

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Improving Public Safety Communications in the 800 MHz Band)	WT Docket 02-55
)	
New 800 MHz Band Plan for U.S. – Canada Border Regions)	
)	

FOURTH MEMORANDUM OPINION AND ORDER

Adopted: February 25, 2009

Released: February 25, 2009

By the Acting Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Fourth Memorandum Opinion and Order, the Public Safety and Homeland Security Bureau (Bureau), on delegated authority, addresses a petition for reconsideration of the reconfigured 800 MHz band plan established for the U.S. – Canada border in the *800 MHz Second R&O*.¹ The Bureau also, on its own motion, clarifies and corrects certain rules established in the *800 MHz Second R&O*.

II. BACKGROUND

2. The U.S. and Canada operate along their common border in the 800 MHz band pursuant to a bilateral agreement (known as Arrangement F) that distributes primary spectrum in the U.S. – Canada border region between the two countries.² This agreement creates a border area extending 140 kilometers from the border on either side, which is divided into eight geographic regions. Regions 1 through 6 abut the Canada border. In Regions 1, 4, 5, 6, the U.S. and Canada divide primary spectrum in the 800 MHz band evenly. In Region 2 (Buffalo/Toronto), the U.S. is primary on 30 percent of the channels and Canada is primary on 70 percent, while in Region 3 (Detroit/Windsor) the U.S. is primary on 70 to 85 percent of the channels and Canada is primary on 15 to 30 percent, depending on the band segment. Regions 7 and 8 do not abut the Canada border, but are “buffer zones” starting at 100 kilometers from the border and extending to 140 kilometers from the border. In these two regions, U.S. licensees have access to 100 percent of the channels on a primary basis, subject to power and antenna height limits designed to limit signal strength at the border.

3. In July 2004, the Commission reconfigured the 800 MHz band to eliminate interference to

¹ See *Improving Public Safety Communications in the 800 MHz Band*, WT Docket 02-55, *Second Report and Order*, 23 FCC Rcd 7605 (2008)(*800 MHz Second R&O*).

² See *Arrangement Between the Dept. of Communications of Canada and the FCC of the United States Concerning the Use Along the US-Canada Border of the Band 806-890 MHz* (Jan. 1994, addendum, Dec. 1994) (Arrangement F). See also *Arrangement Between the Dept. of Communications of Canada and the FCC of the United States Concerning the Use Along the US-Canada Border of the Bands 821-824 MHz and 866-869 MHz* (Sep. 1990, addendum, Dec. 1994).

public safety and other land mobile communication systems operating in the band.³ However, the Commission deferred band reconfiguration for the border areas, noting that “implementing the band plan in areas of the United States bordering Mexico and Canada will require modifications to international agreements for use of the 800 MHz band in the border areas.”⁴ The Commission stated that “the details of the border plans will be determined in our ongoing discussions with the Mexican and Canadian governments.”⁵ The Commission also noted that international negotiations could cause rebanding in the border regions to take longer than the 36-month period established for rebanding in non-border regions.⁶ In May 2007, the Commission delegated authority to the Bureau to propose and adopt border area band plans once agreements are reached with Canada and Mexico.⁷

4. In July 2007, the U.S. and Canada reached an agreement on a process that enables the U.S. to proceed with rebanding in the border region prior to formal revision of Arrangement F.⁸ Under this agreement:

- The countries will maintain the current allocation of 800 MHz primary spectrum between the U.S. and Canada set forth in Arrangement F, but recognize the necessity of making minor revisions to Arrangement F.
- The U.S. will proceed with developing an 800 MHz rebanding band plan for U.S. border area licensees based on the current allocation of primary spectrum.
- Upon finalization of the U.S. band plan and after the 800 MHz Transition Administrator issues frequency assignments to border area licensees, the U.S. and Canada will discuss minor revisions to Arrangement F.
- These revisions will address: (1) whether to grandfather certain Canadian facilities authorized on U.S. primary spectrum under Specialized Coordination Procedures (SCP), and (2) how to avoid any adverse impact on Canadian radio operations that will support the 2010 Winter Olympics in Vancouver, British Columbia.⁹

5. On November 1, 2007, the Bureau released a *Further Notice of Proposed Rulemaking (FNPRM)* seeking comment on a new band plan proposal for the 800 MHz band along the U.S. – Canada border.¹⁰ On May 9, 2008, the Bureau issued the *800 MHz Second R&O*, which established a

³ See Improving Public Safety Communications in the 800 MHz Band, *Report and Order*, WT Docket No. 02-55, 19 FCC Rcd 14969 (2004) (*800 MHz R&O*).

