currently licensed on channels 1-120, and Large Regional Licensees, and once frequency plans have been certified to the FCC, a nine-month mandatory negotiation period for relocation of these licensees shall commence. Within that period, Nextel must provide a complete relocation offer, including: (i) proposed replacement frequencies as designated by the Phase I Planning Committee of the RCC; (ii) costs to be reimbursed by the Relocation Fund; (iii) proposed relocation agreement containing other standard terms and conditions; to each Incumbent Licensee who has provided Relocation Information, with a copy to the RCC (the "Relocation Proposal"). Negotiations may commence as early as upon receipt of the System Information by the RCC, but must commence upon certification of the Regional Frequency Plan. All parties shall respond in a timely and reasonable fashion to all relocation proposals, requests for meetings, and other correspondence or communication relating to negotiation. Once an agreement between the parties has been reached, the parties shall cooperate with the RCC in filing applications with the FCC. The Commission shall use its best efforts to act upon all applications filed pursuant to relocations under this Order within 60 days of receipt. The FCC expects that relocations will occur within 90 days of FCC approval of the subject applications. Relocation that do not occur within 90 days shall occur within 8 months of FCC approval of the subject applications or the incumbent licensee shall be subject to possible fines and possible cancellation of their license. It is expected that relocation of all incumbent licensees within this category shall be relocated within **23** months of the effective date of this Order.

2. For the first 14 prioritized Regions, **as** defined by the RCC, and once frequency plans have been certified to the FCC, a nine-month mandatory negotiation period for relocation of these licensees shall commence. Within that period, Nextel must provide a complete relocation offer, including: (i) proposed replacement frequencies as designated by the Phase I Planning Committee of the RCC; (ii) costs to be reimbursed by the Relocation Fund; (iii) proposed relocation agreement containing other standard terms and conditions; and (iv) a plan for each relocating licensee designed to prevent significant disruption of its operations, especially communications relating to the protection of life, health, and property to each Incumbent Licensee who has provided Relocation Information, with a copy to the RCC (the "Relocation Proposal"). Negotiations may commence as early as upon receipt of the System Information by the RCC, but must commence upon certification of the Regional Frequency Plan. All parties shall respond in a timely and reasonable fashion to all relocation proposals, requests for meetings, and other correspondence or communication relating to negotiation. Once an agreement between the

parties has been reached, the parties shall cooperate with the RCC in filing applications with the FCC. The Commission shall use its best efforts to act upon all applications filed pursuant to relocations under this Order within 60 days of receipt. The FCC expects that relocations will occur within 90 days of FCC approval of the subject applications. Relocation that do not occur within 90 days shall occur within 9 months of FCC approval of the subject applications or the incumbent licensee shall be subject to possible fines and possible cancellation of their license. It is expected that relocation of all incumbent licensees within this category shall be relocated within 24 months of the effective date of this Order.

3. For the all other licensees in the remaining Regions (Regions prioritized 15-55, as defined by the RCC), and once frequency plans have been certified to the FCC, a thirteen-month mandatory negotiation period for relocation of these licensees shall commence. Within that period, Nextel must provide a complete relocation offer, including: (i) proposed replacement frequencies as designated by the Phase I Planning Committee of the RCC; (ii) costs to be reimbursed by the Relocation Fund; (iii) proposed relocation agreement containing other standard terms and conditions; and (iv) a plan for each relocating licensee designed to prevent significant disruption of its operations, especially communications relating to the protection of life, health, and property to each Incumbent Licensee who has provided Relocation Information, with a copy to the RCC (the "Relocation Proposal"). Negotiations may commence upon receipt of the System Information by the RCC, but must commence upon certification of the Regional Frequency Plan. All parties shall respond in a timely and reasonable fashion to all relocation proposals, requests for meetings, and other correspondence or communication relating to negotiation. Once an agreement between the parties has been reached, the parties shall cooperate with the RCC in filing applications to relocate the subject facilities with the FCC. The Commission shall use its best efforts to act upon all applications filed pursuant to relocations under this Order within 60 days of receipt. It is expected that relocations will occur within 180 days of FCC approval of the subject applications. Relocations that do not occur within 180 days shall occur within 12 months of FCC approval of the subject applications or the incumbent licensee shall be subject to fines and possible cancellation of their license. Thus, it is expected that relocation of all incumbent licensees within this category shall be relocated within 33 months of the effective date of this Order.

