

Federal Communications Commission

§ 90.523

EFFECTIVE DATE NOTE: At 72 FR 48860, Aug. 24, 2007, §90.521 was amended by revising the first sentence, effective October 23, 2007. For the convenience of the user, the revised text is set forth as follows:

§90.521 Scope.

This subpart sets forth the regulations governing the licensing and operations of all systems operating in the 763-775 MHz and 793-805 MHz frequency bands. \* \* \*

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§90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. §337(f)(1). The following are eligible to hold Commission authorizations for systems operating in the 764-776 MHz and 794-806 MHz frequency bands:

(a) State or local government entities. Any territory, possession, state, city, county, town, or similar State or local governmental entity is eligible to hold authorizations in the 764-776 MHz and 794-806 MHz frequency bands.

(b) Nongovernmental organizations. A nongovernmental organization (NGO) that provides services, the sole or principal purpose of which is to protect the safety of life, health, or property, is eligible to hold an authorization for a system operating in the 764-776 MHz and 794-806 MHz frequency bands for transmission or reception of communications essential to providing such services if (and only for so long as) the NGO applicant/licensee:

(1) Has the ongoing support (to operate such system) of a state or local governmental entity whose mission is the oversight of or provision of services, the sole or principal purpose of which is to protect the safety of life, health, or property;

(2) Operates such authorized system solely for transmission of communication essential to providing services the sole or principal purpose of which is to protect the safety of life, health, or property; and

(3) All applications submitted by NGOs must be accompanied by a new, written certification of support (for the NGO applicant to operate the applied-for system) by the state or local governmental entity referenced in paragraph (b)(1) of this section.

(c) All NGO authorizations are conditional. NGOs assume all risks associated with operating under conditional authority. Authorizations issued to NGOs to operate systems in the 764-776 MHz and 794-806 MHz frequency bands include the following condition: If at any time the supporting governmental entity (see paragraph (b)(1)) notifies the Commission in writing of such governmental entity's termination of its authorization of a NGO's operation of a system in the 764-776 MHz and 794-806 MHz frequency bands, the NGO's application shall be dismissed automatically or, if authorized by the Commission, the NGO's authorization shall terminate automatically.

(d) Paragraphs (a) and (b) notwithstanding, no entity is eligible to hold an authorization for a system operating in the 764-776 MHz and 794-806 MHz frequency bands on the basis of services, the sole or principal purpose of which is to protect the safety of life, health or property, that such entity makes commercially available to the public.

[63 FR 58651, Nov. 2, 1998, as amended at 65 FR 53645, Sept. 5, 2000]

EFFECTIVE DATE NOTE: At 72 FR 48860, Aug. 24, 2007, §90.523 was amended by revising the introductory text and adding paragraph (e), effective October 23, 2007. For the convenience of the user, the added and revised text is set forth as follows:

§90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. 337(f)(1). The following are eligible to hold Commission authorizations for systems operating in the 763-775 MHz and 793-805 MHz frequency bands:

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(e) The minimum eligibility requirements for the Public Safety Broadband Licensee in the 763-768 MHz and 793-798 MHz bands are as follows:

(1) No commercial interest may be held in the Public Safety Broadband Licensee, and no commercial interest may participate in the management of the Public Safety Broadband Licensee;

(2) The Public Safety Broadband Licensee must be a non-profit organization;

(3) The Public Safety Broadband Licensee must be as broadly representative of the public safety radio user community as possible; and

## § 90.525

(4) The Public Safety Broadband Licensee must be in receipt of written certifications from no less than ten geographically diverse state and local governmental entities (the authorizing entities), with at least one certification from a state government entity and one from a local government entity, verifying that—

(i) They have authorized the Public Safety Broadband Licensee to use spectrum at 763–768 MHz and 793–798 MHz to provide the authorizing entities with public safety services; and

(ii) The authorizing entities' primary mission is the provision of public safety services.

### § 90.525 Administration of Interoperability channels

(a) States are responsible for administration of the Interoperability channels in the 764–776 MHz and 794–806 MHz frequency bands. Base and control stations must be licensed individually. A public safety entity meeting the requirements of § 90.523 may operate mobile or portable units on the Interoperability channels in the 764–776 MHz and 794–806 MHz frequency bands without a specific authorization from the Commission provided it holds a part 90 license. All persons operating mobile or portable units under this authority are responsible for compliance with part 90 of these rules and other applicable federal laws.

(b) License applications for Interoperability channels in the 764–776 MHz and 794–806 MHz frequency bands must be approved by a state-level agency or organization responsible for administering state emergency communications. States may hold the licenses for Interoperability channels or approve other qualified entities to hold such licenses. States may delegate the approval process for Interoperability channels to another entity, such as regional planning committees.

[66 FR 10635, Feb. 16, 2001]

EFFECTIVE DATE NOTE: At 72 FR 48860, Aug. 24, 2007, § 90.525 was revised, effective October 23, 2007. For the convenience of the user, the revised text is set forth as follows:

### § 90.525 Administration of interoperability channels.

(a) States are responsible for administration of the Interoperability channels in the 769–775 MHz and 799–805 MHz frequency bands. Base and control stations must be licensed individually. A public safety entity

## 47 CFR Ch. I (10–1–07 Edition)

meeting the requirements of § 90.523 may operate mobile or portable units on the Interoperability channels in the 769–775 MHz and 799–805 MHz frequency bands without a specific authorization from the Commission provided it holds a part 90 license. All persons operating mobile or portable units under this authority are responsible for compliance with part 90 of these rules and other applicable federal laws.

(b) License applications for Interoperability channels in the 769–775 MHz and 799–805 MHz frequency bands must be approved by a state-level agency or organization responsible for administering state emergency communications. States may hold the licenses for Interoperability channels or approve other qualified entities to hold such licenses. States may delegate the approval process for interoperability channels to another entity, such as regional planning committees.

### § 90.527 Regional plan requirements.

Each regional planning committee must submit a regional plan for approval by the Commission.

(a) *Common elements.* Regional plans must incorporate the following common elements:

(1) Identification of the document as the regional plan for the defined region with the names, business addresses, business telephone numbers, and organizational affiliations of the chairpersons and all members of the planning committee.

(2) A summary of the major elements of the plan and an explanation of how all eligible entities within the region were given an opportunity to participate in the planning process and to have their positions heard and considered fairly.

(3) A general description of how the spectrum would be allotted among the various eligible users within the region with an explanation of how the requirements of all eligible entities within the region were considered and, to the degree possible, met.

(4) An explanation as to how needs were assigned priorities in areas where not all eligible entities could receive licenses.

(5) An explanation of how the plan had been coordinated with adjacent regions.

(6) A detailed description of how the plan put the spectrum to the best possible use by requiring system design