⁴ *Id.* at 14895-96 ¶ 25.

⁵ *Id.* at 15063 ¶ 176.

⁶ *Id.* at 15063 ¶ 176 n. 471, 15125 ¶ 332.

⁷ Improving Public Safety Communications in the 800 MHz Band, *Second Memorandum Opinion and Order*, WT Docket No. 02-55, 22 FCC Rcd 10467, 10494-95 ¶¶ 67-68 (2007) (*800 MHz 2nd MO&O*).

⁸ See Letter from Michael Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications, Industry Canada, to Kevin J. Martin, Chairman, Federal Communications Commission (September 7, 2007); Letter from Kevin J. Martin, Chairman, Federal Communications Commission, to Michael Binder, Assistant Deputy Minister, Spectrum, Information Technologies and Telecommunications, Industry Canada (October 31, 2007) (attached as Appendix F).

⁹ *Id.*

¹⁰ Improving Public Safety Communications in the 800 MHz Band, *Further Notice of Proposed Rulemaking*, WT Docket No. 02-55, 22 FCC Rcd 19266 (2007) (*800 MHz FNPRM*).

reconfigured band plan for the U.S. – Canada border based upon a region-by-region approach.¹¹ On July 14, 2008, Sprint filed a Petition for Clarification seeking reconsideration of certain portions of the *800 MHz Second R&O*.¹²

III. DISCUSSION

A. Border Area Region 3 Band Plan

6. In the *800 MHz Second R&O*, the Bureau established a band plan for U.S. – Canada border Region 3 (Detroit/Windsor)¹³ Specifically, the Bureau indicated that the NPSPAC band for this region would match the NPSPAC band outside the border region and consist of 230 channels with 12.5 kHz spacing in the 806-809/851-854 MHz portion of the band.¹⁴ The Bureau also established 90 conventionally spaced (25 kHz) non-NPSPAC public safety channels above the upper edge of the NPSPAC band and below the Canadian primary block at 811.25-815.75/856.25-860.75 MHz.¹⁵ Finally, the Bureau assigned to the non-NPSPAC public safety pool an additional eight 25 kHz spaced channels immediately above the upper edge of the Canadian primary block at 815.75/860.75 MHz.¹⁶

7. In its petition, Sprint states that the assignment of eight Region 3 channels above 815.75/860.75 MHz to public safety is unnecessary and could needlessly complicate rebanding.¹⁷ Sprint contends that these eight channels should not be assigned to the public safety pool unless all rebanding public safety licensees in Region 3 cannot be accommodated below the Canadian primary block.¹⁸ Sprint further contends that the Bureau's Region 3 band plan created enough channels below the Canadian primary block to accommodate all existing public safety licensees in the region.¹⁹ Accordingly, Sprint proposes that the eight channels above 815.75/860.75 MHz be assigned to Business/Industrial/Land Transportation Pool rather than for public safety use. Assigning these channels to public safety, Sprint argues, would run counter to the Bureau's goal of spectral separation because it would leave almost no spectral separation between Sprint's operations and public safety operations.²⁰

8. The State of Michigan (Michigan) opposes Sprint's petition.²¹ Michigan notes that the Bureau's decision to establish eight non-NPSPAC public safety channels above 815.75/860.75 MHz was

¹¹ *800 MHz Second R&O*, 23 FCC Rcd at 7618-19 ¶¶ 29-36.

¹² Petition for Clarification, filed by Sprint Nextel Corporation on July 14, 2008 (Sprint Petition).

¹³ *800 MHz Second R&O*, 23 FCC Rcd at 7619 ¶¶ 33-34.

¹⁴ *Id.* at 7619 ¶ 33.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Sprint Petition at 3.

¹⁸ *Id.* at 1.

¹⁹ *Id.* at 3-4. *See also* Reply Comments of Sprint Nextel, filed by Sprint Nextel Corporation on September 22, 2008 (Sprint Reply) at 2.

²⁰ *Id.* at 4.

²¹ Opposition to Petition for Clarification, State of Michigan, filed September 11, 2008 (Michigan Opposition). We note that Michigan's petition is late-filed because oppositions to Sprint's petition were due on August 12, 2008. Nonetheless, we will accept Michigan's filing because the initial Federal Register notice of the pleading cycle erroneously stated that oppositions were due by September 11, 2008. *See* 73 FR 43753 (Jul. 28, 2008). The Commission later corrected the pleading cycle in a subsequent release. *See* 73 FR 45103 (Aug. 1, 2008).

in direct response to comments from public safety entities who advised the Bureau that these additional channels were needed to accommodate rebanding of non-NPSPAC public safety licensees currently operating in future NPSPAC band (806-809/851-854 MHz).²² Michigan argues that Sprint's reconsideration proposal would require these non-NPSPAC licensees to be accommodated in the new NPSPAC band, which could seriously jeopardize the smooth migration of NPSPAC licensees to this portion of the band.²³ Consequently, Michigan argues that every public safety channel outside the new NPSPAC band—including the eight channels above 815.75/860.75 MHz—will be needed for relocation of non-NPSPAC licensees from that portion of the band.²⁴

9. We agree with Michigan on this issue and therefore decline to modify the Region 3 band plan as proposed by Sprint. We believe that the eight channels above 815.75/860.75 MHz will be needed to accommodate non-NPSPAC public safety licensees relocating from the lower portion of the band. Without these channels, we are concerned that the number of non-NPSPAC public safety licensees that would be forced to remain in the new NPSPAC band (806-809/851-854 MHz) would unduly complicate relocation of NPSPAC licensees to this portion of the band.

10. We disagree with Sprint's contention that all Region 3 public safety licensees can be accommodated below the 811.25-815.75/856.25-860.75 MHz Canadian primary block. Sprint bases this contention on the fact that in the *800 MHz Second R&O*, we modified our original Region 3 band plan proposal by increasing the number of public safety channels in the lowermost portion of the band.²⁵ However, the increase in channels occurred as a result of our decision to establish a 230-channel NPSPAC band with 12.5 kHz spaced channels at 806-809/851-854 MHz, whereas the Region 3 NPSPAC band as originally proposed would have consisted of a smaller band segment with 195 12.5 kHz spaced channels.²⁶ Because the additional NPSPAC channels in the adopted band plan are 12.5 kHz spaced, they cannot accommodate non-NPSPAC licensees that operate on 25 kHz spaced channels without significant and costly "re-packing" of both non-NPSPAC licensees that remain in the band and NPSPAC licensees relocating into the band. To minimize the need for such re-packing, in the *800 MHz Second R&O* we ordered relocation of as many non-NPSPAC public safety systems as feasible from 806-809/851-854 MHz to U.S. primary spectrum higher in the band.²⁷ In Region 3, which has the largest number of public safety licensees of any Canadian border region, this necessitates using the eight channels above 815.75/860.75 MHz for rebanding of non-NPSPAC licensees.

B. Requests for Planning Funding

11. In the *800 MHz Second R&O*, the Bureau established a timeline for licensees along the U.S.-Canada border to complete rebanding planning.²⁸ Specifically, the Bureau stated that each border area licensee would have 60 days from the effective date of the *800 MHz Second R&O* to submit a Request for Planning Funding (RFPF) to Sprint after which the parties would have 30 days to negotiate a Planning Funding Agreement.²⁹

²² Michigan Opposition at 2.

²³ *Id.* at 4.

²⁴ *Id.*

²⁵ Sprint Petition at 3-4. *See 800 MHz Second R&O*, 23 FCC Rcd at 7610-11 ¶¶ 9-12.

²⁶ *800 MHz Second R&O*, 23 FCC Rcd at 7610 ¶ 11. *See also 800 MHz FNPRM*, 22 FCC Rcd at 1927 ¶ 13.

²⁷ *Id.* at 7610-11 ¶ 11.

²⁸ *Id.* at 7620-21 ¶¶ 39-41.

²⁹ *Id.* at 7621 ¶ 40.

12. In its petition, Sprint seeks clarification that the Bureau did not intend to change the existing process for the submitting and handling of RFPFs.³⁰ Sprint notes that pursuant to the current policies established by the TA, licensees are to submit RFPFs first to the TA and then, once the TA deems them acceptable for processing, to Sprint.³¹ Accordingly, Sprint seeks clarification that the Bureau did not intend to modify the existing process.

13. We hereby clarify that the Bureau had no intention of modifying the TA's policy for submission and handling of RFPFs. Consequently, border area licensees who intend to seek planning funding should first submit RFPFs to the TA for approval before submitting them to Sprint in accordance with the TA policy.

C. Clarifications and Corrections to Section 90.619(c)

14. In the 800 MHz *Second R&O*, the Bureau updated Section 90.619(c) to reflect the reconfigured 800 MHz band plan for the U.S. – Canada border.³² On our own motion, we now make the following clarifications and corrections to this section.