4. Should an incumbent licensee and Nextel not reach agreement within the mandatory negotiation periods described above, either party may use the procedures below to initiate mediation or arbitration of unresolved cost and timing issues before a panel established by the RCC.

E. Relocation Suectrum for Incumbent Licensees.

1. Public Safety Incumbent Licensees. Licensees in this category will be moved to spectrum made available by Nextel in the Non-Cellular Block outside the Guard Band, or to currently unlicensed public safety spectrum in the Non-Cellular Block outside the Guard Band. In order to provide timely transition, new licenses with new call signs will be granted to the Incumbent upon application within 60 days of filing. Upon grant of the new application, the expiration date of the incumbent's existing license will be modified to the Phase 1Completion Date. Once the incumbent has vacated its existing channels, its license will be voluntarily cancelled. Upon cancellation of the incumbent's license, Nextel may begin immediately to use the frequencies under its Special Temporary Overlay Authority or pursuant to its EA authority.

2. Business/Industrial and Land Transportation and Traditional Specialized Mobile Radio ("SMR") Licensees. For licensees in this category who elect to remain in the 800 MHz band, the first preference will be to relocate such licensees to spectrum made available by Nextel in the Guard Band, or if not all incumbent licensees in a geographic area can be accommodated in the Guard Band, to spectrum in the Non-Cellular Block outside of the Guard Band; provided, however, that "safety of life" or "mission critical" licensees (as defined by the FCC) may elect to select this option even if spectrum is otherwise available in the Guard Band. Non-public safety licensees electing to relocate from the Guard Band shall not be eligible for cost reimbursement. In order to provide timely transition, new licenses with new call signs will be granted to the Incumbent upon initial application within sixty (60) days of filing. Upon grant of the new application, the expiration date of the incumbent's existing license will be modified to the Phase I Completion Date. Once the incumbent has vacated its existing channels, its license will be voluntarily cancelled.

   Any incumbent licensee electing voluntary relocation to the 900 MHz Replacement Block must file a notice of intent to relocate with the Relocation Coordination Committee no less than 60 days following the effective date of this Order. Licensees choosing to relocate to 900 MHz spectrum shall receive licenses on a first-come, first serve basis. If an Incumbent licensee accepts relocation reimbursement from the Relocation Fund, then (i) during the completion of system relocation under the terms and conditions of the subject relocation agreement, the licensee shall have immediate use of 50% of its 900 MHz replacement spectrum upon issuance of its new license; (ii) the licensee shall receive a license for the remaining 50% of its 900 MHz replacement spectrum, but such license shall be secondary to Nextel's incumbent **MTA** or DFA license; Nextel's

license will be surrendered, and the licensee shall receive unfettered primary authority to use the spectrum, 180 days after the Phase II Completion Date; however, if an Incumbent licensee chooses to remain responsible for its own relocation costs, all of the 900 MHz replacement spectrum will be usable by the Incumbent upon issuance of its new license. Incumbent Licensees electing to relocate to the 900 MHz Replacement Band will be subject to the rules and schedules set forth herein for Phase I, including issuance of new FCC licenses authorizing use of the 900 MHz replacement frequencies. Once the incumbent has vacated its existing channels, its 800 MHz license will be assigned to Nextel or voluntarily cancelled by the FCC. Upon cancellation of the incumbent's license, Nextel may begin immediately to use the frequencies under its new licensing authority, Special Temporary Overlay Authority or EA authority.

3. Channel 1-120 EA Licensees. As described above, the RCC will, as a general rule, seek to complete relocation of EA Licensees first due to the complexity of replacement spectrum. The primary operation area of all EA Licensees in Blocks D, DD, E, EE, and Channels 101-120 of Block F shall be frozen as of the date of this Order; that is, the EA Licensee retains primary authority in all areas of the EA except within the interference contour of Incumbent licensees as of the date of this Order; this is the primary operating authority which will be subject to relocation. The cancellation of any Incumbent license as the result of a relocation completed pursuant to this Order shall not entitle the EA licensee to primary authority within the interference contour of such license. Any disputes regarding an EA licensee's "white space" will be mediated and resolved by the RCC.

