



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 08-2648

December 3, 2008

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 7 (COLORADO) REVISED 700 MHZ REGIONAL PLAN

PS Docket No. 06-229; WT Docket No. 02-378

Introduction. On January 30, 2008, the Region 7 (Colorado)¹ 700 MHz Regional Planning Committee (RPC) (Region 7) submitted a revised 700 MHz Public Safety Plan (Revised Plan) for General Use² spectrum in the 769-775/799-805 MHz band.³ Region 7 also requested waiver of Section 90.527(a)(5) of the Commission rules⁴ because it was unable to coordinate the Revised Plan with two adjacent regions: Region 34 (Oklahoma) and Region 52 (Texas-Lubbock). Section 90.527(a)(5) provides that regional plans must include an explanation of how the plan had been coordinated with adjacent regions.⁵ On April 11, 2008, Region 7 resubmitted its Revised Plan to cure certain deficiencies identified upon initial review, and on June 17, 2008, pursuant to Section 90.527(a)(8),⁶ Region 7 submitted a certification by the regional planning Chair that all planning committee meetings, including subcommittee or executive committee meetings, were open to the public.⁷ Lastly, on July 9, 2008, Region 7 submitted

¹ The Region 7 (Colorado) regional planning area includes sixty-four counties, and two federally recognized Tribal Nations, the Ute Mountain and the Southern Ute tribes.

² The General Use spectrum is administered by regional planning committees (RPCs) and is licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

³ See Letter from Emery Reynolds, Chairman, Region 7 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, (filed Jan. 30, 2008) (Revised Plan and Waiver Request). The Region 7 Plan was initially submitted to the Commission on April 26, 2007.

⁴ 47 C.F.R. § 90.527(a)(5).

⁵ See 47 C.F.R. § 90.527(a)(5) (each regional planning committee must provide an explanation of how the plan has been coordinated with adjacent regions); see also Revised Plan Appendix N – Adjacent Region Concurrence Waiver Request.

⁶ See 47 C.F.R. § 90.527(a)(8) (stating that a certification by the regional planning chairperson that all planning committee meetings, including subcommittee or executive committee meetings, were open to the public, must be included in the regional plan).

⁷ See Letter from Emery Reynolds, Chairman, Region 7 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, (filed Apr. 11, 2008) (resubmitting Revised Plan and Waiver Request); see also letter from Emery Reynolds, Chairman, Region 7 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, (filed June 17, 2008) (submitting certification that all RPC meetings were open to the public).

Letters of Concurrence from Region 34 (Oklahoma) and Region 52 (Texas Panhandle).⁸ For the reasons discussed below, we approve the Region 7 700 MHz Revised Plan, and dismiss the Waiver Request as moot.

Background. In 1998, the Federal Communications Commission (Commission) established a structure to allow RPCs optimal flexibility to meet state and local needs, encourage innovative use of the spectrum, and accommodate new and as yet unanticipated developments in technology and equipment.⁹ There are fifty-five RPCs, and each committee is required to submit its plan for the General Use spectrum.¹⁰ The Commission's role in relation to the RPCs is limited to (1) defining the regional boundaries; (2) requiring fair and open procedures, *i.e.*, requiring notice, opportunity for comment, and reasonable consideration; (3) specifying the elements that all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.¹¹

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.¹² The Commission adopted a plan for the 700 MHz band to establish a nationwide, interoperable public safety broadband communications network for the benefit of state and local public safety users. The Commission designated the lower half of the 700 MHz public safety band for broadband communications (763-768/793-798 MHz) and consolidated existing narrowband allocations in the upper half of the public safety 700 MHz band (769-775/799-805 MHz).

In revising the band plan for the public safety 700 MHz band, the Commission noted that consolidating the narrowband channels in the upper part of the band will impact approved and pending 700 MHz RPC plans (*i.e.* require that the plans be amended).¹³ The Commission required RPCs with approved plans or plans on file to submit amended plans consistent with the decisions adopted in the *Second Report and Order* by November 23, 2007.¹⁴ On November 9, 2007, the Public Safety and

⁸ See Letter from Emery Reynolds, Chairman, Region 7 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, (filed July 9, 2008) (submitting Letters of Concurrence from Region 34 (Oklahoma) and Region 52 (Texas-Panhandle)).