15. *Section 90.619(c)(5)*. In Section 90.619(c)(5) and Table C5, the Bureau noted that stations authorized to operate within 30 kilometers of the center city coordinates of certain cities within the U.S. would be considered to fall outside of the U.S./Canada border area and may operate according to the non-border band plan.³³ We are concerned that licensees could misinterpret this rule language to mean that licensees within these 30 kilometer circles are also exempt from the power and antenna height limits which apply to licensees along the U.S. – Canada border.³⁴ This is not the case. Licensees within the 30 kilometer circles are exempt from the division of primary spectrum with Canada that applies to licensees within Regions 1-6 but are still subject to the power and antenna height limits designed to limit their signal strength at the border.³⁵ We believe it is more accurate to state that these licensees are considered as falling within Region 7, where the U.S. is primary on 100 percent of the channels but licensees are subject to the technical limits designed to limit signal strength at the border.³⁶ Consequently, we make this clarification to the language in Section 90.619(c)(5) and Table C5.³⁷

16. *Section 90.619(c)(7)*. In Section 90.619(c)(7) and Table C7, the Bureau listed the channels available for licensing in the General Category along the U.S. – Canada border.³⁸ The channels were listed in Table C7 and separated into two categories: General Category channels on which 800 MHz high density cellular systems are prohibited and General Category channels on which 800 MHz high density cellular systems are permitted.³⁹ For Region 2, the General Category channels on which 800 MHz high

³⁰ Sprint Petition at 2.

³¹ *Id.*

³² 800 MHz *Second R&O*, 23 FCC Rcd at 7643-51.

³³ *Id.* at 7645-50, codified at 47 C.F.R. § 90.619(c)(5).

³⁴ 47 C.F.R. § 90.619(c)(1), Table C2.

³⁵ See ¶ 2, *supra*.

³⁶ *Id.*

³⁷ See Appendix B, *infra*.

³⁸ 800 MHz *Second R&O*, 23 FCC Rcd at 7647-48, codified at 47 C.F.R. § 90.619(c)(7).

³⁹ *Id.*

density cellular systems are prohibited were identified as channels 172 through 620.⁴⁰ This is incorrect because channels 1-230 are assigned for NPSPAC operations in all Canada Border Regions and none of these channels should be listed as General Category channels.⁴¹ We therefore correct Table C7 of Section 90.619(c)(7) to list channels 231 through 620 as the General Category channels on which 800 MHz high density cellular systems are prohibited in Region 2.⁴²

17. *Section 90.619(c)(2)*. In Section 90.619(c)(2), the Bureau inserted Table C3, which lists assumed average terrain elevation levels along the U.S. – Canada border.⁴³ Assumed average terrain elevation values are listed for both the United States and Canada based on ranges of longitude and latitude.⁴⁴ These terrain elevation levels are used to determine the effective antenna heights for licensees operating in all Canada Border Regions except Region 5.⁴⁵ When this table was published in the Federal Register, some of the table values were inadvertently misprinted.⁴⁶ Consequently, we correct the portions of the table that were incorrectly published and will submit the corrections to the Federal Register.⁴⁷

IV. PROCEDURAL MATTERS

18. **Report to Congress.** The Commission will send a copy of this *Fourth Memorandum Opinion and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.⁴⁸

19. **Paperwork Reduction Act Analysis.** This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore it does not contain any new or modified “information burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.⁴⁹

V. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 332, this *Fourth Memorandum Opinion and Order* IS ADOPTED.

21. IT IS FURTHER ORDERED that the amendments of the Commission’s Rules set forth in Appendix B ARE ADOPTED, effective sixty days from the date of publication in the Federal Register.

22. IT IS FURTHER ORDERED that the Final Regulatory Flexibility required by Section 604 of the Regulatory Flexibility Act, 5 U.S.C. § 604, and as set forth in Appendix A herein is ADOPTED.

⁴⁰ *Id.*, 22 FCC Rcd at 7647.

⁴¹ 47 C.F.R. § 90.617(c)(6)(i).

⁴² We also correct a cross reference to Table C7 in 47 C.F.R. § 90.619(c)(11) which lists General Category channels in Region 2. *See* Appendix B, *infra*.

⁴³ *800 MHz Second R&O*, 23 FCC Rcd at 7644-45, codified at 47 C.F.R. § 90.619(c)(2).

⁴⁴ *Id.*

⁴⁵ 47 C.F.R. § 90.619(c)(2).