4. Licensing Freeze. As of the effective date of this Order, no new applications shall be accepted for new Business and ILT licenses in the 800 MHz band except for those licenses to be issued expressly for the completion of the relocations contemplated under this Order and site-specific licenses issued to an EA licensee providing post-operation notice of their operating locations within their area of operation without affecting the rights of current protected incumbent licensees. All applications currently on file with the Commission will be acted upon in a timely manner, provided, however, that any currently pending applications for licenses and any pending Finder's Preference proceedings contemplating the grant of any new license which would create a new operational contour or expand the operational contour of any site-specific license for frequencies in New NPSPAC Block shall be amended by the Commission for eligible frequencies elsewhere in the Non-Cellular Block, either in the Guard Band or the non-NPSPAC public safety allocation, as applicable. To the extent there are any remaining SMR Upper-200 channel incumbents who have yet to relocate to comparable facilities, subject to Section 90.699 of the Commission's Rules, those licensees may be

relocated to spectrum in the Non Cellular Block. Any Incumbent License subject to renewal during the mandatory negotiation period will only be renewed for six ***(6)*** months, subject to execution of a relocation agreement during the renewal period. If a relocation agreement has been executed, the license may be renewed for a second six ***(6)*** month period.

F. Binding Arbitration. If Nextel and the Incumbent licensee reach an impasse during the mandatory negotiation period, either party may seek the mediation assistance of the RCC. If the parties cannot complete a relocation agreement by the end of the required mandatory negotiation periods, either party may initiate arbitration. Arbitration shall be conducted by an independent panel established by the Relocation Coordination Committee to review relocation proposals in a "Major League Baseball"-style arbitration: Nextel and the Incumbent Licensee will each present a single, best-and-final relocation proposal to the panel, which based on the relative merits must choose one of the two proposals and present its findings in a reasoned opinion. The decision of the panel shall be binding, provided, however, that any decision or portion of a decision of the arbitration panel with respect to whether replacement frequencies meet the definition of comparable facilities set forth in this Order may be appealed to the Commission. The Commission will give great weight to the decision of the arbitration panel in the consideration of any such appeal, and shall expedite the adjudication of any such appeal to the greatest extent allowed by law. The parties shall execute the relocation agreement within ten (10) days following the final arbitration decision. Should a public safety Incumbent Licensee be subject to state, municipal or other laws and regulations limiting their participation in binding arbitration, the parties shall be directed to undertake all best efforts to reconcile any unresolved cost and/or timing issues consistent with applicable state and local requirements, including non-binding arbitration subject to review and reversal by the FCC.

G. Failure to Comply. Any Incumbent licensee who has not provided the requested information within the deadlines specified above shall be subject to fines levied by the FCC to be deposited in the Relocation Fund. Unless the arbitration procedures above have been initiated, if any Incumbent Licensee has not executed a relocation agreement or vacated its original frequencies within twenty-four (24) months for EA, Large Regional Licensees or licensees in Regions prioritized 1-14 or within 33 months for all other licensees in Regions prioritized 15-55, following the effective date of this Order, then the FCC shall (i) cancel the subject license(s) through involuntary license cancellation; (ii) issue a new license under a new call sign to the licensee for the designated replacement frequencies; or (iii) direct the licensee to move system operations to the new frequencies within thirty (30) days. Should an Incumbent public safety Licensee be unable to vacate its original frequencies within the deadlines established herein due to circumstances beyond its control and has exhibited best efforts to meet any applicable deadline, the Incumbent public safety Licensee may seek an extension of the relocation period.

H. Costs: All direct, reasonable costs for relocating licensees shall be subject to payment or reimbursement through the Relocation Fund up to a total of $850 million. Nextel shall be eligible for reimbursement from the Relocation Fund for any otherwise reimbursable relocation costs incurred pursuant to a relocation agreement executed by Nextel and an Incumbent licensee between December 24, 2002, and the date of this Order. Reimbursable costs shall be similar to those enumerated in WT Docket No. 93-144

III. Phase II: Relocation of Public Safety Guard Band Incumbents and Incumbent NPSPAC Licensees to the New NPSPAC Block

A. General. The mandatory relocation of all Incumbent NPSPAC Licensees from the Current NPSPAC Block to the New NPSPAC Block, voluntary relocation of public safety incumbent licensees from the 800 MHz Guard Band (859-861 MHz) to elsewhere in the Non-Cellular Block and relocation of Nextel from the New NPSPAC Block to the Current NPSPAC Block shall commence within 24 months of the effective date of this Order (the "Phase II Start Date") and shall be completed within 18 months thereafter ("Phase II Completion Date"). The relocation of the Incumbent NPSPAC Licensees shall commence on a regional planning area basis as set forth below. Any public safety Guard Band Incumbent seeking to relocate subject to this Order must file a notice of intent to relocate with the FCC no less than sixty (60) days following the date of this Order. All public safety Guard Band Incumbents filing such notice agree, by virtue of such notice, to be bound by the provisions of this section. Any public safety Guard Band incumbents not electing to relocate will receive interference protection from CMRS operations in accordance with the parameters set forth in Appendix F herein.

B. Exchange of Information. Because providing information is critical to carrying out the relocation process for all licensees, the FCC shall require incumbent licensees in Regions prioritized 1-14 to provide the following information listed below ("System Information") to the RCC and FCC for use by third-parties in performing relocation of the subject facilities within 120 days of the effective date of this Order. For incumbent licensees in Regions prioritized 15-55, this information shall be required within one-year of the effective date of this Order. This information shall only be distributed by the RCC to third-parties subject to Confidentiality Agreements and who have a need to know such information for the purposes of negotiating relocation agreements and completing the system relocations contemplated herein. Licensees shall cooperate in the provision of the required information and shall make themselves available to the RCC to explain or elaborate upon any submissions. The FCC shall issue a Public Notice to announce the commencement of the applicable time period for providing the listed information and the RCC shall ensure that impacted licensees are provided notice of the required information submittal process via certified mail, return receipt requested, or other proof of delivery.

1. For Public Safety Licensees the following information shall be provided:

a. General Information:

- Agencyname
- Date of submission
- Designated Relocation contact, with all contact information (including mailing address, phone number, fax number, and e-mail address)
- Number and Location of Dispatch Centers

b. Voice System Information (this information must be provided for each independently operating system):

- System manufacturer and type
- Total number of transmitter sites
- For each site:
    - Sitename
    - FAA Tower Registration Number
    - Presence of existing building and tower space to accommodate possible duplicate system elements during relocation
    - Call sign(s) and frequencies in operation at the site
    - System type (Single-Site, Simulcast, Back-up, Voted, etc.)
    - If Simulcast, how is this site linked to the other sites?
    - Repeaters:
        - Quantity
        - ForEach
            - Manufacturer
            - Type/Model #:
            - Output (watts)
    - Receive Antennas:
        - Quantity
        - For Each
            - Manufacturer
            - Type/Model #
            - Voted Receiver? (If yes, please provide detailed description)
    - Transmit Antennas:
        - Quantity
        - ForEach:
            - Manufacturer
            - Type/Model #
    - Combiners:
        - Quantity
        - For each
            - Manufacturer
            - Type/Model #

        - # of cavities
        - Frequencies used
    - Controllertype
    - Controller model #
    - Controlhome channels
    - Control channel rotation scheme (if applicable)
    - Failsoft channels (Frequency and number of units programmed on each frequency) (if applicable)
    - Other companies or agencies with units capable of operating on this site/system (using this site/system **as** secondary)
        - organization name
        - Number of other companies/agencies units programmed for site
    - Any other information not specifically requested above which may affect the cost or logistics of retuning for this site on this site (accessibility, power supply, co-tenants, etc.)
- Transmission type (Analog, Digital, or Both)
- System Interconnect Design (if any)
- Total number of programmed units for your agency use (primary on this site/system), divided into active units and spare units:
    - Manufacturer
    - Modelnumber
    - Unit type (portable or mobile)
- Radio assignment method (i.e., by officer, by vehicle, or to shift on duty, number of hours per day each radio is in use)
- Total number of programmed units owned or controlled by other agencies which use this site/system as primary
    - Agencyname
    - Radio Manufacturer
    - radio Model number
    - Unit type (portable or mobile)
- Other radio systems programmed into your agency radios for cross-system operation
    - Agency/ies operating other system(s)
    - Systemtype
    - Quantity of units programmed for operating on the other system

c. <u>Data System Information (this information must be provided for each independently operating system)</u>:

- General System Description, including coverage and main users of system
- System manufacturer and type
- Total number of transmitter sites
- For each site:
    - Sitename