⁹ See Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152 (1998) (*First Report and Order*); *Second Memorandum Opinion and Order*, 15 FCC Rcd 16844 (2000). See also 47 C.F.R. § 90.527.

¹⁰ See 47 C.F.R. § 90.527. Each RPC must incorporate certain common elements into its 700 MHz plan. A list of 700 MHz RPCs and region activities is available at <http://www.fcc.gov/pshs/public-safety-spectrum/700-MHz/>.

¹¹ *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

¹² Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007) (*Second Report and Order*).

¹³ *Id.* at 15414 ¶ 346.

¹⁴ As of the adoption date of the *Second Report and Order*, the following regional plans had been approved: Region 5 (Southern California), Region 19, (New England), Region 24 (Missouri), Region 22 (Minnesota), Region 12 (Idaho), Region 39 (Tennessee), Region 43 (Washington), Region 41 (Utah), Region 3 (Arizona), and Region 40 (Northern Texas). The following regional plans were pending as of the adoption date of the *Second Report and Order*: Region 1 (Alabama), Region 27 (Nevada), Region 45 (Wisconsin), Region 7 (Colorado), Region 9 (Florida), Region 16 (Kansas), and Region 20 (Northern Virginia, Maryland, and the District of Columbia).

Homeland Security Bureau (Bureau) extended the deadline for RPCs to submit amended plans, consistent with the decisions adopted in the *Second Report and Order*, to January 31, 2008, and provided additional guidance for the development of plan amendments.¹⁵

Plan Requirements. Each committee is required to submit its plan for the assignment of licenses for General Use spectrum.¹⁶ Each regional plan must contain certain elements¹⁷ and must be coordinated with adjacent regions.¹⁸ RPCs are expected to ensure that their committees are representative of all public safety entities in their regions by providing adequate notice of all meetings, opportunity for comment, and reasonable consideration of views expressed. Plans must include an explanation of how all eligible entities within the region were given such notice.¹⁹ Plans should list the steps undertaken to encourage and accommodate all eligible entities to participate in the planning process, such as holding meetings in various parts of the region. In addition, a regional plan should describe outreach efforts made to tribal governments.²⁰

Regional plans may differ in approaches to spectrum planning and management. In particular, some plans may make specific assignments to eligible public safety entities, while others may establish an allotment pool approach based on political boundaries such as counties.²¹ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the Commission's regional plan requirements.²² RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).²³

¹⁵ See Public Safety and Homeland Security Bureau Announces an Extension of the Deadline for 700 MHz Regional Planning Committees to Amend 700 MHz Narrowband Plans from November 23, 2007 to January 31, 2008, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 19461 (PSHSB 2007).

¹⁶ See 47 C.F.R. §§ 90.527, 90.531. The 700 MHz public safety band plan contains 24 MHz of spectrum for public safety services at 763-775 MHz and 793-805 MHz, and the narrowband allocation is divided into several segments by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels.

¹⁷ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

¹⁸ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

¹⁹ See *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84. The Commission directed RPCs to promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 ¶ 86.

²⁰ *Id.* at 193-94 ¶ 84.

²¹ See Revised Plan, Appendix L – Frequency Pre-Allotments provides allotments by county and metropolitan area (Denver Metropolitan area consists of eleven counties: Adams, Arapahoe, Boulder, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, and Weld). Of the total channels available in the Denver metro area, 74% are pre-allotted, with the remaining 26% held in the Metro Region Reserve Channels pool for future planning.

²² See 47 C.F.R. § 90.527.

²³ The NCC was a federal advisory committee established by the Commission in 1999 to address and advise the Commission on operational and technical parameters for use of the 700 MHz public safety band. In addition, the NCC was tasked with providing voluntary assistance in the development of coordinated regional plans, and developed a *Regional Planning Guidebook*. Following the sunset of the NCC's charter on July 25, 2003, the National Public Safety Telecommunications Council (NPSTC) agreed to continue to provide assistance to regional planners. A copy of the 700 MHz Regional Planning Guidebook is available at the NPSTC website at <http://www.npstc.org/documents.html>.

Review of the Region 7 700 MHz Revised Plan. Region 7 convened its first meeting on April 20, 2001²⁴ wherein it appointed its regional chair. On July 29, 2003,²⁵ the RPC re-convened and appointed officers and established three subcommittees: Core Committee, Frequency Advisory Committee, and Bylaws Committee.²⁶ Region 7 held approximately thirty-two meetings over the course of a four year period.²⁷ The Revised Plan includes Bylaws,²⁸ detailed membership lists,²⁹ an outreach notification process,³⁰ and meeting minutes for the RPC and its subcommittees.³¹ The Revised Plan describes the procedures for requesting spectrum allotments,³² and outlines, generally, system implementation criteria and spectrum utilization.³³ The Revised Plan explains efficiency requirements, discusses the use of interoperability channels,³⁴ provides low power channel usage guidelines,³⁵ and lists the TV/DTV interference protection criteria requirements.³⁶ The Revised Plan addresses application frequency coordination,³⁷ and describes its process for future spectrum planning and plan modification.³⁸ The

²⁴ See Revised Plan, Section 1.3 Plan Development and Regional Participation at 10-11.

²⁵ See Revised Plan at Appendix C – Notices, Minutes, Membership Attendance Lists (the July 29, 2003 Meeting Minutes note that due to the lack of statewide notification, the RPC re-convened).

²⁶ See Revised Plan Appendix A – (Committee/Workgroup Membership), lists three committees: Core Committee (responsible for drafting the 700 MHz plan); Frequency Advisory Committee (responsible for reviewing spectrum applications) and Bylaws Committee.

²⁷ See Revised Plan, Appendix C at C-2-1 (providing chronological list of meetings held).

²⁸ See Revised Plan, Appendix E – Bylaws.

²⁹ See Revised Plan Appendix C – Notices, Minutes, Membership Lists, and Meeting Attendance.

³⁰ See Revised Plan, Section 4 – Notification Process at 7-8.

³¹ See Revised Plan Appendix C (Chronological list of meetings). We note that of the thirty-two meetings held, the Plan contains meeting summaries for approximately fourteen sessions; however, the Plan does include attendance records for all meetings listed.

³² See Revised Plan, Section 5.2 Procedure for Requesting Spectrum Allocations at 9-10 (application package requirements and review process); *see also*, Appendix K – Coordination Flow Chart and Appendix L – Frequency Pre-Allotments.

³³ See Revised Plan, Section 8 Allocation of Spectrum (RPC recommends allotments at one 25 kHz channel for every two voice channel requests, and one 12.5 kHz channel for each narrowband data channel request. In addition, this section addresses the management of orphaned channels, and low power secondary operations) at 13-16. Region 7 encourages small agencies to partner with other agencies in multi-agency or regional systems. *See also* Revised Plan, Section 9 System Implementation, and Section 10 Spectrum.

³⁴ Revised Plan, Section 6 Interoperability Channels; *see also* Revised Plan, Appendix B - Description of Existing Interoperability Contracts, Compacts, Mutual Aid Agreements (Denver Police Departments and Arvada-Westminister Police Departments Memorandum of Understanding Radio Contingency Plan (MOU), and Consolidated Communications Network of Colorado, Inc. (CCNC) Mutual Aid Agreement).

³⁵ See Revised Plan, Section 8.3 Low Secondary Operations at 15.

³⁶ See Revised Plan, Section 7 Interference Protection at 13 (coverage area is geographic boundaries of agencies served, plus a three-mile area beyond; systems should be designed for minimum signal strength of 40 dBμ).

³⁷ See Revised Plan, Section 5.3 Procedure for Frequency Coordination (applications are initially reviewed by the RPC's Frequency Advisory Committee, and approved by the RPC before submission to a FCC-certified frequency coordinator).

³⁸ See Revised Plan, Appendix L – Allocations (granted spectrum allotments will be posted to CAPRAD). We note that any modifications to the existing CAPRAD pre-allotments herein will require a plan amendment. However,

Revised Plan was adopted by its members on October 24, 2007,³⁹ and the Region 7 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).⁴⁰

The Region 7 700 MHz Revised Plan includes the following elements:

- Replaces references to the former 700 MHz General Use frequencies with the consolidated narrowband voice channels in the 769-775 MHz and 799-805 MHz bands;⁴¹
- Deletes references to the assignment of wideband channels;⁴² and
- Modifies Appendix I – Interoperability Channels to reflect the *Second Report and Order* new consolidated narrowband frequencies.⁴³

The Region 7 Revised Plan pre-allocates the consolidated narrowband General Use spectrum by county and where appropriate, by metropolitan area.⁴⁴ The Revised Plan was coordinated with Region 3 (Arizona), Region 16 (Kansas), Region 34 (Oklahoma), Region 26 (Nebraska), Region 29 (New Mexico), Region 41 (Utah), Region 46 (Wyoming) and Region 52 (Texas-Lubbock).⁴⁵ In addition, Region 7 obtained the required Interregional Coordination Procedures and Procedures for Resolution of Disputes agreements from all eight adjacent regions.⁴⁶

On June 26, 2008, the Region 7 Revised Plan was placed on *Public Notice* for comment.⁴⁷ We received no comments. We have reviewed the Plan submitted by Region 7, and conclude, based on the

orphaned channels may be moved within 10 miles of the geographic boundaries of a given county, without requiring a plan amendment. See Revised Plan, Section 8.2 Orphaned Channels at 14-15.

³⁹ See Revised Plan Appendix C, Meeting Minutes of October 24, 2007; see also Revised Plan Appendix M (Minority Statement on Frequency Pre-Allotments). The Revised Plan includes minority statements from 2005 concerning the CAPRAD pre-allotment methodology and RPC application process from the City and County of Denver, Denver Police Department (undated) (Denver), letters from Fox Ridge Communications, Inc., dated Feb. 22, 2005 and July 11, 2005, to Mr. Michael Bedwell, City of Aurora, Colorado, and a letter dated July 12, 2005, from Kenneth S. Fellman, on behalf of the City of Aurora to Emery Reynolds, RPC Chair. However, we note the revised plan was adopted, unanimously on October 24, 2007, and that the Revised Plan Appendix L – Frequency Pre-Allotments contains a detailed discussion of the spectrum allocation and application process.

⁴⁰ See Letter from Emery Reynolds, Chairman, Region 7 700 MHz Regional Planning Committee, to Office of the Secretary, Federal Communications Commission, WT Docket No. 02-378, (filed June 17, 2008) (submitting certification that all RPC meetings were open to the public).

⁴¹ See Revised Plan, Introduction at 5 (summarizing revisions to initial plan).

⁴² See Revised Plan, Section 8.5 - Wideband Data (section was deleted).

⁴³ See Revised Plan, Appendix I – Interoperability Channels (channel labels, usage and technical parameters).

⁴⁴ See Revised Plan, Appendix L – Frequency Pre-Allotments (includes discussion of the limitation of initial CAPRAD pre-allotment placeholders for certain frequencies and coordination of usage challenges in the Denver metropolitan geographic area).

⁴⁵ See Revised Plan, Appendix H – Adjacent Region Approvals of Region 7 Plan.

⁴⁶ See Revised Plan, Appendix G – Interregional Coordination Agreements (procedures for dispute resolution).

⁴⁷ See Comments Invited on Region 7 (Colorado) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice*, 23 FCC Rcd 10127 (PSHSB 2008). Comments were due July 17, 2008, and reply comments were due July 28, 2008.

information before us, that it complies with FCC rules and policies. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.102(b) of the Commission's rules, 47 C.F.R. § 1.102(b), the Revised Region 7 (Colorado) 700 MHz Public Safety Plan is APPROVED, and the Region 7 Waiver Request is DISMISSED AS MOOT.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

Action by the Chief, Policy Division, Public Safety and Homeland Security Bureau.

- FCC -