⁴⁶ 73 FR 33732.

⁴⁷ *See* Appendix B, *infra*.

⁴⁸ *See* 5 U.S.C. § 801(a)(1)(A).

⁴⁹ *See* 44 U.S.C. 3506(c)(4).

23. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Fourth Memorandum Opinion and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

David L. Furth
Acting Chief
Public Safety and Homeland Security Bureau

APPENDIX A

Final Regulatory Flexibility Certification

1. The Regulatory Flexibility Act of 1980, as amended (RFA)⁵⁰ requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."⁵¹ The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁵² In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁵³ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵⁴ In sum, we certify that the rule changes and actions in this *Fourth Memorandum Opinion and Order (Fourth MO&O)* will have no significant economic impact on a substantial number of small entities.

2. As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Further Notice of Proposed Rulemaking (FNPRM)* in WT Docket 02-55.⁵⁵ In the *FNPRM*, the Commission's Public Safety and Homeland Security Bureau (Bureau) sought written public comment on proposals to reconfigure the 800 MHz band along the U.S. – Canada border, including comment on the IRFA.⁵⁶ Based upon the comments in response to the *FNPRM*, the Bureau established a new band plan for the 800 MHz band along the U.S. – Canada border in the *Second Report and Order (Second R&O)* in this proceeding and included a Final Regulatory Flexibility Analysis ("FRFA") in that order.⁵⁷

3. This *Fourth Memorandum Opinion and Order (Fourth MO&O)* clarifies portions of the *Second R&O* and addresses a petition for reconsideration of the *Second R&O* filed by Sprint Nextel Corporation (Sprint). Interested parties were afforded notice and opportunity to comment on the petition for reconsideration of the *FNPRM*. See 73 FR 43753 and 73 FR 45103.

4. *Border Area Region 3 Band Plan*. In its petition, Sprint states that the "allocation" of eight public safety pool channels above 815.75/860.75 MHz in Region 3 (Ohio/Michigan) along the U.S.-Canada border is both unnecessary and needlessly complicating for rebanding. In this proceeding, the

⁵⁰ The RFA, see § 5 U.S.C. S 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

⁵¹ 5 U.S.C. § 605(b).

⁵² 5 U.S.C. § 601(6).

⁵³ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. S § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

⁵⁴ Small Business Act, § 15 U.S.C. S 632.

⁵⁵ Improving Public Safety Communications in the 800 MHz Band, *Further Notice of Proposed Rulemaking*, WT Docket No. 02-55, 22 FCC Rcd 19266, 19276-78 (2007) (*FNPRM*).

⁵⁶ *Id.* at 19276 ¶ 1.

⁵⁷ See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, *Second Report and Order*, 23 FCC Rcd 7605 (2008)(*Second R&O*).

Bureau had adopted a band plan for Region 3 which included over 300 channels for public safety in the lower portion of the band and an additional eight channels for public safety in the upper portion of the band immediately above 815.75/860.75 MHz. Sprint avers that the Bureau created enough spectrum “slots” to accommodate all existing public safety entities in the bottom of the band in this region. Consequently, Sprint seeks clarification that the Bureau intended to assign the eight channels above 815.75/860.75 MHz to the public safety pool, if, and only if, those channels are necessary for retuning public safety licensees that cannot be accommodated at the lowermost portion of the band. The State of Michigan (Michigan) opposes Sprint’s proposal to modify the Region 3 band plan. Michigan notes that the Bureau’s decision to provide a small allocation of non-NPSAC public safety channels above 815.75/860.75 MHz was in direct response to comments from public safety entities who advised the Bureau that these additional channels were needed to maintain post-rebanding spectrum comparability. For instance, Michigan notes that any attempt to accommodate non-NPSAC licensees in the 806-809 MHz/851-854 MHz portion of the band could seriously jeopardize the “smooth” migration of the NPSAC licensees to this portion of the band.

5. The Bureau agrees with Michigan on this issue and, in this *Fourth MO&O*, declines to make the change to the Region 3 band plan proposed by Sprint. The Bureau indicates that the eight 25 kHz spaced channels above 815.75/860.75 MHz will be needed to accommodate non-NPSAC public safety licensees relocating from the new NPSAC band (806-809/851-854 MHz). Without these channels, the Bureau is concerned that additional non-NPSAC public safety licensees will be forced to remain in the new NPSAC band further complicating the relocation of NPSAC licensees to this portion of the band. Since the Bureau is electing to make no change to the Region 3 band plan, we certify that our decision here will have no significant economic impact on a substantial number of small entities.

6. *Requests for Planning Funding.* In its petition, Sprint seeks clarification that the Bureau did not intend to change the existing process for the submitting and handling of Requests for Planning Funding (RFPF) when the Bureau created its timeline for planning, negotiation and mediation for licensees along the U.S. – Canada border to complete planning. Sprint notes that pursuant to the current policies established by the 800 MHz Transition Administrator (TA), licensees are to submit RFPFs first to the TA and then, once they are deemed acceptable for processing, to Sprint. Consequently, in this *Fourth MO&O*, the Bureau clarifies that it had no intention of modifying the TA’s policy for submission and handling of RFPFs and specifies that border area licensees who intend to seek planning funding should first submit RFPFs to the TA for approval before submitting them to Sprint in accordance with the TA policy. Because the Bureau is making no change to the TA’s existing policy, we certify that this clarification will have no significant impact on a substantial number of small entities.

7. *Clarifications and Corrections to Section 90.619(c).* In the *Second R&O*, the Bureau updated Section 90.619(c) to reflect the new 800 MHz band plan along the U.S. – Canada border. In this *Fourth MO&O*, the Bureau makes certain clarifications and corrections to Section 90.619(c). Specifically, in Table C3 of Section 90.619(c), the Bureau corrects the range for certain assumed average terrain elevation levels along the U.S. – Canada border. The Bureau also modifies Table C5 of Section 90.619(c) to clarify that licensees operating within 30 kilometers of certain cities along the U.S. – Canada border are exempt from sharing primary spectrum with Canada but subject to the power and antenna height limits which apply to all licensees operating along the border. Furthermore, the Bureau corrects a typo in Table C7 of Section 90.619(c) which lists channels available for licensing in the General Category along the U.S. – Canada border. We certify that none of these clarifications or corrections will have a significant impact on a substantial number of small entities.

**APPENDIX B
FINAL RULES**

PART 90 – PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

AUTHORITY: 4(i), 11, 303(g), 303(r), and 302(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

2. Section 90.619(c) is modified to read as follows:

§ 90.619 Operations within the U.S./Mexico and U.S./Canada border areas.

* * * * *
(c) * * * * *
(2) * * *

TABLE C3 – ASSUMED AVERAGE TERRAIN ELEVATION (AATE) ALONG THE U.S. – CANADA BORDER

Longitude (ϕ) (°West)	Latitude (Ω) (°North)	Assumed Average Terrain Elevation			
		United States		Canada	
		Feet	Metres	Feet	Metres
$65 \leq \Phi < 69$	$\Omega < 45$	0	0	0	0
"	$45 \leq \Omega < 46$	300	91	300	91
"	$\Omega \geq 46$	1000	305	1000	305
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
$78 \leq \Phi < 80$	$\Omega < 43$	250	76	250	76
"	$\Omega \geq 43$	500	152	500	152
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
$121.5 \leq \Phi < 127$	"	0	0	0	0
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

* * * *

(5) Stations authorized to operate within 30 kilometers of the center city coordinates listed in Table C5 may operate according to the band plan for Canadian Border Regions 7A and 7B as indicated below.

TABLE C5 – CITIES THAT ARE CONSIDERED TO FALL WITHIN CANDIAN BORDER REGION 7

Location	Coordinates		Canadian Border Region
	Latitude	Longitude	
Akron, Ohio	41° 05' 00.2" N.	81° 30' 39.4" W.	7A

Youngstown, Ohio	41° 05' 57.2" N.	80° 39' 01.3" W.	7A
Syracuse, New York	43° 03' 04.2" N.	76° 09' 12.7" W.	7B

* * * *

(7) * * *

TABLE C7 – GENERAL CATEGORY 806-821/851-866 MHZ BAND CHANNELS IN THE CANADA BORDER REGIONS.

Canada Border Region	General Category channels where 800 MHz high density cellular systems are prohibited.	General Category channels where 800 MHz high density cellular systems are permitted.
* * * * *	* * * * *	* * * * *
Region 2	231-620	621-710
* * * * *	* * * * *	* * * * *

* * * *

(11) In Canada Border Regions 1, 2, 3, 4, 5 and 6, the following General Category channels are available for licensing to all entities except as described below in paragraphs (c)(11)(i) and (c)(11)(ii): in Regions 1, 4, 5 and 6, channels 261-560; in Region 2, channels 231-620 and in Region 3, channels 321-500

* * * * *