

## § 90.525

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 769–775 MHz and 799–805 MHz frequency bands include the following condition: If at any time the supporting governmental entity (see paragraph (b)(1) of this section) notifies the Commission in writing of such governmental entity's termination of its authorization of a NGO's operation of a system in the 769–775 MHz and 799–805 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) of this section notwithstanding, no entity is eligible to hold an authorization for a system operating in the 769–775 MHz and 799–805 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.

(e) A nationwide license for the 758–769 MHz and 788–799 MHz bands shall be issued to the First Responder Network Authority.

[63 FR 58651, Nov. 2, 1998, as amended at 65 FR 53645, Sept. 5, 2000; 72 FR 48860, Aug. 24, 2007; 79 FR 600, Jan. 6, 2014; 81 FR 66832, Sept. 29, 2016]

### § 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 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

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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.

[72 FR 48860, Aug. 24, 2007]

### § 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.

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(6) A detailed description of how the plan put the spectrum to the best possible use by requiring system design with minimum coverage areas, by assigning frequencies so that maximum frequency reuse and offset channel use may be made, by using trunking, and by requiring small entities with minimal requirements to join together in using a single system where possible.

(7) A detailed description of the future planning process, including, but not limited to, amendment process, meeting announcements, data base maintenance, and dispute resolution.

(8) A certification by the regional planning chairperson that all planning committee meetings, including subcommittee or executive committee meetings, were open to the public.

(b) *Modification of regional plans.* Regional plans may be modified by submitting a written request, signed by the regional planning committee, to the Chief, Public Safety and Homeland Security Bureau. The request must contain the full text of the modification. Modifications are considered either major or minor. Regional planning committees must certify that successful coordination with all adjacent regions has occurred for major modifications and that all such regions concur with the major modification. Unless requested otherwise by the regional planning committee, the Bureau will only place major modifications on public notice for comment.

(1) Except as noted below, modifications changing the way channels are allocated, allotted or coordinated are considered major modifications.

(2) Modifications changing how channels are allotted are considered minor modifications only if:

(i) The proposed channel change or channel addition involves a facility located more than seventy miles from the adjacent region border;

(ii) The co-channel or adjacent channel interference contour of the facility changing or adding the channel does not intersect the border of an adjacent region, or

(iii) The proposed channel change or channel addition has been coordinated in writing with any affected adjacent region.

(3) Changes in membership or leadership of regional planning committees are considered minor modifications.

[63 FR 58651, Nov. 2, 1998, as amended at 79 FR 39339, July 10, 2014]

### § 90.529 State License.

(a) Narrowband channels designated as state channels in § 90.531 are licensed to each state (as defined in § 90.7) as follows:

(1) Each state that chooses to take advantage of the spectrum designated as state channels must file an application for up to 2.4 megahertz of this spectrum no later than December 31, 2001. For purposes of this section, the elected chief executive (Governor) of each state, or his or her designee, shall be deemed the person authorized to apply for the State License.

(2) What ever part of this 2.4 megahertz that a state has not applied for by December 31, 2001, will revert to General Use and be administered by the relevant RPC (or RPCs in the instances of states that encompass multiple RPCs).

(b) Each state license will be granted subject to the condition that the state certifies on or before each applicable benchmark date that it is:

(1) Providing or prepared to provide “substantial service” to one-third of their population or territory by June 13, 2014, i.e., within five years of the date that incumbent broadcasters are required to relocate to other portions of the spectrum;

(2) Providing or prepared to provide “substantial service” to two-thirds of their population or territory by June 13, 2019, i.e., within ten years of the date that incumbent broadcasters are required to relocate to other portions of the spectrum.

(c) The Commission will deem a state “prepared to provide substantial service” if the licensee certifies that a radio system has been approved and funded for implementation by the deadline date. “Substantial service” refers to the construction and operation of 700 MHz facilities by public safety entities providing service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal.